

January 19, 1981

LR 6
LB 311-356

read some bills in now, we will recess until 3:30 and come back and hopefully there will be more bills to process and then I would like to have a meeting with the chairmen in Room 1520 at 9:00 tomorrow morning. The Clerk now will....Senator Carsten.

SENATOR CARSTEN: Mr. President, I am hopeful to have a meeting of the Revenue Committee at 3:00. We may be a little late getting back in Exec Session, so I just wanted to alert you of that.

SPEAKER MARVEL: Okay. Senator Carsten is calling a meeting of the Revenue Committee for three o'clock this afternoon. In which room? 1520. Okay, Mr. Clerk, go ahead.

CLERK: Mr. President, first of all, Senator Marsh has an explanation of vote to be inserted in the Journal. (See page 244 of the Legislative Journal.)

New bills, Mr. President. Read by title LB 311-355 as found on pages 244 through 255 of the Legislative Journal.

Mr. President, new resolution. (Read LR 6 as found on pages 255 and 256 of the Legislative Journal.)

Mr. President, Senator DeCamp asks unanimous consent to have the names of all the members added as co-introducers to LR 6.

SPEAKER MARVEL: Okay, the motion before the House is the unanimous consent request that all names be added to the resolution which was just read. Is there objection to that motion? If not, the motion is so ordered.

CLERK: Mr. President, pursuant to our rules....

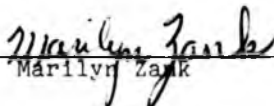
SPEAKER MARVEL: It will be in the Journal?

CLERK: Yes, sir, it will be taken up some time later.

Mr. President, LB 356. (Read title to LB 356 as found on pages 256 and 257 of the Legislative Journal.)

SPEAKER MARVEL: Okay, the motion by Senator Marsh to recess until 3:30 p.m. All those in favor of that motion say aye. Opposed no. We are recessed until 3:30 this afternoon.

Edited by:


Marilyn Zark

March 17, 1981

LB 245, 11, 179, 206, 206A,
257, 346, 396, 452,
468, 495, 542, 543

Banking, Commerce and Insurance Committee reports LB 257 to General File with amendments. (Signed) Senator DeCamp.

Ag and Environment reports LB 542 to General File; LB 11 to General File with amendments; LB 396 General File with amendments; LB 452 and 468 indefinitely postponed. All those signed by Senator Schmit as Chair.

Business and Labor reports LB 495 as indefinitely postponed. (Signed) Senator Maresh.

Banking, Commerce and Insurance reports LB 543 to General File with amendments. (Signed) Senator DeCamp.

Senator Lamb would like to print amendments to LB 179 in the Journal.

Senator Nichol's Judiciary Committee reports LB 346 to General File with amendments.

I have a set of Rules reports from Senator Wesely's Rules Committee. That will be inserted in the Journal. (See pages 977-979.)

Mr. President, I have a communication from Secretary of State and accompanying certificate regarding the Legislature's override of LB 206 and 206A. Both will be inserted in the Journal. (See pages 980-982.)

SENATOR CLARK: Senator Schmit, do you want to advance 245?

SENATOR SCHMIT: Mr. President, I move that LB 245 be advanced.

SENATOR CLARK: We have two more amendments up here.

CLERK: Mr. President, the first amendment I have is offered by Senators Dworak, Goll, Vickers, Sieck, Warner, Lowell Johnson, Carsten, Clark, Haberman and Koch and it is found on page 868 of the Journal.

April 7, 1981

LB 243, 249, 346

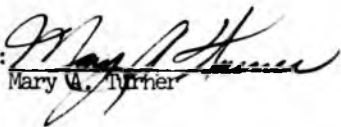
Mr. President, I have amendments to LB 243 from Senator Schmit, an amendment from Senator Vard Johnson, LB 346, an amendment from Senator Hoagland to 249. (See pages 1344-1345 of the Journal.)

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Now can I move we adjourn until nine o'clock tomorrow morning?

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed no. We are adjourned until nine o'clock tomorrow morning.

Edited by:


Mary G. Turner

April 13, 1981

LB 11, 346

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Have you all recorded your presence? Is there one more vote out there? Okay, record.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: All right, what is next. . . .

CLERK: Mr. President, Senator Maresh would like to print amendments to LB 11 in the Journal.

SPEAKER MARVEL: From Senator Wagner's district we welcome three guests, Senator Wagner's mother, Mrs. Elizabeth Wagner of McCook, Nebraska and Senator Wagner's brother and sister-in-law, Mr. and Mrs. Dale Wagner from Denver, Colorado. They should be underneath the south balcony. Will you. . . .

The first bill this afternoon is LB 346.

CLERK: Mr. President, LB 346 was introduced by the Judiciary Committee and signed by its members. Read title. The bill was originally read on January 19th, it was referred to the Judiciary Committee and the Judiciary Committee advanced the bill to General File, Mr. President. There are committee amendments pending.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, we are talking now about the Nebraska Juvenile Code. The first amendment that I wish to present deals with Section 65 of LB 346 which governs the record keeping section of the bill. Specifically this amendment deals with what information should be available out of the court records in regards to abuse and neglect cases. As originally drafted and as modified by the committee amendments, LB 346 would extend several of the records keeping provisions and reflects a change from the present law. It should be noted that many of the provisions which were modified by the original draft of the bill are covered under the federal privacy act and do not have to be covered specifically under the provisions of this bill. There has been some considerable disagreement even among the drafters of the code itself as to exactly how far the confidential records should be extended. Because there is disagreement in this area and because we do not wish to bog down this bill any longer than is necessary, I have offered this amendment to return this provision to

what is present law and practice. With my amendment this bill will maintain current law and practice in its present form. The news can get filings and pleadings information now and it can not get psychiatric information and medical information of this kind. The courts have been getting along well with the news media up till now and this amendment would allow this situation to remain as it is. I ask for the adoption of my amendment to the committee amendments.

SPEAKER MARVEL: The motion is the adoption of the Nichol amendment to the committee amendment. Senator Johnson, do you wish. . . .

SENATOR V. JOHNSON: Mr. Speaker, I don't have a copy of Senator Nichol's amendment, is it in the Journal? Or is it on our desks?

SENATOR NICHOL: Mr. Chairman. Mr. Chairman. . . .

CLERK: You are on, sir.

SENATOR NICHOL: This is not in the Journal, in fact this was worked out over the weekend, Senator Johnson, so I do not have a copy, for which I apologize.

SENATOR V. JOHNSON: As I understand it then, Senator Nichol, the purpose of the amendment very simply is to take Section 65 as it deals with the confidential juvenile court records and to in effect continue existing law as opposed to make a change.

SENATOR NICHOL: That is correct. That is right.

SENATOR JOHNSON: I am going to speak in opposition to the amendment Mr. Speaker, members of the body, for the reason that I personally have felt in being involved in some juvenile court cases that the existing protections for confidential records are not strong enough and that there are some kinds of juvenile court records that can become available to other persons and those records are such that can have true harm, not just to the juvenile defendant but in some instances to witnesses and others that happen to be involved in a juvenile court case. I have taken the time to read LB 346, this bill essentially is labelled as a bill to more carefully codify juvenile court law and it is in a sense regarded as a fairly innocuous bill and yet as Senator Nichol points out this is a substantial change. In reading the change it seemed to me that the changes set

out in Section 65 were very beneficial in terms of making certain that we did provide real protections to juveniles and to others in juvenile court process. It is for that reason that I support, I support Section 65 and I would oppose Senator Nichol's attempt to return this law to existing law.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, just kind of a though here. This is really an important bill but it really is a non-controversial bill. What it does is codify about ten years of things that have been brought, well heck, twenty years of things that have been brought before the Judiciary Committee. I remember I was on it an awful long time when we used to have 15-25 bills a year. What they did, they had an interim study, they consolidated everything, got it pretty well cleared up. The bill itself is very little major substantive change. That which is is just pretty uniformly agreed upon and has to be done. My thought is, here is a particular area that Vard has some difficulties on and he has some experience in the field. Bill has some concerns about why don't we get the bill moving without this amendment. Maybe Senator Nichol could withdraw it for this time, get the committee amendments adopted, roll the bill and I would guess that probably on Select File if there is still disagreement it is disagreement that can be handled rather quickly. Does that make any sense to you Senator?

SENATOR NICHOL: Senator DeCamp you are absolutely correct. I do agree that it would be perfectly agreeable with me to withdraw this amendment at this time simply because the effective date of this is not until the middle of 1982 anyway and of course we would have between now and then to work out the language on it. I would offer to withdraw this amendment.

SENATOR DeCAMP: The whole idea of the bill, as I understand it, and you correct me if I am wrong, but the whole idea is that we get it into place now, like we did on probate code, like we did on criminal code, the various other major codes, we put an operative date basically a year ahead so that we have one more session. That forces all the groups that have an interest in it to study it and see if they have any minor changes whether it be this one or the other one and then before it goes into operation, the final operative date we would have one final chance next session to make any corrections

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LB 346

that needed to be made or that could be agreed upon. So it would just, as I say, we pull that, put the committee amendments on and roll the bill and finish it up that way.

SENATOR NICHOL: Mr. Chairman, I offer to withdraw my one amendment.

SPEAKER MARVEL: Hearing no objections so ordered. Senator.... We are now on the committee amendments. Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I would rather speak to the bill. Thank you.

SPEAKER MARVEL: Senator Nichol, do you want to explain the committee amendments?

SENATOR NICHOL: Yes, the Judiciary Committee adopted several technical amendments on LB 346. Naturally any bill of this size it is a major effort to get all of the internal references straightened out and language which will appear throughout the bill consistent. This is the major thrust of the committee amendments. I guess you could call them all technical in nature and I prefer to go ahead and adopt the committee amendments to 346 and then discuss them in the context of the bill. I would move for the adoption of the committee amendments.

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

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

SPEAKER MARVEL: Motion carried, committee amendments are adopted. Senator Nichol, do you wish to explain the bill.

SENATOR NICHOL: Yes. Mr. Chairman and members of the Legislature, by now I would hope that you'd have an opportunity to look at the handout that we handed out this morning provided to you by the Judiciary Committee. The handout includes an index to LB 346, a table of contents with cross references of sections in LB 346 to the page numbers in LB 346, the summary of the contents on LB 346 and finally a section by section breakdown. Before I get into the bill itself and before responding to your question, I would like to give you a little background on this bill and on the juvenile area in general. I have been on the Judiciary Committee in one capacity or another for the past seven years and I'm sure

those of you who have been on the Judiciary Committee in the past would readily agree with what I have to say. As long as I can remember the Judiciary Committee has been annually assaulted by suggested changes to our juvenile laws every session. These suggestions come from approximately twenty different groups which are essentially juvenile advocacy groups throughout the state, PTA's, Foster Parent Associations, Adoptive Parents Association, Child Abuse Associations, Juvenile Justice Groups, Committees for Children and Youth and other use advocacy agencies continually bringing their suggestions to us. Now there is one thing that you learn very quickly in this area, is that each one of these groups think they have the right answers no matter what the question may be. I'm including in these comments references to judges groups and attorney groups as well as other groups comprised mainly of lay persons. These groups frequently have different philosophies as to how to treat the youth in this state and causes being advocated by one group or another, frequent conflict with those being advocated by another group. Now it has happened because of the failure of these various groups to coordinate their efforts and philosophies has been the enactment of various laws dealing with children and youth that have as their only common denominator the fact that they are all found in Chapter 43. Because of this mish-mash it is most difficult, if not impossible, for everyone to read through Chapter 43, Article 2 of the Nebraska revised statutes and make any sense out of them whatsoever. This is not to say that those people who have been advocating changes in the juvenile court statutes over the years are not sincere. They are not only sincere they are also hard working and persistent. But in their insistence to make a small substantive change here and there, a substantive there without attempting to fit those changes within some sort of overall structure, what has resulted has been what has been called by one juvenile court judge a legal plate of spaghetti. We are aware of this problem. The Judiciary Committee introduced interim study resolution 264 in the spring of 1979 to coordinate efforts to recodify Nebraska's juvenile code. The Judiciary Committee agreed to work with a group of judges and attorneys who we felt were in forefront of the juvenile law area in the State of Nebraska. Essentially the Judiciary Committee went out looking for their expertise which was so badly needed if we were going to return our juvenile court statutes to a comprehensive form. We were indeed fortunate to find that expertise, in fact, it turns out this group of judges and attorneys were just as concerned as we were and were looking for some type of legislative sponsorship. Let me give you

the names of those who worked on the recodification committee for the past two years: Robert T. Cattle, County Judge; Curtis Evans, County Judge; Robert Lott, Lincoln attorney; James Maken, County Judge; Joseph Moylan, Separate Juvenile Court Judge; Patrick Mullan, Associate Separate Juvenile Court Judge; W. W. Nuernberger, Separate Juvenile Court Judge; Steve Poots, Associate County Judge; William Staley, Separate Juvenile Court Judge. In addition, judiciary staff sat in on several meetings to monitor the progress for the Judiciary Committee and Joe Steele, State Court Administrator did the same for the Supreme Court. I might further add that all of the above gentlemen worked on this project on their own time, received no pay for their services and the only expense to the Legislature was printing, the clerical support by the Judiciary Committee staff. What you have before you, 346, is the end product of a two year effort by the above mentioned recodification committee. What this committee attempts to do was to reorganize, codify if you will, the existing juvenile law as it appears now on the statute and as it has been refined by case law. I would emphasize at the outset that there has been little substantive change made in the current statute. Substantive change was not the primary concern of the committee. What was the primary concern of this committee was that the juvenile statutes be structured so that future changes could be placed within a comprehensive code structure. There have been many substantive changes principally to fill gaps in existing statutes. Where changes have been made they are readily noted by referring to your section by section summary. Let me say further that the recodification committee worked and made changes on the basis of consensus not by unanimous vote. The chief complaint that the Judiciary Committee heard at public hearing was that this juvenile code did not go far enough. I was most pleased to hear that complaint because this bill is meant to be a road map for the future and not an end in itself. I know that some of you have been a little irritated at the Judiciary Committee for the past two years for dragging its feet on suggested changes in juvenile law. I know that many of you have been receiving pressure from various interest groups in your area to come in with this change or that change and have wondered why the Judiciary Committee has failed to act in this area. The reason we have failed to act in this area is because the committee preferred to wait until our recodification efforts were completed so that the change you bring to us in future years may fit into the structure of a comprehensive code. Good or bad that is the decision of the judiciary committee. That is the decision

that I personally endorse and that is the decision that I am asking you to support by making LB 346 through final passage. We had to rely on someone to help us. I think we relied upon the talent available, the best talent available representative in every area of the state. With that said I would like to tell you what the Judiciary Committee would like to do with this bill. We would like to move it across this year with . . . as few as amendments as possible. I know that this is asking a lot because you are undoubtedly getting pressure from various youth groups in this area to effect this little change or that little change to help them out. I would advise you that this is exactly the type of thing that has been going on for the past several years. Please note, and I say, please note that LB 346 has a delayed operative date that will not become effective until July 1, 1982. We have left an intervening session of the Legislature before the operative date of this bill to allow for various youth advocacy groups to come in and submit their ideas for change to us. We will be receptive to those changes but we feel those changes must be made within the structure of a new juvenile code. My office as well as members of the recodification committee have received numerous telephone calls on LB 346. Several of these calls have been to the effect, my goodness, why do you want to do this. The answer in many of these cases is we are not doing anything. This is present law. This is there now. You just haven't been able to find it. I have given you this rather extensive background so you can understand why the Judiciary Committee has taken the approach it has for the past couple of years in regard to changing juvenile court statutes. I think this is a responsible approach and in fact I think it is the only workable approach in this area available to us at this time. I know I spent a great deal of time in this area giving you the background rather than explaining the bill. If any would like to hear it, I will go through the index and section by section explaining with you which is contained in your handout. Absent of that I would move for the advancement of LB 346 and we will try to answer questions you may have.

SPEAKER MARVEL: There are some amendments on the Clerk's desk.

CLERK: Mr. President, Senator Johnson had an amendment to on page 1345 but I understand he wishes to withdraw. Mr. President, in lieu thereof Senator Johnson has an amendment.....

SENATOR V. JOHNSON:on everybody's desk in a few seconds.

SPEAKER MARVEL: You want to withdraw the other?

SENATOR V. JOHNSON: . . . Journal, yes.

SPEAKER MARVEL: Okay, hearing no objections so ordered.

SENATOR V. JOHNSON: Mr. Speaker, members of the body I have a couple of amendments that I would like to have adopted today. This first amendment that is coming out is, I think, a very innocuous amendment. It is being handed out by the Pages. It is an amendment that just says simply that a juvenile must be tried, and the hearing is called an adjudication hearing. He must have his adjudication hearing within six months after the petition in juvenile court has been filed. Now as you probably recall we have in our criminal code a speedy trial provision. Our criminal law says that everybody who has been charged with a felony must be tried within six months after that charge has been filed, otherwise the case will be dismissed. As you recall the purpose of a speedy trial provision is in the furtherance of justice to make certain that anyone who has been apprehended for a crime knows right now that they are going to come to trial right away. They are not going to have dust gather on their cases or cobwebs develop on the evidence but it is going to be tried right now. In fact, the speedy trial provision that we have in our criminal code has worked quite well to bring a number of accused persons to the bar of justice. Very quickly, you have got six months prosecutors to do it in, otherwise the case is dismissed. Now there are exceptions under the criminal statutes to the speedy trial provisions if in fact the defendant has requested delays and the delays are for a good cause, then the six months doesn't count. But those exceptions are exceptions. All I am doing in our juvenile code is saying, I want the same thing to apply in context to juvenile cases. I think simply that an adjudication ought to be done within six months after the petition is filed. I happen to be involved in a case, I have withdrawn from that case because I am down here, but I was involved with a case where the petition alleging my client's child to be a neglected child was filed in September and as of today's date the case has not yet come up for trial. That is far more than the six months period of time. Now I frankly think it is wrong to keep parents and children just hang and fire. I think the cases ought to be prepared and brought to trial quickly. That is all this amendment does. It is a simple amendment to make certain that you have to proceed to an

adjudication within six months after the petition is filed.
I move the amendment.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I certainly don't agree to.... I don't object to Senator Johnson's amendment, I agree to it. I think it is a good thing to set a limit of time on that of six months. I urge the adoption of his amendment.

SPEAKER MARVEL: All those in favor of the adoption of the amendment vote aye, opposed vote no. This is the Johnson amendment. Record.

CLERK: 26 ayes, 0 nays on the adoption of the first Johnson amendment, Mr. President.

SPEAKER MARVEL: Motion is carried, amendment is adopted.

CLERK: Mr. President, Senator Johnson moves to amend LB 346.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, this amendment is a much more substantive amendment in the sense that I think this has a greater impact than the first amendment does. I want you, if you will, if you will open your bills up and take a look at page 40, you will see precisely what it is that I intend to do by this amendment. This existing law right now says that a parent's right to a parent's child may be terminated for a variety of reasons and one of the reasons that the rights may be terminated is this. The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period. My amendment would remove that ground as one of the grounds for terminating parental rights. Now I have thought about this at some length. The reason I got to thinking about it is I introduced the bill this session to provide termination of parental rights proceedings in the district court. When I introduced that bill I just copied existing juvenile court law. People came in and they testified against the termination feature with respect to those parents who might be mentally ill or suffer some mental deficiency and their point was that this is the only place in the law where a condition, where a condition, so to speak, allows for the termination of parental rights as opposed to some failing shortcoming or fault. Virtually every other ground to terminate parental

rights involves a shortcoming, a failing or a fault of the parent. This is the one ground that does not. I want you to stop and think about this, members of the Legislature, if we really felt that parental rights ought to be terminated by virtue of somebody's infirmity then why do we put down that parental rights can be terminated if somebody is physically ill. For example, they suffer polio and they are now in an iron lung and obviously by being in an iron lung they can't care for their children so well, because they are in an iron lung. But we don't do that. We say they can be terminated however if they are mentally ill, or mentally deficient and unable to discharge parently responsibilities. I don't think that we need that provision in the law. I think that provision in the law continues to provide in effect a legal impediment to those persons who happen to suffer mental illness or who happen to be mentally weak. We don't need that provision in the law because we have other methods of taking their children away if it is necessary. For example, if the parents have substantially and continuously or repeatedly neglected the juvenile, then their rights be terminated. That is a fault issue. If they have abandoned the juvenile, then their rights may be terminated, that is a fault issue. If they have had the ability to provide for the juvenile but have not done so and not doing so have deprived them of their health, morals or welfare, then their rights would be terminated. If the parents are unfit by reason of debauchery, habitual use of intoxicating liquors and narcotic drugs or repeated lewd and ludicrous behavior, then their parental rights may be terminated. It is all fault concepts. So it seems to me that if we have a parent who is genuinely mentally deficient, a retarded parent for example, and if that parent by virtue of that retardation is neglecting the child then that parent's rights can be terminated, notwithstanding the existence of the present provision which allows the termination because of mental deficiency. The rights can be terminated simply because that parent is neglecting the child. I frankly think that you and I are re-enacting into law an older social standard which is outmoded in these days, a standard that essentially treats the mentally infirmed as somewhat less than a full human being and a parent. It is for that reason that I have offered this amendment to strike that particular provision from the termination statute so that the mentally deficient and the mentally ill can be treated just like any other parent. If they are at fault by the way their children are being reared, then their parental rights can be terminated. But if they are without fault, their rights can not be terminated simply because they happen to be mentally ill or

mentally deficient. I move the amendment.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, this is the first time I have seen this and I hate to open up the situation of termination of parental rights at this time. It might be all right, but as I understand it, what your amendment says is that you can not terminate parental rights if the parents have been determined mentally ill, is that correct?

SENATOR JOHNSON: That is correct.

SENATOR NICHOL: Essentially?

SENATOR JOHNSON: They can't terminate it simply because they are mentally ill or mentally deficient.

SENATOR NICHOL: Other than. . . . I think I go along with it pretty much, Senator Johnson, except we might have to touch LB 215 to change. . . and some other bill. Now if you wouldn't mind, I would like to work with this until we get to Select File. I think we can work it out, Senator Johnson, I really do, even though it is a sensitive area and we have not taken that up in this bill. If this would be all right with you, I would certainly try to do that. I am not opposing your amendment but I am in a way at this time.

SENATOR JOHNSON: Is that a question to me?

SENATOR NICHOL: Withdraw it for awhile.

SENATOR JOHNSON: Ahhh.....

SENATOR NICHOL: Please.

SENATOR JOHNSON: Yes, Senator Nichol has got a way with me and I'll be happy to withdraw the amendment and discuss this privately and maybe we can work these differences out.

SPEAKER MARVEL: Are you withdrawing your amendment?

SENATOR JOHNSON: Yes, I do Mr. Speaker.

SPEAKER MARVEL: Okay, hearing no objections so ordered.

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Senator Schmit, there are no lights.

SENATOR SCHMIT: Mr. President, members of the Legislature, in order that this amendment, non-controversial and meritorious as it may be doesn't come romping along next time when we are on Friday afternoon and no one knows what is going on, I would like to ask a question if I could please, if not I could ask it on the bill.

SPEAKER MARVEL: Who do you want to question?

SENATOR SCHMIT: Senator Johnson, as I understand, does this LB 346 provide for a court appointed attorney for the parents under Subsection 5, and under no other provision or does it provide for an attorney under all of those provisions?

SENATOR JOHNSON: Oh no, Subsection 5 requires the appointment of a lawyer for the parent. Requires it. The rest of those subsections only allow it if the court thinks it should be done.

SENATOR SCHMIT: I guess I am concerned about what is going to occur here because I have a hunch that when we start this court appointed attorneys for the child and the parents both I think that we are opening a can of worms that is far greater than what you have expected in the past because then you have the tax payer paying both sides of the issue. The thing can be dragged out for months and months and months. Does that give you any concern, Senator Johnson?

SENATOR JOHNSON: It sure does Senator Schmit. That happens to represent existing law however. What you are looking at right now in the bill is existing law. There is a section in this bill, I can't find quickly, which in my opinion increases the amount of appointed counsel and I just decided not to object to it, but it is there.

SENATOR SCHMIT: Then I will ask the questions on the bill when we get back to the bill, Mr. Chairman.

SPEAKER MARVEL: Senator Schmit, we are on the bill right now.

SENATOR SCHMIT: Then I would like to ask Senator Nichol a question, please. Senator Nichol, I see the county judge in Scottsbluff and I believe Sidney, those judges did not support the bill. Have they come around now to supporting the bill?

SENATOR NICHOL: Yes, I believe so, especially since we have a years waiting period and the last amendment that we are talking about a little while ago which we did not adopt was of some concern to . . . now let me say Senator Schmit, not all of these people agreed 100% on every item.

SENATOR SCHMIT: Okay, one more question. Does the County Attorney's Association support the bill?

SENATOR NICHOL: As far as I know they do.

SENATOR SCHMIT: As far as I know they do not. That is what bothers me.

SENATOR NICHOL: Who doesn't?

SENATOR SCHMIT: I understand that the County Attorney's Association is at the present time drafting legislation in reference to the juvenile code, is that true or not?

SENATOR NICHOL: If they are, I do not know about it. They might be.

SENATOR SCHMIT: Have you visited with the County Judges Association relative to it?

SENATOR NICHOL: Not that I know of.

SENATOR SCHMIT: You have not.

SENATOR NICHOL: As an Association, no.

SENATOR SCHMIT: Is it true that in all counties except Douglas, Lancaster and Sarpy County, the county judges are the juvenile court judges?

SENATOR NICHOL: Are the what?

SENATOR SCHMIT: In all counties except Douglas, Lancaster and Sarpy the county judges are the juvenile court judges.

SENATOR NICHOL: Yes, I believe that is true.

SENATOR SCHMIT: Can you explain to me, the impact as you see it, of a court appointed attorney for both the parent and the child. What will happen there in most of these instances?

SENATOR NICHOL: You mean when the parents are inadequate or mentally deficient?

SENATOR SCHMIT: That is specific, there has to be an attorney appointed by the court in those instances, but in those other instances that are mentioned here, the other five or six.

SENATOR NICHOL: Those are already appointed and if they can't pay for them, they are paid for by the county now. This would not change that law one bit. One part of the law one bit.

SENATOR SCHMIT: Then why is it underlined in this section?

SENATOR NICHOL: Because many of the portions of this bill were a result of trials and cases in the past that were not written into the law. Many of them were not into the law at all before. We are not changing anything of that nature at all, but we are bringing in court cases that have been held up as part of law and incorporating them into this bill so that what has been determined by the Legislature and by files and by court cases has been compiled into this.

SENATOR SCHMIT: I have a complaint from one rural county that they spent more than \$13,000 last year on juvenile cases alone and they are seriously concerned about the impact this will have upon their budget. I guess I am concerned also, but I will have to ask another question. Does this do anything in regard to the detention of a juvenile, a person under fourteen, does it change that statute in any way?

SENATOR NICHOL: This should not change that in any way other than what has been determined by the law of this Legislature and court cases.

SENATOR SCHMIT: At the present time, if this bill becomes law, can a judge detain a juvenile under fourteen?

SENATOR NICHOL: I believe that they can.

SENATOR SCHMIT: I believe that they can not, Senator Nichol.

SENATOR NICHOL: If they are dangerous, in certain cases, they can detain them. However it is not made a part of an arrest or a part of their court record if they are not arrested but they can detain them.

SENATOR SCHMIT: But they can not be detained in jail, is that right?

SENATOR NICHOL: I believe and I'm not going to say this for sure, but I believe they can, as a last result if they have no foster home to take care of them,, if it is in the middle of the night, for a short period of time.

SPEAKER MARVEL: You have one minute.

SENATOR SCHMIT: As nearly as I can determine the bill does not allow for the detention in any manner, does not provide the county judge with any matter in which he can detain a juvenile under fourteen regardless of the crime, because he can not put him in jail and there is no language in the statute that provides for that detention. So, I think we need to take a look at that. I think that we also need to review very carefully the impact upon the counties. We are going to be right back in the same old ball park again. I know in our small county we have had thousands of dollars spent on court appointed attorneys. I think that we are opening the thing wide up, I think that we are going to find the counties screaming and hollering in here a year from now the fact that....the particularly dangerous part about this, and I guess I am concerned because this morning there were so many people concerned they did not fully understand LB 11. I'll buy the treats for anyone who understands LB 346 and give you change in spades. I can guarantee you that when you have a year's delay in the enactment of a bill as comprehensive as this the chickens are going to come home to roost and they are going to be crows. I would hope that we take a long look at this bill. It is not exactly as inconsequential I'm afraid, Senator, as some people think it might be.

SPEAKER MARVEL: Senator Nichol, do you want to advance the bill?

SENATOR NICHOL: Yes, Mr. Chairman, I move for the advancement of the bill.

SPEAKER MARVEL: All those in favor of advancing the bill vote aye, opposed ote no. Have you all voted? Record.

CLERK: 25 ayes, 1 nay on the motion to advance LB 346
Mr. President.

SPEAKER MARVEL: Motion is carried, the bill is advanced.

CLERK: Mr. President, if I may while we are waiting, the Committee on Agriculture and Environment reports LB 184 to General File with amendments.

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LB 346, 334

Senator Johnson and Nichol would like to print amendments to LB 346.

Mr. President, I have a confirmation from the Miscellaneous Subjects Committee. That will be inserted in the Journal. (See page 1441 of the Legislative Journal).

SPEAKER MARVEL: Senator Koch, can you handle the committee amendments since they are appropriation committee amendments?

SENATOR KOCH: Thank you, Mr. Speaker. I move for the adoption of the committee amendments and then I will discuss the bill and its full intent.

SPEAKER MARVEL: Clerk will read the title and then we will proceed.

CLERK: Mr. President, LB 334 was introduced by Senator Koch. Read title of bill. The bill was first read on January 19th and was referred to Appropriations. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: The committee amendments, you will find them in your book on page 334, and what it does is it provides for an appropriation procedure to be reviewed annually. I ask for the adoption of the committee amendments and I'll speak to the bill in its totality.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to 334. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 27 ayes, 0 nays on the adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: Motion carried. Committee amendments are adopted. Senator Koch, do you want to explain the bill?

SENATOR KOCH: Thank you, Mr. Speaker. First of all I must state that this is the appropriations priority bill, even though I introduced it. Out of courtesy I asked Senator Warner if he wanted to handle it but he advised me that I could go ahead and do that so I will do it. This deals with the Post-Secondary Education Commission and what it

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LB 3, 58, 160, 161, 163,
200, 283, 330, 346, 371,
407, 437, 491.

do you have budget bills?

CLERK: Yes, sir. Mr. President, if I may right before we go to that, your Committee on Appropriations whose Chairman is Senator Warner reports LB 160 to General File, 161 to General File with amendments, and 163 to General File with amendments. Those are signed by Senator Warner as Chairman. (See pages 1457 and 1458 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and reengrossed LB 58 and find the same correctly reengrossed, 283 engrossed, and 491 engrossed. Your Enrolling Clerk has presented to the Governor LB 200, 283, 330, 371, 407 and 437.

Senator Johnson would like to print amendments to LB 3, and Senator Johnson amendments to 346. (See page 1459 of the Legislative Journal.)

Mr. President, Senator Warner as Chairman of the Appropriations Committee moves for the introduction of Request #931.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I move the bill be introduced. This will be one of six bills that we will be requesting to have introduced. They will cover the general operations of state government, and if they are introduced, I then would ask to have them placed on General File as we normally do so they can be printed immediately. I also would point out that beginning tonight and tomorrow night and other times as requested we will be giving briefings for the members of the Legislature on the appropriations, and you will have a booklet in your offices sometime this afternoon which will summarize each of the agencies' requests and the Governor's, as well as the committee's recommendation for that request. So with that explanation, Mr. President, I move the bill be introduced.

SPEAKER MARVEL: The motion is the introduction of the bill as explained by Senator Warner. All in favor of that motion vote aye, opposed vote no. It takes 30 votes. Record.

CLERK: 33 ayes, 1 nays on the motion to introduce, Mr. President.

SPEAKER MARVEL: The motion is carried.

CLERK: Mr. President, Senator Warner moves to introduce

April 15, 1981

LB 11, 40, 184, 248,
334, 334A, 346, 379,
392, 463, 479

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer this morning will be given by Dr. Al J. Norden, Pastor at the University Lutheran Chapel, 15th and Q Streets since 1951.

DR. AL J. NORDEN: (Prayer offered.)

SPEAKER MARVEL: Please record your presence.

CLERK: Mr. President, Senators DeCamp and Beyer would like to be excused for the day; Senators Hoagland, Wesely, Wiitala and Cullan until they arrive.

SPEAKER MARVEL: Have you all recorded your presence? We still need a vote. Record.

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

SPEAKER MARVEL: Do you have anything under item #3.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports that they have examined and reviewed LB 11 and recommend that same be placed on Select File with amendments; 346 Select file with amendments; 334 Select File; 334A Select File; 248 Select File with amendments; 463 Select File with amendments. All signed by Senator Kilgarin as Chair.

Mr. President, an Attorney General's opinion addressed to Senator Richard Peterson regarding LB 184. That will be inserted in the Journal. (See pages 1476 and 1477.)

I have a report from the Department of Administrative Services to do with communications. That will be on file in my office, Mr. President.

And, Mr. President, LBs 40, 379, 392, and 479 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 LB 40, LB 379, LB 392, LB 479. We are now ready for item #4, Final Reading. Will all legislators please take their seats, unauthorized personnel please leave the floor? We cannot proceed until all legislators are in their seats. We are still waiting for all legislators to leave your group and go to your seat so we can proceed with Final Reading. Will the whip in the back of the room please

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LB 58, 243, 283, 284, 346, 491

SPEAKER MARVEL PRESIDING

REVEREND LELAND WARREN: Prayer offered.

CLERK: Mr. President, Senators Marsh, Cullan and Kilgarin would like to be excused. Senator Howard Peterson and Hoagland would like to be excused until they arrive.

SPEAKER MARVEL: Do you want to record your presence please? Have you all recorded your presence? Okay, record.

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

SPEAKER MARVEL: Okay, item number what? Three?

CLERK: Yes, sir. Mr. President, we have the report of registered lobbyists for the week of April 16 to April 23. We have a gubernatorial appointment from the Governor for Mr. Swanson to the Environmental Control Council. Senator Nichol would like to print amendments to LB 346. (See pages 1549-1551 of the Legislative Journal.)

Mr. President, LB 58, 283 and 491 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 reengrossed LB 58, reengrossed LB 283, reengrossed LB 491.

CLERK: Mr. President, a request from Senator Haberman to add his name to amendments to LB 284, Request #2325 as cocointroducer. (See page 1552 of the Legislative Journal.)

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, a new resolution, LR 62, offered by Senator Kahle. (Read. See pages 1551-1552 of the Legislative Journal.)

Finally, Mr. President, I have a message from the President of the United States addressed to the Clerk. (Read. See page 1552 of the Legislative Journal.)

SPEAKER MARVEL: Okay, we are ready for item #4, resolutions. I would like to make a statement before we start. Some of these items on the agenda we have confronted before. I hope when the confrontation takes place today we can limit debate and not repeat what has been said before.

CLERK: Mr. President, I have a series of Attorney General's opinions. The first is addressed to Senator Vickers regarding LB 243. I have one addressed to Senator Sieck regarding LB 243.

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LB 172, 239, 346, 547

carriers. Other states require quarterly, Nebraska requires monthly, and they have simply ignored the monthly reporting and it does put us in uniformity so that everybody will be doing the same thing at the same time. It also does the setting of the variable motor and special fuel tax rates that was established in LB 722 in 1980 and is changed from adjusting it monthly to adjusting it quarterly also. That, Mr. President, in addition to defining a special fuel dealer more clearly, is what the bill in its totality does. And I would move for the advancement of LB 172 as amended to E & R Initial.

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

CLERK: 27 ayes, 0 nays, Mr. President, on advancement of the bill.

SPEAKER MARVEL: Motion is carried. The bill is advanced. Do you have some items to read in, Mr. Clerk?

CLERK: Yes, Mr. President, if I may, Senator Schmit would like to print amendments to LB 547, Senator Kahle to 239, and Senator Vickers to 346. (See pages 1693 and 1694 of the Legislative Journal.)

Mr. President, Senator Koch, rather than have the Omaha delegation meet at 3:30, will meet upon adjournment in Room 1517. Is that right? Okay.

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

SENATOR GOODRICH: Members of the Legislature, could we have your attention for a couple of moments. Now, you all know by now that the Senators played a ball game last night with the Pages. Ordinarily, Senator Fitzgerald would be up here making a presentation. However, Senator Fitzgerald being the poor loser has declined the duty to make this presentation. However, now that we got that clear, why I am here instead of Senator Fitzgerald, now would Kitty assemble all the Pages because we have a rather unpleasant task here to perform. Are they all together, Kitty? They are all present? Okay. We have prepared something for the benefit of the Pages and I will read it to the members of the Legislature. It says: In Memoriam. Whereas the 1981 class of legislative Pages had the chautzpah to heap ignominy upon the distinguished Senators of the Nebraska State Legislature, the Unicameral Legislature of Nebraska extends its sincerest

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LB 11, 346

PRESIDENT: Chair recognizes Senator Koch. Senator Koch, okay. We will proceed then to LB 346, Mr. Clerk.

CLERK: Mr. President, LB 346, yes, sir, there are E & R amendments, Mr. President.

PRESIDENT: Senator Kilgarin.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 346.

PRESIDENT: Motion to adopt the E & R amendments to LB 346. Any discussion? If not, all those in favor of adopting the E & R amendments to LB 346 signify by saying aye, opposed nay. That is great. The E & R amendments are adopted. Mr. Clerk.

CLERK: Mr. President, I now have an amendment from Senator Vard Johnson found on page 1440 of the Journal. 1440, Senator. (Read.)

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: I have to make certain, Mr. Speaker, I know which this amendment is. Mr. Speaker, members of the body, this is an amendment that we discussed on General File and then I said in the interest of time I would withdraw the amendment and hold it for Select File so now it is back. If you have in front of you your copy of LB 346 which is a lengthy bill and you look at page 40 thereon you will see what it is that I am attempting to do with the amendment. 346 is described as a recodification of the juvenile code without any major substantive changes in existing law, that whatever changes do exist in the recodification process, the changes are very minor. I went through the bill pretty carefully and I did find a few changes I thought were a little more than minor but by and large they were acceptable. This is a change which I believe is a relatively significant change but in the end it probably does not have any major effect on the juvenile court process. What my amendment would do very simply is it would say that when a juvenile court is in the process of attempting to terminate somebody's rights to a child, terminate parental rights, they cannot use as a ground for termination that the parent is unable to discharge parental responsibilities because of mental illness or mental deficiency. Right now our termination statutes allow a juvenile court to affect a termination of parental rights upon a showing that a parent of a child is mentally ill or mentally deficient

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and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period. Now a couple of Senators have come up to me in the last couple of weeks and have asked me some things about this amendment and so I want to talk about it for just a few minutes. One of the primary questions is this, if we take away from prosecuting attorneys and if we take away from the juvenile court the ability to terminate parental rights when somebody is mentally ill or mentally deficient, do we not in effect consign a child to living in a home of a mentally ill or a mentally deficient person forever which could be a very harmful thing to a child and my answer has been absolutely not because the termination provisions in the juvenile code do not even come into play, they do not come into play until after there has been some determination made that the child is a neglected child or the child is a dependent child, that means that the child is not being provided care by the parents with no fault of the parents, or the child has been involved in some kind of a misdemeanor or a crime or what have you. During the course of that proceeding, the court has ample authority to remove that child from that home and place that child with foster parents or in a foster setting or even in the Nebraska Center for Children and Youth. The termination proceeding is one that in a sense cleans up the title, so to speak, to the child. By terminating a parent's rights to a child, that child then becomes an adoptable child. That child then the Nebraska Department of Public Welfare or somebody else could then place in a home and that child could ultimately become adopted by the home. So that is the basic function of terminating a parent's rights. Now it has seemed to me that it is incorrect for us to single out mental illness or mental deficiency as one of the basis of terminating permanent rights and I make that point because we don't single out physical illness or physical infirmity and you and I do know, we really do know of families where one of the family members becomes permanently laid up by virtue of a mental...I am sorry, by virtue of a physical infirmity. For example, a number of years ago adults suffered from polio and that polio could very well confine them to an iron lung or to a portable respirator for the rest of their days, and yet it is not thinkable for us to attempt to terminate the parental rights of that type of an adult to his or her children. Mental illness is a condition that sometimes goes in remission, sometimes is in a stabilized form and what have you, and it seems to me that it is inappropriate, it is inappropriate for us to single that out as a condition by which we can terminate parental rights. Now if we have a mentally ill or a mentally defective parent who over the long pull demonstrates through his or her conduct that he or she is neglecting the child, then continuous acts of neglect will serve as the basis for terminating parental

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rights. That is existing law. So I think the law is adequate to permit a termination of parental rights for a parent who by reason of mental illness or who by reason of mental deficiency is causing continuous harm to a child. I don't believe this provision is necessary in the law. It seems to me that it is an archaic provision. It is one that will not be used very often and it is one we could well live without. I don't think that we ought to single out mental condition as a condition for terminating parental rights and it is for that reason I do offer this amendment.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I rise to vigorously oppose Senator Vard Johnson's amendment. Now as I told you the other day, the purpose of this bill is to codify, to put in order this particular section of law. Now what we are coming in here at the last minute and attempting to really make a big change. Now if one thing is sensitive it is the termination of parental rights and what we are attempting to do is to put down on paper what they are at the present time. Now you will recall also, this particular bill has an effective date a year away. Now if Senator Johnson wants to change this, then let's work with those who have been working to recodify this for many years and put it into the law within the next year, not here on a moment's notice. This is not a little thing he is talking about. If there is anything sensitive among parents and courts that are handling these types of cases it has to do, one of the sensitive areas has to do with the termination of parental rights. As I recall from some of the testimony or from someone who was talking to us about this, a certain parent went off the deep end, as we say sometime, and imagined that their children were rats and they were trying to kill them. Well, certainly such a situation should provide some means of severing the parental rights. Now, and I can't emphasize on you strongly enough what Senator Vard Johnson is trying to do here in a moment's notice. If it is important, if he is correct, if he can influence the people who have been busy trying to put this into a readable form, then let's do it within the next year and the next session Senator Johnson should come in and add such an amendment. I really hope you will defeat this amendment.

PRESIDENT: The Chair recognizes Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. President. I have a question for Senator Johnson.

PRESIDENT: Senator Johnson, will you respond?

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SENATOR V. JOHNSON: Yes, I will.

SENATOR PIRSCH: Senator Johnson, this is the way the law has been for a long time, correct?

SENATOR V. JOHNSON: Correct.

SENATOR PIRSCH: Can you give me, can you give me why you think this needs changing, what kinds of things are happening that give you cause to change this?

SENATOR V. JOHNSON: Well, ironically, I don't think very many things are happening that would give me cause to change it. I can't think, to be truthful with you, Senator Pirsch, of any stories that I believe are horror stories in the sense that a child...that the relationship of a parent to a child has been terminated improperly in my judgment by virtue of someone's mental illness, but what that means to me then, I also don't know of very many cases where this ground has been used. That is because we have other grounds that are more adequate to cover the subject. So what I say from sort of a value judgment position, why should we bother to single out mental illness and mental deficiency as a basis for terminating parental rights when we have plenty of other grounds that will work. Why should be put a red flag up in an area which really is a very sensitive area, and it seems to me that it is appropriate for us to delete this particular part of the terminations then.

SENATOR PIRSCH: Thank you, Senator Johnson. I do know of a case in particular where I feel this is a problem and I think that I would oppose this amendment. I feel that since there has been no abuse and possibly could be needed that we should not adopt this amendment.

PRESIDENT: Any further discussion on the Vard Johnson amendment? Senator Johnson, you may close on your amendment.

SENATOR V. JOHNSON: Just a couple of additional remarks, Mr. Speaker and members of the body, and that is this. Senator Pirsch asked me in a sense if I knew of any bad stories or horror stories, so to speak, involving the use of this particular provision and I said I did not and that continues to be true. I just feel...I feel in a sense that one of the things that is occurring in our society is as when we begin to treat mental illness more and more and begin to deal more and more with the mentally deficient in community based settings is that we have recognized that both mental deficiency in and of itself is certainly no reason why someone can't serve as a perfectly appropriate parent, and in addition, we also

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recognize that mental illness is a condition that to a large extent is treatable through drugs. So it seemed, and finally we realize that there is a tremendous amount of judgment call, there is a lot of discretion, a lot of leeway in defining who really is mentally ill and who is not mentally ill or who is mentally deficient and who is not mentally deficient. I took a case to the Nebraska Supreme Court a couple of years ago regarding an older couple's ability to decide if whether they were going to get married or not. They were both somewhat retarded and I didn't think it was a close call at all but somebody else thought it was a very close call and that is why I ended up in the Nebraska Supreme Court on the subject. In my opinion, this is an archaic provision which really ought not to be in the law because we have other portions of the law that more than adequately cover the subject, and it is for that reason I now take the opportunity to offer you the amendment to remove this particular provision from the termination statutes.

PRESIDENT: The question is the adoption of the Johnson amendment to LB 346. All those in favor vote aye, opposed nay. Senator Johnson.

SENATOR JOHNSON: Yes, I am going to ask at this time for a Call of the House.

PRESIDENT: They won't vote so you just as well. The question then is, shall the House go under Call? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 21 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. Sergeant at Arms will see that all members are back at their desks, all unauthorized personnel leave the floor. The House is under Call. Record your presence. All members will record their presence. While we are waiting for everyone to register your presence, the Chair would like to introduce a guest of Senator Wesely's, Steve Chick, a student from Robin Mickle, ninth grader, and he is seated under the North balcony. Steve, will you stand and be recognized? Welcome to your Unicameral Legislature. Some of the members that we are looking for are Senator Fitzgerald, Senator Dworak, Senator Lamb, Senator Higgins, Senator Newell, Senator Warner, Senator Cullar. We have about three or four. Do you want to wait or do you want... Senator Johnson, what do you wish to do?

SENATOR V. JOHNSON: I think I am going to ask for a roll call vote at this juncture. I think, if I might, since there were so many folk here, just take a second to explain.

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the amendment again. Would that be all right, Mr. Speaker?

PRESIDENT: The only thing we can do is have it read by the Clerk. If you want that, I will...

SENATOR V. JOHNSON: The reading does not explain it in the least.

PRESIDENT: Well, Senator Nichol objects to any further debate at this point.

SENATOR NICHOL: If he wants it, I want it, see.

PRESIDENT: Yes, we will open it all up again. I don't think we can allow that. We will just take a roll call vote.

SENATOR V. JOHNSON: People can ask their neighbors.

PRESIDENT: Do you want to start right now?

SENATOR V. JOHNSON: Yes.

PRESIDENT: All right, commence with the roll call vote, Mr. Clerk. The question is the adoption of the Vard Johnson amendment to LB 346. All those in favor vote aye, opposed nay. Go ahead.

CLERK: (Roll call vote taken. See pages 1704 and 1705, Legislative Journal.) 16 ayes, 26 nays, Mr. President.

PRESIDENT: Motion fails. Any other amendments?

CLERK: Yes, sir, several.

PRESIDENT: Read the motion.

CLERK: Mr. President, the next amendment I have is from Senator Nichol. I have a note that you want to withdraw that one, Senator, and it was on page 1440.

SENATOR NICHOL: There is one that was put on page 1450 or 1550 that does the same thing only with corrections and I want to have that one.

CLERK: Okay, but I have got a couple ahead of you, Senator, but you want to withdraw this one on 1440, is that right?

PRESIDENT: Motion is withdrawn. Proceed.

CLERK: Mr. President, the next one that I have is offered

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by Senator Vard Johnson found on page 1443.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: I ask unanimous consent to withdraw that amendment.

PRESIDENT: All right, it is withdrawn, Senator Johnson. That amendment is withdrawn. Any further amendments?

CLERK: Yes, sir. Mr. President, the next amendment I have is from Senator Vard Johnson, the second one on 1443, Senator. (Read.)

PRESIDENT: Senator Johnson.

SENATOR V. JOHNSON: I want to ask unanimous consent to withdraw that one as well.

PRESIDENT: You want to withdraw that one?

SENATOR V. JOHNSON: Yes.

PRESIDENT: All right, this amendment is also withdrawn. Proceed.

CLERK: Mr. President, the next amendment I have is then offered by Senator Vard Johnson found on page 1459.

SENATOR V. JOHNSON: Yes, I would like to run with this one. Mr. Speaker, members of the body, this is an amendment which probably at this time only applies to the juvenile court in Omaha. The amendment would say simply that unless the juvenile court judges otherwise agree they shall appoint one of their number as the presiding judge and that appointment shall be for a three year time period. Now existing law says that unless the juvenile court shall otherwise agree or unless the juvenile court judges shall otherwise agree, they shall appoint one of their numbers as presiding judge and that tenure shall be one year. Now what has happened in Omaha is we have two juvenile court judges, each obviously equal to the other, and the two juvenile court judges end up basically not ever agreeing to a longer time period for one of them to serve as presiding judge so they end up operating under our statute which says that one shall be presiding judge for one year and then the following year it shall go to somebody else, and then back to the first person and the like. Now the effect that has, however, is this, if we have two juvenile court judges with slightly differing philosophies concerning the operation of a court system, concerning the use of probation officers,

concerning the diversion of children from the court system, concerning a lot of different things, that individual can only impose, so to speak, his point of view for a one year time period, and that causes, what that does is that causes the court to end up not doing anything new or innovative. Now I would like to contrast what is happening in the Douglas County juvenile court with what is happening in the Sarpy County juvenile court where we have one juvenile court judge. That one juvenile court judge has been able to do over the last five years a whole host of very exciting things for the young people so that in fact, in fact, there are many young people who are now diverted from the juvenile court process, there are many young people who have been on the way to a fairly hardknock life and have had that turned around and I submit that one of the reasons that that's been done is not in the personality of the judge so much but more because the judge has had the authority to speak for a court because that is the only judge. We look here in Lincoln and Lancaster County and I think virtually all of the Lincoln Senators will attest to the fact that Judge Muernberger is an outstanding juvenile court judge. Some of that may be attributable to his personality and character but another part of that is attributable to the fact that that man is the boss, so to speak. It is his court. He operates that court and he does with that court what he sees best in the interest of children. Now all may amendment does is it says to the juvenile court judges in Omaha, "Okay, judges, if you can't make an agreement as to how the presiding judge concept shall be conducted, then it shall go for three years, that one of you is going to be judge for three years, presiding judge for three years, and that will be the time period that you, in effect, will have to impose your views, your attitude on the court for the betterment of the children. I think it is a very solid amendment and it really doesn't...what it says to the judges in Omaha is it just says, "I would certainly hope you could work out by agreement precisely how you want to take the presiding judge situation, and if you can't do it, then it is for three years but otherwise you ought to be able to agree on it." I offer the amendment at this time.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, surprise, Vard, I am not going to object to this amendment. This would provide for a three year term presiding juvenile court judge in Omaha, and since the bill would not take effect for a year, if the judges in Omaha don't think this is a good idea, it certainly will give them an opportunity to say so and it applies only to Omaha and it may or may not be a good idea, I don't know, so I will not oppose the amendment.

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PRESIDENT: Senator Johnson, you may close.

SENATOR V. JOHNSON: I would waive closing at this time, Mr. President.

PRESIDENT: Closing is waived. The question before the Jouse is the adoption of the Vard Johnson amendment on LB 346. All those in favor vote aye, opposed nay. I would remind everybody that technically you are still under Call. So don't try to have a Call of the House. You are under Call. Record the vote.

CLERK: 29 ayes, 0 nays on the adoption of Senator Johnson's amendment, Mr. President.

PRESIDENT: The motion carries. The amendment is adopted. Any further amendments?

CLERK: Mr. President, Senator Nichol now moves to amend and that is found on page 1550 of the Journal.

PRESIDENT: The Chair recognizes Senator Nichol, and before I do, Senator Nichol, let me just introduce some guests of Senator Maresh, some 8 seniors from Bruning, Nebraska, with Deanna Maschmann, the teacher, from Bruning. They are up here in the North balcony. Would you welcome these seniors to the Unicameral Legislature. Welcome! Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, this amendment appeared on 1440, page 1440, a few days ago and Senator Vard Johnson was objecting to them and so we had them redrafted to correct technical errors but also I would like to have this amendment on the bill because this amendment was worked out by members of the drafting committee and would return this section to existing law. In the present form the bill would restrict access to many of these records. This amendment would allow access to pleadings and orders as is the present practice. I think some would like to have news media have access to reports such as psychological reports, medical reports which, of course, we do not wish to have. So I move for the adoption of this amendment.

PRESIDENT: Any further discussion on the Nichol amendment to LB 346? Senator Nichol, I guess that is your opening and closing. The question before the House is the adoption of the Nichol amendment to LB 346. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 29 ayes, 0 nays on adoption of Senator Nichol's amendment, Mr. President.

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PRESIDENT: Motion carries. The amendment is adopted. I think somebody better move to raise the Call since people aren't paying any attention to it anyway. Yes, Senator Fitzgerald, thank you. The Call is raised. Now those that have left are legally gone for awhile. So let's go ahead, Mr. Clerk, then. Any further amendments?

CLERK: Yes, sir. Mr. President, Senator Schmit-Vickers moves to amend and that is found on page 1694 of the Journal.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President, and members of the Legislature, this amendment is an amendment which I hope would correct the problem that I think may exist when the counties find themselves in the position of having to provide counsel both for the juvenile and for the parents. It seems a little strange that we place the county boards in this sort of a position. I think it is perhaps understandable that we provide the counsel for the juvenile but to provide both sides is getting to be a little bit costly I believe. This would restore the situation to the present situation as it stands today. It would also then allow the judge to use his own discretion as to how he shall detain an individual, a young person. Now it is very simple perhaps in the more populated areas to find someplace other than a jail to detain a young man or woman. That may not be true in the western part of the state. It is also conceivable and maybe in the eyes of the judge preferable to detain an individual, for example, in the Butler County jail rather than to send that person to Kearney for a day or so. I don't think the judges have been guilty of any flagrant violations of the children's rights in the past. I think that the adoption of this amendment could very well reduce the cost of the operation of the system, at the same time exercise sufficient protection for the young people and I have some other concerns with the bill but this does, I believe, take care of a couple of the points and I think Senator Vickers wishes to address it also.

PRESIDENT: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. President, members, I rise to urge the adoption of this amendment also. As Senator Schmit pointed out when the counties find out that the attorneys fees have to be paid for both the juvenile and the juvenile's parents, I think that some of the counties are going to realize that an additional cost has been incurred by this Legislature that is going to be a little bit hard for some of us to defend. So it seems to me that that certainly should be taken out of the bill. Also this section that deals with prohibiting a

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judge in his discretion to put a juvenile in jail or to hold a juvenile following a disposition of the court I believe would put people in rural Nebraska in a very bad situation. For instance in my home county, I think it would be easier if you had a juvenile that was sentenced for some fairly small infraction, let's say, I think it would be much better to have them kept in the county jail close to home for a short period of time which would probably be the judge's discretion to do and would teach the juvenile a lot more about respect for law and order, it seems to me, than to send them to detention center in Kearney or wherever where they would be exposed perhaps to other things. So it seems to me that we should leave the discretion to the judges in this area and, quite honestly, 346 I think is opening a pandora's box if we don't get this amendment adopted. So I urge the body's adoption of this amendment.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, here we go again attempting to do something quickly that has been a problem for a long time. Right now as I understand it, we have a juvenile justice court system in the State of Nebraska. My first reason for objecting to this is that we may, and I say "may", be dealing ourselves out of federal funds for the juvenile justice act from which we get federal money. I don't know one way or the other but we well may be doing that and I don't think we should be putting something on quickly here and take that risk. Secondly, under the juvenile act as we have it now, you do not put a child under fourteen in jail. Now if you want to change that, that is fine, but if a judge says that this person under fourteen has done a...has committed a crime that could be prosecuted under the adult system, he may do so, and then in that case he may put them in jail. Now rather than just saying, yes, you can put anybody in jail regardless of what, I would be a little leery of doing that. I think this situation should be studied during the interim and made a definite commitment one way or the other, not quickly making the decision here on this floor without any hearings, without knowing what the judges want to do, without not knowing what the judges think ought to be done at least and what prosecutors think ought to be done, but just quickly do it here because we want to put the kids in jail. So I urge you not to support this amendment.

PRESIDENT: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. Chairman, Mr. President and members, that was a very ~~emphatic~~ passionate plea from Senator Nichol but I

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would just remind the body that the changes that are being made is in 346, not by the amendment that Senator Schmit and I are offering. The amendment that Senator Schmit and I are offering will put it back...the system back in the way it operates right now. So if you are concerned about change, I would think you would be concerned about not adopting the amendment to LB 346. The change Senator Nichol says needs a hearing. Well, if you will look in your bill book, and he also indicated that he wondered what the judges thought, if you will notice in the bill book, there were a couple of judges from rural Nebraska that came in in opposition to 346 and my office has been in contact with some of those judges and the sections that Senator Schmit and I are attempting to amend are the reasons that those judges opposed 346. They think that the system should stay as it is. So I just simply point out to the body that if you are concerned about last minute changes, as Senator Nichol pointed out, then adopt the amendment because we are not changing anything with the amendment. We are putting it back like it was.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I sympathize with Senator Nichol's defense of the bill and I am sure he understands it better than I do. I wish that I did understand it as well as he does but I can tell you very frankly that the bill is not just a minor bill and as I read the bill it provides some substantive changes, and as Senator Vickers has pointed out, if you don't like all that much change, then you would have to support the Schmit and Vickers amendment. I think we are going to find difficulties in many areas if we delineate the problem as Senator Nichol has pointed out here and not allow the judges some discretion. I know that we could be concerned about the federal funds, I don't know about that, I think we are more concerned in our counties about the availability of the property tax money that is going to be there to take care of these problems. I know that my county boards have complained to me vigorously and upon many occasions that we mandate certain actions by those county boards and we also tell them to live under a certain kind of a lid, and then we come right back and say, okay, you are going to have to provide the counsel for both the children and the parents. You are going to have to provide transportation for that young man or woman to Kearney and back and these costs all have to be borne by the county. Now I am not so sure how much federal money we are going to get out of this. Perhaps Senator Nichol can refer to it. In fact, I would like to ask Senator Nichol a question at the present time. Senator Nichol, how much federal money are we talking about

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here? You said there is a chance we would lose federal funds if we adopt this amendment. Can you tell us about the kind of money we are losing and the amount of money that would be filtered back to the counties out in our areas (interruption)?

PRESIDENT: Senator Nichol, would you respond to that?

SENATOR NICHOL: I am going to say \$150,000, Senator Schmit, and if I am very far off I will let you know before we are through with this argument.

SENATOR SCHMIT: You mean \$150,000 for the entire state? Well, that averages out, if you take a hundred counties, that doesn't average into too much money per county, and when you take that into consideration out into the smaller counties which I am sure would get much less than the average, you can find that the employment of an attorney for the parents of the juvenile could well eat up whatever amount of money that would amount to very rapidly. Most of them can't be retained for less than a few hundred dollars and I think that we are setting a precedent here which again, Senator Nichol, I apologize for offering an amendment to your bill but I just can't let it go by without making some kind of a statement because I am concerned. I think there is more here than meets the eye and I am sure that we will be reminded of it from time to time if we pass the bill without the amendment.

PRESIDENT: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I would just remind you, Senator Vickers says they are not changing the bill. This amendment does change the bill. What I am attempting to do is to leave the law the way it is now as far as jailing juveniles are concerned. Now it is in our juvenile code, it says you are not going to jail a juvenile under fourteen unless he is charged with an adult crime and that is the way we want to leave it. Now, Senator Vickers, if you can show me anywhere, anywhere, where it says you can now put a juvenile in jail, I will condescend to your amendment. You are the one wanting to change it, not me, so I urge you not to support this amendment.

PRESIDENT: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. President, members, I apologize to the body for dragging this debate on, and I would certainly not indicate that I know as much about this subject as Senator Nichol does, but from all of the information that I got, I agree with Senator Nichol that I am changing the bill. That

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part we certainly agree on. I guess the difference perhaps is that I don't think we are changing with our amendment, that we would be changing what happens right now. I guess I would like to ask Senator Nichol a question if he would respond please, Mr. President. Senator Nichol, at the present time are the counties required to pay for the attorney fees for both the juvenile and the guardian or parent?

SENATOR NICHOL: I know they are required to pay the attorney fees for the juvenile when it is required. As I recall, yes, they are required to pay for the guardian when they need it, if they can't pay for it.

SENATOR VICKERS: In other words, if a juvenile faces court action, the county has to pay for an attorney for not only the juvenile but also for the juvenile's parents, is that what you are telling me?

SENATOR NICHOL: If they request it, that is right.

SENATOR VICKERS: But that is by request only. Under the 346 it would say that they have to do it, is that correct?

SENATOR NICHOL: Would you say that again? I missed your question, what it means.

SENATOR VICKERS: It says in 346 that the court "shall" inform them of their right to counsel and pay their expenses. Now, and you are telling me right now that is done in the counties at the present time?

SENATOR NICHOL: Not for parents but it is for the juvenile.

SENATOR VICKERS: Okay, but under the 346 it will be done for the parents, right?

SENATOR NICHOL: Well, when you have termination procedures, yes, they have to provide it for both then.

SENATOR VICKERS: Yes, but under the Section 28, it is not talking about termination proceedings, is it, because it says when a juvenile shall be brought before a juvenile court. Now if it is termination proceedings, it is the parents that are brought before the court, isn't that correct?

SENATOR NICHOL: Sometimes, yes. Now what was your other questions or other question?

SENATOR VICKERS: Sometimes...let me get that clear first. If it is termination proceedings, is there ever a case where

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the juvenile is brought before the court, if it is parental rights determination?

SENATOR NICHOL: Would you say it again please?

SENATOR VICKERS: If it is parental rights determination that is going to be terminated, is there ever a case where the juvenile is the one that is brought before the court?

SENATOR NICHOL: You say, is there ever a time when the juvenile is the only one brought before the court, is that what you are saying? I can't quite understand your words.

SENATOR VICKERS: Yes. The section we are trying to amend says that when a juvenile, when any juvenile shall be brought without counsel before juvenile court, now in that case could it be parental termination of rights that would be being brought before the court if the juvenile is the one that was brought there?

SENATOR NICHOL: Both the juvenile and the adult are brought into the court and both at their request shall have attorneys, sure. That is what it says now. We are not changing that.

SENATOR VICKERS: Okay, thank you. I understand what you are saying in that case but I don't think that Section 28 says that. I think Section 28 to me says that when the juvenile is brought before the court and that we are going to pay both sides, not both sides but we are going to pay an attorney fee for both the juvenile and their parents and I don't think this section, to me at least, deals with parental termination of rights because in that case I think it would be the parent being brought before the court. I don't think it is worded that way in this section so I disagree, I guess, with Senator Nichol that it is being done this way right now. I don't think it is. Again I urge the adoption of this amendment.

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

SENATOR SCHMIT: Mr. President, members of the Legislature, again Senator Nichol has done a lot of work on the bill. He understands the bill much better than I do but I want to tell you that I think if you vote for the Vickers and Schmit amendment you are going to be in better shape with your county boards than if you don't. Now there may be something that I don't see in there but I think that at the present time I think the Schmit-Vickers amendment is a reasonable amendment. It is one which you can defend and one which I think is not going to be costly. Senator Nichol said it was going to

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cost...it could cost \$150,000 of federal funds. I will guarantee you, ladies and gentlemen, that you won't hire very many attorneys across the State of Nebraska for \$150,000 if we lose the whole ball of wax. So I would suggest you support the amendment and I don't think you are going to find anything that you can't defend yourself for in the support of the amendment. Again, I don't think you can hardly ask the counties to pay for both the parent's and the children's attorney and I don't think that it is consistent with the confidence we place in the court system to tell a judge that he cannot or can do certain things in the disposition of a juvenile. I think they have exercised good judgment. I believe that they will continue to do so and I would ask you to support the amendment.

PRESIDENT: The question before the House is the adoption of the Schmit amendment to LB 346. All those in favor vote aye, opposed nay. Senator Schmit, do you want to have a Call or what do you want to do?

SENATOR SCHMIT: Let's have a Call, Mr. President, and a roll call vote. Let's do it up quickly.

PRESIDENT: All right, the question before the House is shall the House go under Call? All those in favor vote aye, opposed nay. The question is, shall the House go under Call? Record the vote.

CLERK: 23 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. Would the Sergeant at Arms make sure all members are back at their desks? All members record your presence so that we can proceed, and, Senator Schmit, do you want a roll call vote at such time as there are enough of them here? Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I would like to make a correction in the figure that I gave Senator Schmit a little bit ago, if it is in order.

PRESIDENT: Senator Schmit, is that acceptable to you? I will accept it if you will if it is a factual statement.

SENATOR NICHOL: He was asking if the amount was \$150,000 or what the amount was and I said it was \$150,000 federal funds. I understand it is \$440,000.

PRESIDENT: Thank you. Senator Fenger, Senator Beutler, Senator Burrows, Senator Cullan, Senator Kremer, Senator Lamb, Senator Wesely, Senator DeCamp, Senator Newell and Speaker

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LB 346, 334, 334A

Marvel, Senator Goodrich, Senator Fitzgerald. We are still looking for Senator Cullan, Senator Fitzgerald, Senator DeCamp, Senator Goodrich, Speaker Marvel, Senator Newell and Senator Wesely. Senator Haberman is shown to be here but I don't see him. Where is he? Senator Schmit, do you want to go ahead? We have Senator Goodrich, Senator Wesely and Senator Newell. Those are the only ones that aren't here, I believe. Do you want to go ahead? All right, we will proceed with the Schmit motion to amend LB 346. Roll call, Mr. Clerk, go ahead.

CLERK: (Roll call vote taken. See pages 1705 and 1706, Legislative Journal.) 14 ayes, 24 nays, Mr. President.

PRESIDENT: Motion fails. Any other amendments on LB 346?

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

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I move for the advancement of LB 346.

PRESIDENT: Motion to advance LB 346 to E & R for engrossment. Is there any further discussion? All those in favor signify by saying aye, opposed nay. LB 346 is advanced to E & R for engrossment. The next bill on Select File is LB 334.

CLERK: Mr. President, I have nothing on LB 334.

PRESIDENT: Okay, Senator Kilgarin. No E & R amendments, I don't believe. Just move the bill.

SENATOR KILGARIN: I move we advance LB 334.

PRESIDENT: Motion to advance LB 334 to E & R for engrossment. Any discussion? Senator DeCamp, you didn't wish to discuss that, did you? 334? The motion is to advance. All those in favor of advancing LB 334 to E & R for engrossment signify by saying aye, opposed nay. LB 334 is advanced to E & R for engrossment. The next bill is 334A.

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

PRESIDENT: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 334A.

PRESIDENT: Motion to advance LB 334A to E & R for engrossment.

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LR 134 - 139
LB 248, 248A, 346

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Forrest Morningstar, Chaplain-Administrator at Eastmont Towers here in Lincoln.

REVEREND MORNINGSTAR: (Prayer offered.)

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

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

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

CLERK: (Read corrections as found on page 1842, Legislative Journal.)

PRESIDENT: The Journal will stand as corrected. Any other messages, reports or announcements.

CLERK: Yes, sir. Mr. President, I have a report of registered lobbyists for May 1 through May 7. That will be inserted in the Journal. (See pages 1842 and 1843.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 346 and find the same correctly engrossed; 248 and 248A, both correctly engrossed. Those are signed by Senator Kilgarin as Chair, Mr. President.

Mr. President, study resolutions, LR 134 offered by the Judiciary Committee. The purpose of the study is to coordinate efforts being made by the Judiciary Committee and various Nebraska Bar Association and Supreme Court Drafting Committees with regard to problem areas in our law governing civil procedure. LR 135 offered by Senator Koch on behalf of the Education Committee. The purpose of this resolution is to study employment contracts made between school districts and teachers or administrators. LR 136 by Senator Koch on behalf of the committee. The purpose is to study child care programs as outlined in LB 520. LR 137 offered by Senator Koch on behalf of the committee. The purpose of the study is to consider issues regarding school tax equity as shown in LBs 210 and 319. LR 138 by Senator Koch on behalf of the committee. The purpose of the study is to consider the effects of federal budget reductions upon the financing of education in Nebraska. LR 139 by Senator Koch on behalf of the committee. The purpose of the resolution is to study the development of a systematic method for promoting professional growth of public school teachers and the enactment of

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LB 248A, 346

PRESIDENT: LB 248A passes with the emergency clause attached. Before we go to the last bill on Final Reading, the Chair would like to introduce some guests of Senator Chronister, 47 students ninth grade, junior-senior high from West Point, Nebraska, Mrs. Lynn Sill, teacher. They are up here in the North balcony. Would the West Pointers wave to us to show us where they are up here? Welcome to your Legislature. We will now read the final bill on Final Reading for today, LB 346, Mr. Clerk.

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

PRESIDENT: Read the motion.

CLERK: Senator Nichol moves to return LB 346 to Select File for specific amendment.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, the other day you will recall that Senator Schmit and Senator Vickers had a concern about furnishing attorneys for juveniles who were in trouble with the law and some of them have a problem with just ordinary juvenile delinquencies while others are involved in the parental rights and the severance of parental rights. And in such cases, of course, it has been the function of the courts to provide attorneys for parents when they cannot afford to do so when the parental rights are in jeopardy. So what this amendment does is say that in cases other than parental rights, attorneys will not be provided for the parents, which of course should not be necessary. It was my opinion that we could put it on next year since the bill does not go into effect until the middle of 1982. However, Senator Schmit and Senator Vickers would like it on now. If the body would like to bring it back for that, why it is acceptable to us, of course, and don't have any problem with it, and as I understand, we could put it on and still get it to Final Reading this year. I move for the return of the bill.

PRESIDENT: Any further discussion? Senator Nichol, I guess that is your opening and your closing. The question then is the return of LB 346 for the specific Nichol amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 29 ayes, 2 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: Motion carries. LB 346 is returned. Senator Nichol, do you wish to move to adopt your amendment?

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LB 346, 129A, 487A

SENATOR NICHOL: I so move, Mr. Chairman.

PRESIDENT: Motion to adopt the amendment, the Nichol amendment to LB 346. Any discussion? If not, that is your opening and your closing. The question is the adoption of the Nichol amendment on LB 346. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 27 ayes, 4 nays, Mr. President, on the motion to adopt the amendment.

PRESIDENT: Motion carries. The amendment is adopted. Senator Nichol, would you move the bill back to E & R? Senator Nichol, would you move the bill back?

SENATOR NICHOL: Mr. Chairman, I move that LB 346 be advanced to E & R engrossing.

PRESIDENT: Motion to advance LB 346 to E & R for engrossment. Any discussion? Hearing none, all those in favor of the motion to return to E & R for engrossment will signify by saying aye, opposed nay. LB 346 is advanced to E & R for engrossment. That will complete all of the Final Reading on today's agenda. We will now...do you have some things to read in, Mr. Clerk? Okay, we will go on then to agenda item #6, General File, commencing with LB 129A.

CLERK: Mr. President, LB 129A (read title). It was read on May 12, referred directly to General File.

PRESIDENT: The Chair recognizes Senator Nichol on LB 129A.

SENATOR NICHOL: I move that LB 129A be advanced from General File to E & R Initial.

PRESIDENT: If someone wants to ask a question, why put on your light? Okay, anything further, Senator Nichol. The question is the motion to advance LB 129A to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 25 ayes, 6 nays, Mr. President.

PRESIDENT: Motion carried. LB 129A is advanced to E & R Initial. Next bill on General File is LB 487A.

CLERK: Mr. President, LB 487A (read title).

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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

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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 346, 257, 257A, 466

SPEAKER MARVEL: All provisions of law having been complied with, the question is shall the bill pass? All those in favor vote aye, opposed vote no. We are voting on LB 346 on Final Reading. Have you all voted? Record the vote.

CLERK: (Record vote read. See pages 2173 and 2174, Legislative Journal.) 44 ayes (sic), 0 nays, 5 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 257 with the emergency clause.

CLERK: (Read LB 257 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. With the emergency clause attached, 257E. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 2174, Legislative Journal.) 38 ayes, 11 nays, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk will now read on Final Reading LB 257A with the emergency clause.

CLERK: (Read LB 257A 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? Those in favor vote aye, opposed vote no. 257A. Have you all voted? Record.

CLERK: (Record vote read. See page 2175, Legislative Journal.) 35 ayes, 14 nays, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The next bill, LB 466 with the emergency clause.

CLERK: Mr. President, Senator Labeledz moves to return LB 466 to Select File for specific amendment.

SPEAKER MARVEL: Okay, Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. Speaker. I apologize also for having to bring this bill back, but as you recall on Select File, there was some questions brought up by Senator Johnson and in this last week or ten days we have gone over

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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.