

January 19, 1981

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The prayer this morning will be given by Reverend Roe, the United Methodist Minister affiliated with the Trinity Methodist Church in Lincoln, Nebraska. Reverend Roe.

REVEREND ROE: Prayer offered.

SPEAKER MARVEL: Roll call. Item #3. Will you please record your presence if you haven't already. Record your vote.

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

SPEAKER MARVEL: Ready for item #3?

CLERK: Yes, sir. Mr. President, first of all, corrections to the Journal. (Read corrections to the Journal as found on page 220 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Sieck regarding LB 58. (See pages 220 and 221 of the Legislative Journal.) I have a series of reports, the first from Frank Marsh, the State Treasurer, regarding the detailed statement of the condition of the State Treasury.

Mr. President, a communication from the Metropolitan Technical Community College regarding LB 1004; a communication from the State Department of Correctional Services regarding program evaluation of the therapeutic community at the Lincoln Correctional Center.

Mr. President, a deposit or communication from David O. Coolidge who is the Director-State Engineer of the Department of Roads pursuant to LB 722. Those will all be on file in my office, Mr. President.

Mr. President, your Committee on Constitutional Revision and Recreation gives notice of public hearing in Room 1019 for January 30, February 5 and February 6. (Signed) Senator Labeledz as Chairperson.

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

CLERK: Mr. President, new bills: Read title to LB 284-309 as found on pages 223 through 228 of the Legislative Journal.

February 24, 1981

LB 47, 150, 298

CLERK: Mr. President, LR 20 found on page 634 of the Journal. It is offered by Senators Rumery, Kremer, Lamb, Schmit, Howard Peterson and Wagner. (Read title.) Mr. President, that resolution may be found on page 634 of the Journal.

SPEAKER MARVEL: Senator Rumery.

SENATOR RUMERY: Mr. President, members of the Legislature; if I could have your attention for a little bit, we have a resolution here honoring Professor Herbert Davis who for a long time was chairman of the Dairy Department of the College of Agriculture at the University of Nebraska until the organization was changed a few years ago. He passed away last week at the age of 91 and some of us would like to honor him with this resolution. I hope you will be able to vote with us on this. Thank you.

SPEAKER MARVEL: All those in favor of the resolution #20 vote aye, opposed vote no. We are voting on LR 20. Okay, record.

CLERK: 39 ayes, 0 nays on the adoption of the resolution, Mr. President.

SPEAKER MARVEL: The motion is carried and the resolution is adopted. Now you will notice that item #5 is Special Order and you will find this frequently in the next days to come. This is a method that has been used in the past to try to keep, attempt to keep debate under control. We will see this morning how successful we are but on some of those bills that do take a lot of time, perhaps this is a way that we can get more out of the hour. That is really what we are trying to do. So, Special Order, under item #5 is LB 150, Mr. Clerk.

CLERK: Mr. President, if I may right before that, I have a few matters to read in.

Your committee on Public Works whose chairman is Senator Kremer to whom is referred LB 47 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (See pages 641-642 of the Journal.) Signed, Senator Kremer, Chairman.

Your committee on Urban Affairs to whom we referred LB 298 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (See page 642 of the Legislative Journal.)

March 9, 1981

LB 47, 56, 268, 298, 519, 245

SENATOR CLARK: The bill is advanced. The Call is raised.

CLERK: Mr. President, while we are waiting, Senator Rumery would like to print amendments to LB 47. (See page 807 of the Legislative Journal.)

Mr. President, Senator Cullan designates LB 56 as his priority bill. The Ag and Environment Committee designates LB 245 as one of their priority bills.

Mr. President, Senator Landis would like to print amendments to LB 298. (See page 807 of the Legislative Journal.)

Mr. President, your Committee on Miscellaneous Subjects whose Chairman is Senator Hefner reports LB 519 indefinitely postponed, and your Public Health and Welfare Committee reports LB 268 as indefinitely postponed.

Mr. President, Senator Haberman...oh, I'm sorry. Mr. President, your Miscellaneous Subjects Committee would like to report the Reapportionment/Redistricting Guidelines in the Legislative Journal. (See pages 806 and 807 of the Journal.)

March 25, 1981

LR 47
LB 190, 298, 50, 73, 104,
171, 194, 425, 475, 500

amendment to LB 190 as explained by Senator DeCamp.
All those in favor of that motion vote aye, opposed vote
no. Record the vote.

CLERK: 31 ayes, 0 nays on the adoption of Senator DeCamp's
amendment.

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

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

SPEAKER MARVEL: Senator DeCamp. The motion is to advance the
bill to E & R for Engrossment. All those in favor of the motion
to advance vote aye, opposed vote no. Have you all voted?
Record the vote.

CLERK: 35 ayes, 1 nay on the motion to advance the bill, Mr.
President.

SPEAKER MARVEL: The motion is carried the bill is advanced.
Before we proceed, underneath the North balcony it is my
privilege to introduce Miss Cindy Pace who is a teacher from
Millard and her friend from Ralston who is here under the
auspices of Senator Koch. Cindy, will you stand up so we can
welcome you to the Unicameral?

CLERK: Mr. President, I have a few matters to read in.
Revenue Committee is going to meet in executive session
upon adjournment today in Room 1520.

Your Enrolling Clerk respectfully reports that she has
presented to the Governor LB 73, 104, 50, 171, 194, 425, 475,
500.

I have a Reference Report referring LBs 551 through 555.

A new resolution by (Read LB 47. See pages 1126 and 1127,
Legislative Journal.) That will be laid over, Mr. President.

Mr. President, LB 298 was introduced by Senator Vard Johnson.
(Read title.) The bill was first read on January 19. It was
referred to the Urban Affairs Committee for public hearing.
The bill was advanced to General File. There are committee
amendments pending by the Urban Affairs Committee, Mr. Presi-
dent.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature,
the committee amendments narrow the impact of the bill and
indicate that, first, the City of Lincoln is exempt and,

March 25, 1981

LB 298

secondly, that the districts zoned for the utilization of mobile homes include mobile home subdivisions on which individually owned mobile homes may be placed on individually owned lots and, therefore, does not require the opening up of all the classifications of lands or necessarily any other classification of land in the utilization of a mobile home. The way a city can comply now with the terms of LB 298 is to have a mobile home subdivision, the land of which may be owned by an individual for the placing of their own mobile home and those essentially are the changes of LB 298 by the committee. I would move their adoption.

SENATOR CLARK PRESIDING

SENATOR CLARK: Those that are in favor of the committee amendments will vote aye, those opposed will vote no.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted? Voting on committee amendments. Record the vote.

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

SENATOR CLARK: Committee amendments are adopted. Senator Johnson on the bill.

SENATOR V. JOHNSON: LB 298, Mr. Speaker, members of the body, is a relatively straightforward bill that would require all communities in Nebraska that are covered by the bill to provide some zoning, some zoning for mobile homes. As you and I well know we have in this state, as we do nationally, a real housing crisis and the crisis very simply is that prices of a lot of homes together with the interest rates have placed housing, owner occupied housing, out of sight for a lot of modest income people, far more out of sight, I guess, than you and I can fully appreciate. The American Bar Association has a commission, an advisory commission, on housing and urban growth and I, personally, have always been quite interested in making certain that we have adequate housing for all folk in society and so last year I picked up a copy of a most recent publication entitled Housing For All Under Law and what the American Bar Association Commission states is really quite surprising. It says very simply, "In 1967 mobile homes accounted for 23% of the single family nonfarm housing starts. By 1974 mobile homes constituted 40% of the total. The average unit, 14 feet by 65 feet then sold for \$8,640, and the average

so-called doublewide unit, \$14,320. By contrast the average price for a new conventional house in 1975 was \$42,600." The Bar goes on to state this, "That mobile homes have come to play such a large role in the housing market is in itself remarkable. The mobile home and its residents exist in a hostile cultural and legal atmosphere and mobile homes have still not overcome their early image as trailers existing in dense and unsightly courts or parks populated by transients commonly thought to be undesirable additions to a community. The persistence of this image in spite of the changing character of mobile home parks and their residents is reflected in extraordinary legal framework." Well, one of the problems that some mobile homes have in our state is that there is no zoning, there is no zoning in cities to allow for the placement of mobile homes on individually owned lots. It just doesn't exist. So what LB 298 does, it says real simple, it is a very simple bill. It just says, "Look!, city officials, make sure that you provide some places for mobile homes in your city and those places can be in mobile home parks and they can also assure that there will be some lots where a mobile home owner can go out and buy a lot and then put a home, a mobile home on the lot. It is a very, very simple bill that is frankly designed to insure a better place in society for the kind of housing that a lots of folk from economic necessity and desire are now acquiring. Now two days ago I passed literature out on this bill. I thought it was going to be the next bill up. The afternoon was kind of coming to a close and it looked to me like there would be enough time to take it up but there wasn't. So you will probably find on your desk or in your vest pockets or in your briefcases a little folder on mobile homes. You may want to take a look at it. Mobile homes, as you can see, are very attractive. They are nice looking housing. There is nothing in this bill which says that mobile homes have got to be scattered throughout any community but they, at least, have got to have some place where they can be located in every community. I have a small technical amendment to the bill which I would like to offer at this time. It is an amendment which is on the Clerk's desk and what it does, very simply, is on Page 2, line 14, it strikes the words "Such districts" and just says instead "At least one such district in the municipality", and that means very simply that we want to make certain that there is at least one zoning district in an area that allows for special mobile home zoning. And in addition, I am going to strike the emergency clause frankly to give the municipalities time to make the little adjustments they have to make to their zoning laws so that they can assure full compliance with the legislation. At this time I

would move my amendment and then we will move the bill.

SENATOR CLARK: Senator Beutler, do you want to talk on the amendment? Senator Kahle, do you want to talk on the amendment?

SENATOR KAHLE: Mr. President and members, I guess I am always concerned as to why we need this legislation and I might want to ask Senator Johnson a couple of questions and I will state them and then if you would perhaps answer. How much obligation would a city have to provide the utilities under this thing, and the other question I already alluded to was, is it not possible for cities to provide this sort of space now if they so desire?

SENATOR V. JOHNSON: Yes. The answer to your first question, the answer to your second question is, yes, it is absolutely possible for cities to provide the space if they so desire and the answer to your first question is that so far as I know there is no obligation per se by virtue of zoning changes to provide utilities to any area. Just one more comment, your question as to how much is this legislation needed. Unfortunately a significant number of cities in Nebraska have not provided zoning for mobile homes because mobile homes still have that negative connotation. These are the shanties for the poor, I guess, and so when you find zoning, you will find it may be a mobile home park and that is it but you will find no other zoning for mobile homes in any kind of community.

SENATOR KAHLE: One other question, maybe, and that is, is it possible that these homes would be a hit and miss among the entire city area or would they be in a separate area?

SENATOR V. JOHNSON: This amendment that I have specifically says that a city has got to provide at least one district in the municipality, and if that were the law, then it wouldn't be hit and miss at all. It would be in just one part of the community.

SENATOR KAHLE: Another question would be what size cities are you talking about? You have...somebody said Lincoln was not in it. Is Omaha in it?

SENATOR V. JOHNSON: Omaha is in this measure and all other cities excepting Lincoln are in this measure and I can tell you about Lincoln, if you'd like.

SENATOR KAHLE: Well, I guess I am concerned about a city let's say of five or six hundred people, or a town, if you

want to call it that. They would have to require this kind of a space in their city?

SENATOR V. JOHNSON: All they have to do, Senator Kahle, is to make certain there is at least a couple of lots available in that city for mobile homes if somebody wanted to buy a mobile home and put it on the lot but just because somebody owns that lot doesn't mean at all they have to put a mobile home on it. You just have to have the zoning available, that is it, so somebody could make that decision if they wanted to make that decision.

SENATOR KAHLE: Under those conditions then the person acquiring the lot to put the home on would have to see that his own utilities were brought in?

SENATOR V. JOHNSON: Yes, sir.

SENATOR KAHLE: The same as you would if you and I build a home?

SENATOR V. JOHNSON: Yes, sir.

SENATOR KAHLE: Is there a possibility that a development could be worked out similar to a housing development where utilities are brought in ahead of time?

SENATOR V. JOHNSON: Yes, I would think there could be. I think that in some of the larger communities that could easily happen.

SENATOR KAHLE: Well, yes, I think the idea is great but I wonder about every small town in the State of Nebraska having to provide this sort of thing when maybe there would be only a very small amount of need for it. Perhaps there should be a stipulation as to the size of the city that it'd be required of, let's say, 5,000.

SENATOR V. JOHNSON: Just let me make one comment. Senator Landis just brought a point to my attention that I just totally overlooked. This law only applies to those cities that right now have zoning ordinances.

SENATOR CLARK: You have one minute left.

SENATOR V. JOHNSON: There are still some small towns in Nebraska that have chosen not to have any zoning ordinances whatsoever. So if they don't have any zoning ordinances, then you don't have to worry about it.

March 25, 1981

LB 298

SENATOR KAHLE: But if you do have zoning ordinances, you would have to do it?

SENATOR V. JOHNSON: You have to provide some place for mobile homes.

SENATOR KAHLE: Thank you.

SENATOR CLARK: Senator Cope, did you want to talk on the amendment? Senator Rumery, on the amendment.

SENATOR RUMERY: Thank you, Mr. President, and members of the Legislature, I would like to ask Senator Johnson a question or two, if I might.

SENATOR V. JOHNSON: Yes, sir.

SENATOR RUMERY: Do we, in fact, need a state law for this? Do not the city councils and the county commissioners have the authority now to make such zoning regulations?

SENATOR V. JOHNSON: Yes, sir.

SENATOR RUMERY: What is the purpose of the law then?

SENATOR V. JOHNSON: To make certain that they do it. The purpose of the law, Senator Rumery, is very simple. Lincoln, for example, makes no allowance for the placement of mobile homes in the city. That is true for Omaha. There is no allowance for the placement of mobile homes in the city. Yes, the city councils have the authority to do it. No, they don't allow it. They don't do it because mobile homes are not very popular among elected officials.

SENATOR RUMERY: I wonder if we couldn't wait a little while and see if private enterprise and local government might take care of it.

SENATOR V. JOHNSON: Well, we could wait to see if the courts would do it. Now that is what has happened in some states. The courts literally have compelled this kind of zoning because they claim that for cities not to allow it is to discriminate both on an economic status but more importantly on a type of structure for which there is no reason or basis for discrimination.

SENATOR RUMERY: Thank you.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, Senator Johnson, did you cover why Lincoln was not in the bill? If you did, I missed it.

SENATOR V. JOHNSON: No, I am glad to do it. I am glad you asked me the question, Senator Nichol. The Lincoln people came before the Urban Affairs Committee and said they have been wrestling with this very issue for two years before the Lincoln City Council, and that is, to get the Lincoln City Council to provide some zoning within the City of Lincoln for mobile homes. They said they felt they were very close to making an agreement and they would prefer, in a sense, being left alone so that they could make an agreement. They also said, "Look! If we haven't gotten an agreement within the next year, we are going to come back and ask this be done for the City of Lincoln."

SENATOR NICHOL: Why did they testify in favor of the bill and then want exempted out, I don't follow that quite and maybe you have a good explanation.

SENATOR V. JOHNSON: Well, I think that the reason Lincoln people testified in favor of the bill and asked that Lincoln be exempted out is because Lincoln people realize this is an important thing to get done but they were working on it and they wanted to get it done volitionally without having any particular state constraint. Now they say, you know, it really ought to be done elsewhere, and so that is why they can support it, they can support it being done elsewhere.

SENATOR NICHOL: Well, I can readily understand why you can support it for someone else but not for me but, Senator Landis, do you have a good explanation?

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: In answer to the question of Senator Nichol, the bill as originally drafted changes the zoning laws of all...the zoning ordinances throughout the state with the exception of Lincoln. In that case, the bill attempted to amend our comprehensive plan which, of course, is an entirely different document, and the city objected and the committee agreed that the comprehensive plan really is the matter of the city's own discretion. It is their own plan of growth and that since a unique method was being utilized to deal with Lincoln by amending its comprehensive plan, that that really wasn't the appropriate mechanism for change. So the bill as written had selected a special kind of way of dealing with Lincoln, and Lincoln asked out.

SENATOR NICHOL: Thank you, I appreciate, now the next question is, I know of several places including my home that has a comprehensive plan so I assume, Senator Johnson, that we are going to exclude any city that has a comprehensive plan because this is part of the comprehensive plan and this law would interrupt this comprehensive plan. So I assume we are going to let them all out that had a comprehensive plan, is this correct?

SENATOR V. JOHNSON: No, we only let out primary city which had the comprehensive plan and they came forward and they made that particular point (interruption).

SENATOR NICHOL: Would it be okay with you if we amend the bill to include cities of the first class that have a comprehensive plan?

SENATOR V. JOHNSON: To allow them to get out?

SENATOR NICHOL: Yes, just like Lincoln.

SENATOR V. JOHNSON: No, it would not, Senator.

SENATOR NICHOL: Why not?

SENATOR V. JOHNSON: Mostly because the only reason, frankly, that I accepted in my own heart the deviation for the City of Lincoln is because Lincoln had some ongoing negotiations and said...and its folks said, "You know, we would like to be able to work it out now because we are in the midst of looking at this issue, and if we can't, then you can come back in a year's time." Now I don't know what is happening in first class cities, Senator Nichol.

SENATOR NICHOL: Well, I do. Ask me.

SENATOR V. JOHNSON: All right, what is happening in first class cities?

SENATOR NICHOL: Many of them already have the general plan and an overall plan and have it in place. Now if it is okay to disrupt that, then it is okay to disrupt Lincoln. You can conscientiously say that you can because you have a soft spot in your heart for anybody that has a comprehensive plan. So let's be fair, whether it be first class or primary class.

SENATOR V. JOHNSON: If they have a plan in place, Senator Nichol, which deals with mobile home zoning, then (interruption).

SENATOR NICHOL: They all deal with mobile home zoning.

SENATOR V. JOHNSON: And if they provide a part of your community where you can buy an individually owned lot to place a mobile home, that is fine.

SENATOR NICHOL: Then I can't say what every city of the first class has in their comprehensive plan but if Lincoln doesn't have it in their comprehensive plan, let's put it in there with the rest of us, okay?

SENATOR V. JOHNSON: It is okay (interruption).

SENATOR NICHOL: If they don't have it, (interruption).

SENATOR CLARK: You have ten seconds left, let's not have a dialogue.

SENATOR NICHOL: That is enough.

SENATOR CLARK: Senator Cope, would you like to talk on the amendment.

SENATOR COPE: I guess everybody else is talking about the bill so I will talk about the amendment, too. First of all, I can't support this. We are mandating to cities something that is not our business. I didn't vote for the group home concept, not because I didn't like it but I just don't think that that is our business to tell cities and towns what they are supposed to do with their zoning. Senator Johnson, I am sure Kearney would like to be exempt, too. We have had a comprehensive plan for the last fifteen years. It has been updated, and if we are going to have exclusions, that will be great but any town/city that does have one, they have the spots for mobile homes whether it is an R1 or 2 or 3. It could be in commercial in various places but it is spelled out where mobile homes can be situated. We have mobile home parks in Kearney. We have some good ones that have been laid out, areas that work in very well. Everyone is happy. And the part of it that I dislike the most is that there has to be certain lots for mobile homes, in other words probably, maybe like the group homes. I don't know where they would be placed, but if we mandate it, we are responsible. I don't think we need this bill. I don't think we should have it.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. We heard a version of this bill last year in Urban Affairs and I think Senator

March 25, 1981

LB 298

Kahle was there along with myself but, Senator Johnson, I am surprised at you for allowing the primary city out of this as though no other community in the state has comprehensive planning and zoning. I agree with Senator Cope. In the city which I live we have had it from day one. The first time the federal government made dollars available, we hired an architect/planner to do it and we have tried to negotiate with people over this same issue in our city for a number of years. Now we are saying, "you shall", and there is no negotiation any more. So if Lincoln is going to get preferential treatment, as much as I respect their vision and their planning, then I believe those other cities who have comprehensive plans and zoning should also be exempt, and you might say from this day forward when you update you should try to make provisions for such, but under these conditions, Senator Johnson, I could not support LB 298 because what you are doing is you are becoming the chief planner and zoner for a lot of subdivisions of this state. If you are going to exempt one, I think all other cities who have comprehensive plans and zoning and update them as most cities do, then they should also receive the same exemption as the city of the primary class.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Mr. Chairman and members of the Legislature, I am supporting LB 298 and if this class city is put back in the bill I still expect to support 298. My aunt and uncle live in a mobile home court in another state which is one of the loveliest housing areas I have ever seen. Only doublewide homes may be placed in this particular location. They are placed into a permanent depressed area so that you walk in at ground level instead of up steps to get into the home with shake roofs, not like we normally think of in this state as belonging to a mobile home, and, no, once placed, they cannot be moved. They must be sold in that location. I believe in this concept. I expect to support it and I hope the legislative body will do so. One last comment to Senator Cope since he feels so strongly that local areas should make the decision that I am sure he will vote against LB 125 when it comes up and takes that right away from local areas.

SENATOR CLARK: Senator Peterson.

SENATOR H. PETERSON: Mr. Chairman and members of the Legislature, it just appears to me that what we are trying to do is to dictate to the communities across this state and I would certainly agree with the conversation that has

taken place here that the communities themselves can develop comprehensive plans. We have had one in Grand Island for years. We have a number of mobile home parks. We also have locations where mobile homes can be placed but I don't see that we need to dictate it from the state level.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Mr. Chairman, I call the question.

SENATOR CLARK: Well, that is unnecessary right now because there was no more lights on. Senator Johnson, do you wish to close on your amendment?

SENATOR V. JOHNSON: (Mike off), Mr. Speaker, just so that the body understands the amendment. The amendment is one which is designed to say simply that instead of it saying that such zoning districts in a municipality shall include zoning for mobile homes, it would say at least one such district in the municipality. I mean it pretty carefully confines the kind of requirement that is placed for mobile homes. In other words, it is a restrictive amendment and in addition it does strike the emergency clause. I would move the amendment at this time.

SENATOR CLARK: All those in favor of the amendment vote aye, opposed nay. Have you all voted? Once more, have you all voted? Record the vote.

CLERK: 19 ayes, 11 nays, Mr. President.

SENATOR CLARK: The amendment has failed.

CLERK: Mr. President, I now have an amendment from Senator Landis found on page 807 of the Journal.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, since this question seems to be open as to the merits of the bill, let me withdraw that amendment and offer it on Select File at the appropriate opportunity.

SENATOR CLARK: Anything else on the bill?

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

SENATOR CLARK: Senator Johnson.

SENATOR V. JOHNSON: Let me close, Mr. Speaker.

March 25, 1981

LB 298

SENATOR CLARK: Senator Beutler wants to talk on the bill.

SENATOR V. JOHNSON: I am sorry. Okay.

SENATOR CLARK: Go ahead.

SENATOR V. JOHNSON: Let me get down to the nub of the question. The question is this, what kind of housing are we going to tolerate in society for our people to live in. You know what is happening and I know what is happening. The traditional stick built house is going out of sight so that a lot of ordinary folk just can't afford a stick built home and one of the things that is more within their pocketbook is the modular and mobile home but over the years, and this is very well documented, over the years elected officials and planners and administrators have very artfully discriminated against mobile homes and they have done so because they have first associated mobile homes with trailer houses and transients and riffraff and the like and so we start out with a longstanding social prejudice and bias against those who live in mobile homes. But as the industry changed in the last twenty years and the kind of construction changed and the kind of housing changed, more and more mobile homes became occupied by more and more "good" members of our society, elderly people who were retired, young couples who were starting housing, but the problem is that mobile homes can't be located easily in our communities because we don't provide any zoning for mobile homes. In the City of Omaha, you cannot buy a lot, you cannot buy a lot in the City of Omaha and put a mobile home on it. You can't do it. You cannot do that in the major metropolitan area of our city. You can rent a lot in a mobile home park and put your mobile home on it but you cannot buy a lot and put a mobile home on it within the City of Omaha anywhere. Now that is essentially, that is wrong. That is wrong. We have parts of our city right now where there is housing has been removed. There are lots of vacant lots and, in fact, our city officials could provide zoning for mobile homes but they don't do it and they don't do it in many of our smaller communities in this state and it is virtually impossible to find a place where you can put a mobile home on an individually owned lot. So all 298 does is it just deals with that simple straightforward question and it says, "Cities, cities, make sure you provide some zoning for mobile homes." That is all it does. It doesn't tell them how much. It just says some zoning for mobile homes. It doesn't tell them where to do it. It just says some zoning for mobile homes. Make sure you allow some zoning on individually owned lots, and if you want to you can put some in parks and subdivisions but you have got to have some zoning. It doesn't say you have

March 25, 1981

LB 298

to scatter mobile homes throughout the community. You can put them any one place in the community that you want to put them in so long as you make something available for mobile homes. Now I had to bring a lawsuit a couple of...

SENATOR CLARK: You have got one minute left.

SENATOR V. JOHNSON: ...years ago in connection with the way we taxed mobile homes because we were determined to tax mobile homes like cars and the Supreme Court said, "Look, these are not cars, these are residences and you cannot tax them like cars. You have got to treat them like any other residence." Well, the same thing is true for the zoning issue and I can guarantee you, I can guarantee you from case law in other states that if the kind of discriminatory conduct continues as has in the past on mobile homes, there is a good mandamus action line out there against city officials and all this legislation does is says if you have it in your comprehensive plan, provided for it, change your comprehensive plan (interruption).

SENATOR CLARK: Sorry, Senator Johnson, your time is up.

SENATOR V. JOHNSON: I move the bill.

SENATOR CLARK: All those in favor of advancing the bill vote aye, opposed no. Have you all voted on the advancing of LB 298? A Call of the House has been request Those in favor of a Call vote aye, opposed nay. Record the vote.

CLERK: 13 ayes, 1 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. Will everyone take their seats and check in please? Will everyone check in please, if you are at your desk, please check in. (Gavel.) Will you please check in? Senator Haberman, will you check in please? Senator Nichol. Senator Carsten, Senator Wiitala, Senator Pirsch. We are looking for Senator Wiitala. Do you want to go ahead, Senator Johnson, we are short one?

SENATOR V. JOHNSON: What is that? We are short one. Go ahead.

SENATOR CLARK: Call the roll.

CLERK: (Roll call vote taken. See pages 1128 and 1129, Legislative Journal.) 22 ayes, 21 nays, Mr. President, on the motion to advance.

SENATOR CLARK: The motion failed. Senator Carsten, would

March 25, 1981

LB 298

you like to recess us until one-thirty?

SENATOR CARSTEN: Mr. President, I move we recess until one-thirty.

SENATOR CLARK: All in favor of recessing until one-thirty say aye, opposed. We are recessed until one-thirty.

Edited by Arleen McCrory.
Arleen McCrory

April 1, 1981

LB 317A, 298

the Department of Education to handle these residential services. That is fine. But now that we are transferring it from the Department of Education to the regions we need another three hundred thousand dollars to provide the same service, I have real problems understanding that. I can't, and if in fact this is true, then maybe we ought to leave it with the Department of Education if they can do it for three hundred thousand dollars less money.

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

SENATOR KOCH: I have no close, Mr. Speaker. I just ask that 317A be advanced to E & R Intial. If there is some concerns that Senator Dworak might have and others, I will be willing to look at those seriously on Select File.

SPEAKER MARVEL: The motion is to advance 317A. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Clerk, record the vote.

CLERK: 28 ayes, 0 nays on the motion to advance 317A, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. On the next sheet, item #7, we have LB 298E.

CLERK: Mr. President, LB 298E was offered by Senator Vard Johnson. (Read title). The bill was read on January 19, referred to Urban Affairs. On March 25 of this year, Mr. President, the committee amendments were adopted. At that time the bill failed to advance. I now have pending, Mr. President, an amendment from Senator Vard Johnson.

SPEAKER MARVEL: The Chair recognizes Senator Johnson.

CLERK: Copies were distributed, Mr. President. I am sorry, they were not, Senator. I apologize.

SENATOR V. JOHNSON: I have some items being distributed right now and I think that includes the amendment. If not, I will get one more Page. Here are some extra copies. Mr. Speaker, members of the body, you have three things on your desk with respect to LB 298. The first is a copy of an article from the Western Mobile News concerning a Supreme Court decision in Michigan in which the Supreme Court in Michigan held in February that exclusionary zoning which prevented mobile homes from being located in communities was unconstitutional. As you may recall

April 1, 1981

LB 298

when I first discussed LB 298 a few days ago, I made that point that there are courts that are now holding that municipalities exclusive zoning requirements to the extent that they freeze out mobile homes are unconstitutional. And this is just one more tribute to that going trend of the law. The second thing you have on your desk is a memorandum I have prepared regarding the bill which discusses in some detail what the bill is about which further discusses the kind of housing that mobile homes do provide to persons of relatively modest means and, unfortunately, given the price of conventional housing, that is stick built housing, to use the vernacular, it would seem as though modest means can include quite a few folk because conventional housing is becoming far too expensive for a lot of ordinary people. Mobile homes still remain within the conventional means area in terms of income, and the final thing on your desk is an amendment to LB 298 and that is what I would like to advance at this time is the amendment. What you will see if you look at the amendment are the three changes which the amendment makes. The first one, it says is that it makes it clear that when LB 298 is adopted with this amendment that all municipalities that provide zoning, all municipalities with some zoning requirements must make certain that at least one district for which they provide zoning in the municipality provides for mobile home zoning. That is zoning which is by subdivision and also zoning which is on individual lots. The second aspect says in connection with the mobile home zoning a political subdivision or the municipality may prescribe reasonable and necessary requirements of the site development for mobile homes in such districts in accordance with local standards. In other words, when the zoners zone they can say more than just this parcel of ground shall be made available for mobile home occupancy. They can say simply that not only shall this parcel of ground be made available but in addition this parcel of ground, if it is to be used for mobile homes, must meet certain site standards and those standards can be developed locally. And finally, the third aspect of the amendment is to strike the emergency clause. This particular bill, given the fact that the bill didn't manage to advance the first time around, it seems to me it would be somewhat unlikely for it to get the 33 votes to advance, that is sort of the realistic aspect but more importantly, but more importantly, in fact the emergency clause is really not necessary. What I want to do is I want to say to all local governments you have got to provide some zoning for mobile homes and you have some lead time, obviously, to provide it in and the lead time is the kind of time that will occur between passage of this law and ninety days following adjournment, and it is for that

April 1, 1981

LB 298

reason the emergency clause truly is not necessary. At this time I would move my amendment to 298.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, members, when this bill was up the first time, I spoke against it and it certainly is not because I do not like mobile homes. Mobile homes have done a great deal for the City of Kearney. With a growing college, with growing industry, I don't know how we could have gotten along without mobile homes but I cannot go along with this bill for one reason and that is again the Legislature telling city councils how they can zone. I will oppose this. I will oppose any bill that where we believe we know more about that particular city or town than the people that are elected to run it do. I believe that almost every town of any size at all, cities, have zoning regulations now. They have comprehensive plans, and if something like this should be passed, you are going to put them in quite a situation, believe me. I know that in Kearney we have areas, we have zoning for mobile homes. It is carried out very well. I think everyone is happy as far as I have known. I have had not one complaint. And I haven't had a complaint from any other town in my district. So all I am asking is let's stick to the business of running the state and let's let local government run local government.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I, like Senator Cope, spoke against this bill on the first time around but my good friend Senator Johnson has, I think, approached most of the objections I had with his amendments. I think with the amendments, if they pass, the bill will be more palatable. In visiting with people back home, I find out that there is a need for this, that in many areas there is just no way that mobile homes can exist. That is wrong. We are keeping a lot of people out of housing because that is the only route available to them. This housing is good housing. It is substantial. It is economical and it just may absolutely be the only game in town for a lot of people. I don't want to be a party to that and so I am going to support Senator Johnson's amendment, and if it is successful, I am going to enthusiastically, Senator Johnson, support your bill.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker, members, I would like a question

of Senator Johnson, if I could, please. Senator Johnson, if I understand the bill correctly, and correct me if the amendments change it, but any city or town of any size would have to provide a special area for this type of home if it has a zoning ordinance at all, is this correct?

SENATOR JOHNSON: Yes.

SENATOR KAHLE: Well, this bothers me because I have a great number of small towns in my district that do have trailer courts and that sort of thing and they I am sure have zoning. We also have county zoning in our area. I don't think that bothers that part of the problem but I just do not want to demand that they have to have this sort of an area. It would seem to me that it would be much simpler, and of course you need the zoning to go along with it, but that developers would be the ones that would want to get into this type of a project and especially those that deal in this type of a home. We have all kinds of builders in our area that develop districts for housing and build homes in there and sell lots and that sort of thing. They also work with the city to see that there is water and lights and sewer in that area. So I think that to do this is a demand on a city that has any kind of zoning is reaching out a little too far. I am sure I have towns of probably three, four hundred people that have zoning and I know that those of five or six hundred have zoning and they also have mobile homes. If it requires they must have this area, I am sure then they would have to furnish the sewer, the streets, the utilities before they could demand this. I am not sure they are ready for that. Thank you.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, I think several persons are trying to make a problem where no problem in fact exists. Senator Kahle, it only is speaking to an area which has a zoning regulation already. It is saying that if you already have a zoning, then one additional thing should be provided and that is someplace where a mobile home can be placed which sounds like a reasonable request. And, Senator Cope, your community has already made provisions so you don't have a problem in your community. The communities which have been forward looking have taken care of the problem but this is not true about all communities. Some communities have felt it wasn't necessary. We are now becoming more and more aware that we have a responsibility to the low income family and the moderate income family who wish to put their investment dollars into a mobile home to provide a place within

the community for such a home. Now that may be a very modest mobile home or it can be a very lovely doublewide two or three bedrooms, perhaps two bathrooms, a family room, and I am talking about a mobile home with which I have a good acquaintance belonging to my aunt and uncle. It is an attractive asset to the community and all communities in our state which make provision for zoning, now that lets many of your communities out if they do not have zoning regulations, but zoning regulations are designed to protect people and communities and zoning regulations, therefore, need to include a place, an adequate place, a zoning mechanism for the individuals who choose to have their home investment dollars go into a mobile home. There are ways a community can say it should be an attractive area. There are rules and regulations which a community has the right to insist. It has the right to insist that a mobile home have a skirt, an enclosure, so that it does not look like a raw piece that is ready to take off on a moments notice. Those are reasonable rules and regulations but it does not have a right to say, "We don't want any mobile homes." That is not a reasonable right. We need to be looking for our responsibility for those who do not have a voice before the city councils, who do not have a voice before the zoning boards. I was interested in seeing one of the handouts which Senator Vard Johnson sent. Do you want your state to be involved in an expensive court fight where the foregone conclusion is that we will lose? That is not the way to do legislation. We should be doing all we can to provide the facilitation for good legislation that will be upheld in Supreme Courts, ours as well as other states. A piece of legislation which is a fair and equitable contract for persons within our community providing a location is the first step before an individual can place a mobile home. Persons in our state have a right to expect that the community....

SPEAKER MARVEL: You have thirty seconds.

SENATOR MARSH: ...of their choice will provide that. We need to take that leadership.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I serve on the Urban Affairs Committee that heard this bill. This bill is an antidiscrimination bill. This bill seeks to attempt to break the political power in local communities that enforce the exclusion of a one type of housing, most likely at the behest of the builders, the contractors, the developers who stand to gain the most with the construction

of stick built housing. If you are familiar with city elections, you will find the money behind them, the engine behind most city elections is the growth or development of the city. You can see by the kinds of contributions that are made to city council races and the like, the heavy money, the special interests that are involved are growth related interests, and how would they come down on the issue of mobile homes? Well, if you were a developer and you wanted to build homes, you wanted to sell a product of \$80,000 a unit, you would be threatened by something that was premade, that would roll in and be set down from some other manufacturer. You wouldn't want to see that that kind of housing was available at all. If you were a land developer that wanted to set their own units up on the outskirts of town in a nice fresh suburb, you wouldn't want to populate that with a type of housing that you did not control, you did not put on the land, in fact then make the whole project so very valuable and enriching. At the same time you have the handholding connection between that power base and city councils who have in the past been afraid of mobile homes because mobile homes have been treated as personal property, not real property, not taxed as real property, that the tax base was dwindling or shrinking or not rising at a very large rate, but at the same time, those mobile home units had a heavy burden on city services. So there is the linkage. The city councils who didn't want to have an adverse burden on their tax base and developers who didn't want competition, and from there we arrive at exclusionary rules and regulations in cities designed essentially to do one thing, make sure that there were no mobile homes either in the city or if they were that they were on mobile home lots owned by developers who were paying a healthy real estate tax. And that is what this bill is all about. This bill seeks to tell cities that they may not exclude across the board one type of housing no matter if that housing meets any reasonable standard, no matter how it stacks up to the construction standards of that community, no matter how it compares to existing facilities. Cities have a very selfish interest in keeping out mobile homes in the past. Because of recent Supreme Court decisions, I don't think that is the case any longer. I think you will have a healthy tax base. These will be taxed as real estate, real property and the tax base will not shrink. Yes, the developers will have to put up with the fact that we have competition but in this body I have heard the name "free enterprise" bandied about so often that we shouldn't at this point stand in the way of healthy competition in the housing market, particularly with the kinds of situations that we have made

April 1, 1981

LB 298

for other parts of the housing market. We have changed the loan rates. We have changed the usury rates. We have changed the loan period of time that can be made for second mortgages and for small loans. We have patted the financial community on the back over and over again. We bend over backwards to keep the housing market open. We passed the Nebraska Mortgage Fund Act to keep housing open but apparently we are reluctant to stop cities from discriminating against a low cost form of housing for people. Some red flag gets raised if it is local control and that would keep cities in the business of keeping out mobile homes. Now I suppose the question is raised, what about the City of Lincoln? You have been excluded from the bill. I will be happy to tell you that if the City of Lincoln in one year's time does not have an ordinance that allows for exactly this, I will personally sponsor or attempt to have my committee sponsor a bill to put us under this act. It is only because we are now in negotiations towards this end...

SPEAKER MARVEL: Fifteen seconds.

SENATOR LANDIS: ...that we have been exempted from the bill. If this bill and this policy is satisfactory for the state, it should be satisfactory for Lincoln and I will live by that sword, as I would expect this body to as well, and I will be held personally to that commitment. I should not be robbed of my ability to make a speech in defense of this bill simply because my city is exempted from it at this point in time. It is not my intention that they be exempted over time or that they not live under the same policy that I defend right now, and that is the housing market should be open, mobile homes should be free to compete, and cities should not be free to discriminate across the board against mobile homes.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: I call the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? We are voting to cease debate. Record.

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

SPEAKER MARVEL: Motion carries. Debate ceases. Senator Johnson.

SENATOR V. JOHNSON Yes, Mr. Speaker, the debate has been

ceased on an amendment that I have to LB 298. This is not the bill but an amendment. To refresh your memory this amendment if passed would strike the emergency clause. It would, in addition, more carefully define, it would say simply that when zoning is done at least one district, at least one district in the municipality must have some zoning available for mobile homes, and finally it would say that any political subdivision or municipality may prescribe reasonable and necessary requirements of the site development for mobile homes in such districts in accordance with local standards. By and large, these amendments more carefully tailor LB 298. They are good amendments. Even if you might be opposed to the bill, which heaven forbid, the amendments themselves certainly ought to be advanced because they make it a better bill. I move their advancement at this juncture.

SPEAKER MARVEL: Senator Cope, do you want to speak on the...okay, sorry. Senator Johnson. The motion is to advance the bill...advance the amendment, sorry. Let's start over again. The motion is to advance the amendments to LB 298. All those in favor vote aye, opposed vote no.

CLERK: 26 ayes, 0 nays on adoption of Senator Johnson's amendment.

SPEAKER MARVEL: Motion is carried and the amendments are adopted. Okay, the motion is to advance the bill. All those in favor of advancing the bill...Senator Nichol, do you wish to be recognized?

SENATOR NICHOL: Yes, Mr. President, I think we just adopted one amendment, didn't we? Just that one you have in your hand. That is the whole set, okay. Now may we talk just a minute on the bill?

SPEAKER MARVEL: Go right ahead.

SENATOR NICHOL: I still don't quite understand why it is the Senators from Lincoln are standing up pushing this bill, still they are excluded. I understand that Lincoln has something cooking. My county has something cooking, too, and I don't know exactly what it is. I know they have a plan because I was there when they adopted it. My city has a plan. I was there when we adopted that. Now, I'd kind of like to support this bill but I kind of don't want to support it and go back home and they will say how come you let Lincoln out. You know, I would kind of like to do that, too, come here

April 1, 1981

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

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

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

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

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

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

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

SPEAKER MARVEL: The next business is LB 253.

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

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

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

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

CLERK: 1177.

SPEAKER MARVEL: 1177.

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

April 6, 1981

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

SPEAKER MARVEL PRESIDING

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

SENATOR RUMERY: Offered prayer.

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

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Do you have anything under three?

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

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

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

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

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

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

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

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

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

April 10, 1981

LB 243, 296, 298, 529

SENATOR CHAMBERS: To ask a question, Mr. Chairman. Now that it is fresh in everybody's mind, what becomes of this bill since it failed to advance? Does it go to the bottom?

SPEAKER MARVEL: It goes to the bottom of General File.

SENATOR CHAMBERS: Thank you.

SPEAKER MARVEL: Yes, sir.

SENATOR SCHMIT: Does it go to the bottom of the priority bills or the bottom of General File? I think we have had this happen before.

SPEAKER MARVEL: General File priority bills, the bottom.

SENATOR SCHMIT: Thank you, Mr. President.

CLERK: Mr. President, Senator Koch would like to print amendments to LB 298; Senator Cullan to LB 296.

Your committee on Ag and Environment reports LB 529 to General File with amendments. Signed Senator Schmit as Chairman.

April 15, 1981

LB 327, 298

at the last eleventh hour gasp of the session and, anyway, this amendment strikes reference to the Federal Bankruptcy Act and is satisfactory to all parties and, thereby, makes LB 327 satisfactory to all parties as well. I would move its adoption.

SPEAKER MARVEL: The motion is the adoption of the Landis amendment to LB 327. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 32 ayes, 0 nays on adoption of Senator Landis' amendment.

SPEAKER MARVEL: Motion is carried. The amendment is adopted and now the vote is the advancement of the bill as amended. All those in favor of advancing 327 say aye, opposed no. Motion is carried and the bill is advanced. The next bill on Select File is LB 298.

CLERK: Mr. President, there are E & R amendments to LB 298.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 298.

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

CLERK: Mr. President, I now have an amendment from Senator Koch. It is found on page 1279 of the Journal.

SPEAKER MARVEL: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, as you recall, this piece of legislation proposes that the various subdivisions of primary cities of this state will provide for certain kinds of zoning for manufactured homes. The original bill obviously because of Lincoln's concern felt that the primary cities should be omitted. Now many of our communities in which we live other than Lincoln we have had proper planning and zoning for a great number of years. The city in which I live in 1972 spent considerable money for the same purpose of master planning and zoning. I believe that if the cities of the state by and large are subject to this provision, then it is not unreasonable that the primary city of the State of Nebraska should also be subject to this provision and it should make those kind of provisions for manufactured homes and with certain restrictions, and I ask for the adoption of this amendment.

April 15, 1981

LB 298

SPEAKER MARVEL: The motion is the adoption of the Koch amendment to LB 298. Senator Johnson.

SENATOR V. JOHNSON: Just a quick point with Senator Koch. The amendments the Clerk has offered, Senator Koch, is that found on page 1279. As you recall, the correct draft is on page 1415. That is the one you wish to offer, is it not?

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Senator Johnson, you know it is unusual I have more than one amendment floating around in the Journal. I withdraw that one and would go to that second one.

CLERK: You want to withdraw this one, Senator, is that right?

SENATOR KOCH: Yes, please.

SPEAKER MARVEL: Hearing no objections, so ordered.

SENATOR KOCH: Then I would ask for the adoption of the correct amendment found on 14...

CLERK: 15...1415.

SENATOR KOCH: ...1415. It reminds me of a famous date in history.

SPEAKER MARVEL: Was that the date when you...never mind? The motion is the adoption of the Koch amendment as found on page 1415. All those in favor of adopting the amendment vote aye, opposed vote no. Have you all voted? We are voting on the Koch amendment to LB 298 found on page 1415 of the Journal. Have you all voted? Have you all voted? Does anybody else wish to vote before I call on Senator Koch? Record.

CLERK: 25 ayes, 9 nays, Mr. President, on adoption of Senator Koch's amendment.

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

CLERK: Mr. President, Senator Sieck has an amendment on page 1392 that he wants to withdraw and offer an amendment that is on page 1450.

SPEAKER MARVEL: Okay, if there is no objections to the

withdrawal, so ordered.

CLERK: Mr. President, Senator Sieck has an amendment on page 1450.

SPEAKER MARVEL: Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, this amendment is a correction of some legislation that was passed back in 1975 by Senator Bereuter on a large bill on zoning regulations and I feel that we have some villages now in my district that are having some problems with their comprehensive zoning plan. They have a zoning board set up and they discovered by this statute that is in the law presently that they cannot administer their own zoning and they feel that they should need this authority and I understand that the municipalities and the counties are supporting this. So it is just a little change in the law to allow villages and second class cities to have that zoning authority. And the Cities of Henderson and Utica are the ones that approached me with this little amendment and it is just a matter of correction in the old statutes. The question has been asked why should we exempt them? Because they have their own zoning board and at the present time these counties have the requirement to do their zoning for them. The counties are not acquainted with the villages and the villages can handle their authority better than the county. The way the law now reads the county has to do the zoning for them and this is a little difficult for them to do that. It has nothing to do with the mobile homes. Yes, this amendment has nothing to do with the mobile homes. I move the adoption of this amendment.

CLERK: 1450..1450, Mr. Speaker.

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

SENATOR MARSH: Thank you very much, Mr. Speaker. I have some real questions with this proposed amendment. The intent of the law when it was passed was to work in cooperation, not to take off for a small village or other small incorporated area to do separate kinds of planning but rather to work in conjunction with. We do not...I don't understand and I would like to ask a question of Senator Sieck. Just what is the problem with the two communities you are talking about, why does the county planning not work in conjunction with the two cities or the two communities within that county?

SENATOR SIECK: Senator Marsh, the two villages that are involved in this particular instance have their own zoning

April 15, 1981

LB 298

board and they discovered that they cannot with the present statute operate, and in visiting with the county zoning board, they don't know all the different situations within that particular village, and the village themselves know their problems a lot better than a county zoning board and they feel they should have jurisdiction over their particular village.

SENATOR MARSH: Thank you very much.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I would like to ask Senator Vard Johnson one question and it is the only hangup I think I have on the bill and that is this, Senator Johnson. Does this bill in any way compel a village or a city to provide land whereby somebody can buy this land and place a mobile home on it or does it merely say that a space or places must be provided perhaps for rent on which they may place mobile homes?

SENATOR V. JOHNSON: No, sir. Senator Nichol, all the bill says that if a city or village decides to have some zoning ordinances, then as part of their zoning requirements they at least have got to find some part of that city or village where they can say that one of the permissible uses of the land there is for mobile homes. The city doesn't have to buy any land, it doesn't have to sell any land, doesn't have to rent any land. It can say that this land in this area can be used for residences, apartment houses, industry, commercial buildings, and, in addition, for mobile homes.

SENATOR NICHOL: Thank you. So what you are saying is that a space must be provided where mobile homes can be placed?

SENATOR V. JOHNSON: Sure.

SENATOR NICHOL: All right, thank you, Senator.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I guess one of the nice things about being here a little while is you can always stand up and say, "I told you so", and I remember well when this bill was enacted. I opposed the idea in the first place and Senator Sieck is in the position of having to play cleanup because of the problems that have developed. I recognize well that there really is a difference in philosophy here. In some instances they say the county wants to do it all, they can do it better, so we

have comprehensive zoning. And the cities say we would rather do it our way, isn't that about what it amounts to, Senator Sieck? I would like to ask Senator Sieck a question. Senator Sieck, are there any other communities in the county that have given you any indication of problems other than the two you mentioned?

SENATOR SIECK: McCool Junction, I understand, also has that problem. So they are all in my district and I haven't heard from any other areas in the State of Nebraska other than from Henderson, from Utica and from McCool Junction.

SENATOR SCHMIT: So what they are really doing is that the communities are objecting to countywide comprehensive planning, is that right?

SENATOR SIECK: I don't feel that they are objecting to the countywide planning. They are objecting for the county to come in within their jurisdiction, that is what they are objecting to.

SENATOR SCHMIT: They don't mind if we have countywide planning if they do it their way. Well, I think you are probably pretty close to right, Senator Sieck. I just want to point out once again. It is very easy for us to pass a bill in this Legislature and the easiest way to pass a bill is to put a delayed enactment date upon it, a year or two down the road, and then you say, "Well, nothing is going to happen for a couple of years. We will all go home." It is too bad that these bills can't become law instantly upon their passage and that they must be enforced immediately because if that were to happen it would probably stop seventy-five percent of all the legislation that is enacted in this body. Because the public would come down here en masse and hang us from the chandelier in the rotunda, but as long as we have got a year or two delay, the problems never come forward until the enactment becomes a reality and the people must face up to those new statutes. All those statutes, many of them, passed by well-intentioned legislators come back to haunt us at later times, and in my instance, I have made a few mistakes myself and have had to come back and clean up my own. In this instance, Senator Sieck has to clean up his predecessors mistake and I think it was a mistake and thought so at the time. I think it is now. I would like to help him with the amendment. I know that it is probably I have some concern with the bill but I think I would like to help him with the amendment. Thank you.

SPEAKER MARVEL: Senator Sieck, do you want to close on

April 15, 1981

LB 298

your amendment?

SENATOR SIECK: I will call the question on the amendment. I waive closing and call for the question.

SPEAKER MARVEL: The motion is the adoption of the Sieck amendment. Any further discussion? Senator Marsh.

SENATOR MARSH: I have a question I would like to ask Senator Loran Schmit please.

SPEAKER MARVEL: Senator Schmit, do you yield? Yes, Senator Sieck did close. I am sorry.

SENATOR MARSH: I thought he waived closing and then you said is there any further discussion?

SPEAKER MARVEL: He did...yes, my fault and go ahead and ask the question.

SENATOR MARSH: I will ask him off the floor. It is all right.

SPEAKER MARVEL: The motion is the adoption of the Sieck amendment. All those in favor vote aye, opposed vote no. This is the Sieck amendment to 298. Have you all voted? We are voting on the Sieck amendment to LB 298. Senator Sieck.

SENATOR SIECK: I will ask for a roll call vote, Call of the House.

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

CLERK: 9 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats, record your presence, unauthorized personnel please leave the floor. Senator Fenger, will you please record your presence? Senator Burrows. Senator Warner. Senator Kilgarin. Senator Fowler. Senator Fitzgerald. Senator Chambers. Senator Hoagland. Senator Labedz. Mr. Sergeant at Arms, you need to find Senator Hoagland. Senator Sieck, we have everybody here but Senator Hoagland. May we proceed with the roll call? Okay, the Clerk will call the roll.

CLERK: (Roll call vote taken. See pages 1482 and 1483,

3506

Legislative Journal.) 26 ayes, 14 nays, Mr. President, on adoption of Senator Sieck's amendment.

SPEAKER MARVEL: Motion carried. The amendment is adopted.

CLERK: Mr. President, Senator Landis now moves to amend the bill. Mr. President, Senator Landis...Senator, I think it would be easiest if I read it, if that is all right. (Read Landis amendment found on page 1483, Legislative Journal.)

SENATOR LANDIS: Mr. Speaker, members of the Legislature, if you will take a look in your Journals and keep your fingers on different pages, I will explain why the Clerk was forced to read this language in the way that it was. The pages that you should turn to are page 807, and page 1415. As you recall on General File I had a motion up to amend the bill and that language is on page 807 but we got embroiled into the implications of 298 and it didn't pass the first time so I withdrew the amendment at that point. Well, lo and behold, the bill passes on General File the second time and I didn't offer the amendment at that point. However, one of the things that did happen was that Senator Johnson offered some guarantee language. The guarantee language is the sentence, the second sentence of the new language on page 1415. That new language of guarantee is, "The city may prescribe reasonable and necessary requirements of the site development for mobile homes in such districts in accordance with local standards", in other words a bow to local control. If you look at the language on page 807, it doesn't contain that guarantee language because at that point of consideration that concession had not been made. So the language that is up on the desk right now is in essence, and on page 807 that is the section that it is being applied to but that is not the new language, that is the section that is being amended but the amendatory language is, and now turn to 1415, the new language that Senator Koch just had adopted this morning. Now let me explain why I ask you to do that. Senator Koch's language is the concession language, if you will. It was drafted in accordance with several people's wishes and it was applied to the City of Lincoln. It is in effect applying that language to our zoning standards here in the city. Well, the body adopted that and that is fine. The rest of the bill, however, as currently written, applies only to comprehensive plans and there is a lot of difference and I will tell you why. A comprehensive plan is not binding. A comprehensive plan is not a requirement on a city to enact certain kinds of responsibilities. Only a change to the zoning law can do that. The bill as originally written applies to comprehensive plans. We now have in LB 298

all cities being treated with comprehensive plans except Lincoln which has had its zoning language changed by the Koch amendment that we just adopted. The amendment that I have just had read takes the language that we just adopted in the Koch amendment and apply it to the zoning standards of all other cities and that is what the amendment does. It does finally create equity in all classes of government and all classes of municipalities and it does so with the concession language that Senator Johnson previously made on General File and it then applies the language of the bill to the zoning standards of all municipalities. It is an important amendment and I would yield the rest of my time to Senator Johnson to respond and to tell you that it is even as I represent it at this occasion.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Johnson.

SENATOR V. JOHNSON: Mr. Speaker, it is even as Senator Landis represented it on this occasion. It is totally true that his amendment...it is totally true that when this bill started out this bill had some drafting problems to my annoyance and I think that in dealing with the subject I have discovered what pettifoggers real estate lawyers really are and they require every "t" to be crossed and every "i" dotted and as a result we have had to make, as we've moved the concept through, we have had to make a number of changes to make certain we picked up the right sections and not offended the wrong sections and the like, and what Senator Landis is doing is insuring that we do it right so long as the body wants to do exactly what I have articulated we really ought to be doing, and for that reason, I certainly support his amendment.

SENATOR NICHOL: Senator Landis, did you wish to continue?

SENATOR LANDIS: No, I will just bring this to a motion. I would say that LB 298 came through the Urban Affairs Committee and that is one of the reasons why I got involved with the drafting problems involved with the bill. It came out of committee with the understanding that there would be an amendment on the floor brought to me by some property lawyers that we would apply it not to the comprehensive plan sections but to the zoning sections and that is what we do with this amendment.

SENATOR NICHOL: The question is, shall the Landis amendment pass? All those in favor vote aye, opposed nay. Have

April 15, 1981

LB 298, 111, 486

you all voted? Record please.

CLERK: 27 ayes, 1 nay, Mr. President, on adoption of Senator Landis' amendment.

SENATOR NICHOL: Senator Landis' amendment is adopted. Do you have anything else, Mr. Clerk?

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

SENATOR NICHOL: Senator Johnson or Senator Kilgarin, which one wants to close?

SENATOR V. JOHNSON: I would just move the bill. Voice vote.

SENATOR NICHOL: The motion is shall the bill advance. All those in favor vote aye, those opposed vote nay. We will have a machine vote. Have you all voted? Record.

CLERK: 25 ayes, 0 nays on the motion to advance the bill as amended, Mr. President.

SENATOR NICHOL: The bill is advanced.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The next bill is LB 111 and Senator Chronister would like to have permission to lay over the bill. Any objections? If not, so ordered. The next bill is LB 486.

CLERK: Mr. President, LB 486, there are E & R amendments to the bill.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 486.

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

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

SENATOR KILGARIN: I move LB 486 be advanced to E & R for engrossment.

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

April 16, 1981

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

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

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

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

SPEAKER MARVEL: Okay, record.

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

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

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

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

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

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

April 27, 1981

LB 241, 296, 327

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

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

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

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

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

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

CLERK: (Read LB 298 on Final Reading.)

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

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

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

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

PRESIDENT: Read the motion.

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

PRESIDENT: The Chair recognizes Senator Schmit.

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

April 28, 1981

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

SPEAKER MARVEL PRESIDING

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

PASTOR HAROLD M. ONWILDER: Prayer offered.

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

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

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

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

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

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

Mr. President, LBs 241, 298, 478 and 486 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 241, 298, 478, 486. Do you have any other items under #3?

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

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

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

SPEAKER MARVEL: Read the motion.

April 28, 1981

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

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

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

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read on Final Reading LB 249.

ASSISTANT CLERK: (Read LB 249 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 249 on Final Reading. Have you all voted? Record the vote.

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

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

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

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

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

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

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

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

May 4, 1981

LB 11, 249, 290, 298,
478, 531, 536

PRESIDENT LUEDTKE PRESIDING

DR. ROBERT PALMER: (Prayer offered.)

PRESIDENT: Roll call. Have you all registered your presence? Record the presence, Mr. Clerk.

CLERK: A quorum present, Mr. President.

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, I have an all-party pamphlet of the address to the Governor regarding LB 11. That will be inserted in the Journal. (See page 1700, Legislative Journal.)

Mr. President, your modeling clerk Margaret Kelly reports that she has on this day at 1:00 p.m., May 1, presented to the Governor LB 290 and 536.

A communication from the Governor addressed to the Clerk. (Read. Re: LB 249, 298, 536, 290, 478. See page 1700, Legislative Journal.)

Mr. President, I have a gubernatorial appointment, appoint Mr. Ray Young to the Advisory Committee to the Department of Public Welfare, Institution and Corrections.

Mr. President, I have a series of audit reports from the State Auditor: (Read. See page 1701, Legislative Journal.) Those audit reports will be on file in my office, Mr. President.

PRESIDENT: We are ready then for agenda item #4, Final Reading. The Sergeant at Arms will clear the aisles, see that all unauthorized personnel are off the floor. All members will return to your desks and when everybody is there we will commence with the day's Final Reading.

CLERK: Mr. President, while we are waiting, Senator DeCamp would like to print amendments to LB 531 in the Legislative Journal.

PRESIDENT: All right. Anything further?

CLERK: No, sir.