

January 19, 1981

LB 357-388

Journal a motion he is submitting pursuant to Rule 6, Section 2, to rerefer LB 245.

Mr. President, new bills: (Read title to LB 357-388 as found on pages 261-268 of the Legislative Journal.)

SPEAKER MARVEL: Your agenda for tomorrow will show that we will adjourn until 9:30 a.m. There will be a chairmen's meeting at nine o'clock and Exec Board at eleven o'clock. Those two latter meetings will be in Room 1520. Senator Haberman, would you like to adjourn us until nine-thirty tomorrow.

SENATOR HABERMAN: Mr. President, I move that we adjourn sine die until nine-thirty tomorrow morning.

SPEAKER MARVEL: Leave out the sine die.

SENATOR HABERMAN: Move we adjourn until nine-thirty tomorrow morning.

SPEAKER MARVEL: All those in favor say aye, opposed no. We are adjourned until nine-thirty tomorrow morning.

Edited by:


Mary A. Turner

LB 48, 62, 98, 172, 179,
226, 239, 266, 299, 304,
332, 342, 343, 344, 360,
453, 454, 506, 545

March 24, 1981

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Pastor Wayne Schroeder of the Calvary Lutheran Church and School, 28th and Franklin, Lincoln, Nebraska.

PASTOR SCHROEDER: Prayer offered.

SPEAKER MARVEL: Have you all recorded your presence? Is everybody here or are there still some missing? While we are waiting for the quorum you might be interested in the fact that our Clerk is hobbling around. The problem is that I was teaching him some dirty plays in basketball and got too vigorous. Record the vote.

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

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

CLERK: Yes, sir, I do, several in fact. Mr. President, I have a series of reports to read in. Your committee on Public Works whose chairman is Senator Kremer to whom was referred LB 98 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 226 to General File with amendments and LB 344 to General File with amendments, (Signed) Senator Kremer. (See pages 1082-1086 of the Legislative Journal.)

Your committee on Revenue whose chairman is Senator Carsten instructs me to report LB 454 to General File; LB 172 General File with amendments; LB 304 General File with amendments; LB 360 to General File with amendments; LB 506 General File with amendments; LB 48 indefinitely postponed; LB 62 indefinitely postponed; LB 299 indefinitely postponed; LB 332 indefinitely postponed; LB 342 indefinitely postponed; LB 343 indefinitely postponed; LB 453 indefinitely postponed, all signed by Senator Carsten as Chair. (See pages 1086-1089 of the Legislative Journal.)

Mr. President, your committee on Administrative Rules and Regs reports, whose chairman is Senator Vard Johnson, reports LB 266 to General File with amendments.

Your committee on Government reports LB 239 to General File with amendments and LB 545 to General File with amendments, signed Senator Kahle as Chair. (See pages 1089-1093.)

Mr. President, LB 179 is reported correctly engrossed.

Mr. President, LR 40, 41 and 42 are ready for your signature.

LB 40, 132, 200, 266, 280, 284,
329, 330, 333, 360, 366, 371,
379, 392, 395, 407, 437, 479, 318.

April 15, 1981

SENATOR BEUTLER: Mr. Speaker, I think I would like to have a roll call vote and a Call of the House.

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

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

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence. Unauthorized personnel.....yes, go ahead.

CLERK: Mr. President, I have an Attorney General's Opinion addressed to Senator Carsten regarding LB 284. (See pages 1499 through 1501.) Senator Schmit would like to print amendments to 360, Senator Wesely to 266, Senator Newell to 395, Senator Wesely to 366, Senator Beutler to 132, Senator Vickers to 266. (See pages 1494 through 1498 of the Legislative Journal.)

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication regarding LBs 40, 200, 280, 329, 330, 333, 371, 379, 392, 407, 437, and 479 as found on page 1502 of the Journal.)

SPEAKER MARVEL: Senator Wagner, Senator Schmit, Senator Haberman, Senator Chambers. Senator Haberman, Senator Higgins. Senator Koch.

SENATOR KOCH: Mr. Speaker, I move that we adjourn until tomorrow morning at nine o'clock.

SPEAKER MARVEL: We are in the middle of a vote, Senator Koch. Senator Beutler, everyone who is not excused.... everybody is here except Senator Chambers. Shall we proceed with the roll call? Okay, all legislators will please return to your seats so we can complete the roll call. The Chair is not authorized to proceed until you are in your seats. Okay, call the roll.

CLERK: (Read the roll call vote as found on pages 1493 and 1494 of the Legislative Journal.) 23 ayes, 19 nays, on the motion to indefinitely postpone the bill, Mr. President.

SPEAKER MARVEL: Motion prevails. What else do we have?

CLERK: Mr. President, Senator Vickers asks unanimous consent to add his name to LB 266 as co-introducer.

SPEAKER MARVEL: No objection, so ordered.

April 16, 1981

LB 541, 360

the new set up and that is a concern of mine and I certainly will be glad to wait.

SENATOR NICHOL: I agree with you.

PRESIDENT: Anything further then on LB 541? Senator Nichol, do you wish to close?

SENATOR NICHOL: No, I think it is explained and I would ask to advance the bill.

PRESIDENT: All right, the motion then is the advance of LB 541 to E & R Initial. All those in favor vote aye, opposed nay. Record the vote.

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

PRESIDENT: Motion carries. LB 541 is advanced to E & R. Next bill on General File priority bills is LB 360, Mr. Clerk.

CLERK: Mr. President, LB 360 (read title). The bill was originally read on January 19, referred to Revenue for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President, by the Revenue Committee.

PRESIDENT: The Chair recognizes Senator Carsten for the committee amendments.

SENATOR CARSTEN: Mr. President and members of the Legislature, the committee amendments first of all exempts farm trucks from the provision or the requirement. It does change the penalty from a Class III misdemeanor to a \$100 administrative penalty. It provides that monies from fees and penalties be credit to the highway trucker cash fund and also repeals a section that is made obsolete by the bill and there is some miscellaneous just clarifications. Really the amendments do have an impact on the bill and I would refer for further comments to Senator Warner but would, before doing that, move for the adoption of the committee amendments, Mr. President.

PRESIDENT: Senator Warner, did you....?

SENATOR WARNER: Mr. President, members of the Legislature, since the committee amendment and the bill are the same thing, I could comment now and then not repeat it on the bill itself.

April 16, 1981

LB 360

What the committee amendment changed...put the new language into a different section of law than the way the bill was drafted, the proper section, and that was the effect of it primarily. Pat, do I have an amendment to the committee amendment?

CLERK: Yes, sir, you do.

SENATOR WARNER: The effect of the bill, as Senator Carsten has outlined, under existing law, and it is quite an old one, trucks coming into this state or vehicles, rather, having thirty gallon of gasoline or over thirty gallon were required to pay the gas fuel tax as they came into the state on any amount over that thirty gallon. Well, it is difficult to enforce if not impossible. It is a case of measuring every vehicle tank, how much fuel they have in them, and the feeling is that a lot of vehicles come in and just plain do not pay the appropriate fees that ought to be done and we have been looking for an improved way to take care of these. Now you should understand that virtually the largest number of vehicles, trucks, that are under a reporting system under a different section of law, under a reporting system, they report the number of miles that they traveled in Nebraska and pay the appropriate tax related to the use of gasoline to drive those number of miles irregardless of where the fuel is purchased. This only applies to the occasional vehicle that would...occasional truck that comes into the state. Under the proposed legislation it would set up a permit system in lieu of this thirty gallon provision that we used to have and under the permit system the vehicle would be limited to three trips per month that they could come into this state. They would pay a ten dollar fee for that permit. It is easily enforced. Patrol or anyone else could see whether those vehicles were carrying the proper sticker for the trip. It is easy to monitor from the Department's point of view because they can keep track with pretty good accuracy as to whether or not the trucks exceed that, and if they exceed the three trips per month, they would then properly go under a reporting system. The flat fee in essence would allow them about four hundred miles on the average traveled into or out of the state total on each trip. Senator Carsten mentioned the farm trucks exemption. That applies to farm trucks coming from out of state and the reason it is in there is recognition that there are elevators where farmers in Kansas or Colorado and so forth would be delivering their grain to a local elevator maybe several times in one month and in very short distance and it would be inappropriate and an unnecessary harassment to require a fee each time they came in with those very short distances and there is a comparable

provision, I might point out, that takes care of commercial trucks that come into the state for delivery purposes such as coming in from Council Bluffs into Omaha. So the precedent is there for a like situation other than farm trucks but it is our belief that the issuance of the fee is probably going to have a lot greater equity in the collection of the taxes that these trucks ought to pay, obviously much easier to monitor, and I think will result in additional revenue going to the highway cash fund where the money currently goes. There is no change in that. Now I would move the adoption of my amendment to the committee amendment. I don't know if it is printed in the Journal or not but it is merely a clarifying amendment about how the funds are transmitted from the Department of Revenue that has the collection responsibility now to the State Treasurer and then deposited to highway cash fund. So I would move adoption of that amendment. It has no impact other than clarifying the procedure. Pat, I move adoption of my amendment to the committee amendment.

CLERK: Okay, Senator.

PRESIDENT: Now the amendment then is offered, the Warner amendment to the committee amendment. Senator Warner, do you wish to further discuss the amendment? Senator Carsten. No discussion, all right. So the question before the House is the Warner amendment to the committee amendment on LB 360. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 29 ayes, 0 nays on adoption of Senator Warner's amendment to the committee amendments, Mr. President.

PRESIDENT: Motion carries. The Warner amendment to the committee amendment is adopted. Any further amendments? Now the committee amendments, Senator Carsten, anything further on the committee amendments as amended?

SENATOR CARSTEN: No, no further comments other than to move the adoption of the committee amendments as amended.

PRESIDENT: Motion then before the House is the adoption of the committee amendments as amended. Senator Hefner, did you wish to discuss that? All those in favor then of adopting the committee amendments vote aye, opposed nay. Record the vote. We will have to have a revote on the adoption of the committee amendments on LB 360. This machine has a way of things disappearing every once in awhile. It is anticipating Easter recess so we will have to excuse it. So vote again, all those in favor of adopting the committee amendments to LB 360 vote aye, opposed nay. Have you all voted? Record the vote.

April 16, 1981

LB 360

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

PRESIDENT: Motion carries. Committee amendments are adopted. Now we are ready for discussion of the bill. Senator Carsten, do you wish to discuss the bill then?

SENATOR CARSTEN: Mr. President, I think that Senator Warner has given a full explanation of the bill. It does simplify and help in the Department of Revenue in enforcing this piece of legislation. In addition, I think it does give some help to those that are bothered by the crossing of the state lines for even a short distance. It is just a good piece of legislation and I think it is worthy of our support. I move for the advancement of LB 360 to E & R Initial.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Schmit. We need to discuss and adopt the Schmit amendment to 360.

CLERK: Mr. President, Senator Schmit moves to amend the bill and the amendment is found on page 1497 and 1498 of the Journal.

SPEAKER MARVEL: Do you want to move the adoption of your amendment?

SENATOR SCHMIT: I move adoption of the amendment, Mr. President.

SPEAKER MARVEL: All those in favor of the adoption...Senator Schmit, do you want to explain the bill.

SENATOR SCHMIT: Mr. President, members of the Legislature, at the present time there is a special fuel tax of I believe thirteen cents or thirteen and a half cents and the Department of Revenue has determined that that applies to alcohol fuels. Now this body has exempted from taxation about five cents per gallon of the gasohol blends. At the present time there is a move being made to burn what they call wood alcohol, 160, 180 proof alcohol. If this tax is to be collected on that product, there will be, of course, a penalty placed upon the value of that product. And wood alcohol can be competitive without that special fuels tax. I think that it is in the interest of the State of Nebraska and the interest of the entire energy conscious world that we do what we can to develop a new renewable source of energy. If we continue to impose this tax or at least unless

April 16, 1981

LB 360

we clarify the language with the Department of Revenue so that the tax is not collected, they will continue to collect it and it will mean for all practical purposes wood alcohol will never become a source of energy here in the State of Nebraska. So I move adoption of the amendment.

SPEAKER MARVEL: Senator Warner, do you want to speak to the Schmit amendment?

SENATOR WARNER: Mr. President, first I would have a question of Senator Schmit so I understand for sure what he said. Do I understand that your amendment expands the coverage for the five cents exemption or does this exempt this particular fuel from the full fuel tax, the full current 13.6?

SENATOR SCHMIT: Senator Warner, I am not just exactly sure how they arrive at a tax on special fuels but the Department of Energy has determined or rather the Department of Revenue has determined that this would be...that alcohol would come under this category, wood alcohol. I think the law is vague and I don't believe that we intended to collect that tax on alcohol. Now maybe some people did but it is counterproductive. It is inconsistent for us on one hand to exempt the gasohol blend from five cents per gallon when it is a ten percent mixture, and on the other hand to collect the 13.6 tax from the wood alcohol.

SENATOR WARNER: Well, is the exemption going to be 5 cents or 13.6 cents for this wood alcohol?

SENATOR SCHMIT: No, the exemption is going to be...the tax is 13.6 on special fuels. The wood alcohol is considered by the Department of Revenue as a special fuel and, therefore, it is going to make it impossible to sell alcohol competitively in the State of Nebraska.

SENATOR WARNER: Would you be willing to hold this till Select File so I could be sure to understand?

SENATOR SCHMIT: Sure will.

SENATOR WARNER: As you all know I have a real concern about exemptions being expanded significantly for different fuels because that is the funds, obviously, that support roads.

SENATOR SCHMIT: Right.

SENATOR WARNER: And the more vehicles that are exempt from any support for roads the load gets higher for those that do have to pay, and if you are only expanding it the nickel,

April 16, 1981

LB 360

I have no great problem with that. If we are going to exempt it from all contribution for highways, that seems a little excessive to me.

SENATOR SCHMIT: Mr. President, members of the Legislature, I have no objection to holding the amendment until Select File. At the present time, only the State Patrol is using wood alcohol and it is not a major item by any chance by any means, and unless we develop the industry, there will never be anything there anyway. So there is no tax being collected at the present time from this product because there is none in existence so to speak, but if we are going to develop it, then I think we would have to exempt the tax and I think you can understand why but I would be glad to wait until Select File and discuss it with yourself and Senator Carsten and anyone else because I know that your concerns really are about the impact upon state revenues. Mr. President, I would withdraw the amendment and ask that it be held until Select File.

SPEAKER MARVEL: The motion now is to advance the bill. Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I rise to support the bill. I think it is a more easier way to solve a problem that we have. What this bill does now would you would be able to issue a permit and pay for this permit, pay a fee for this permit, and it would allow you three trips into the state per month. It is a very simple idea and it is a lot more easily to be enforced. I am very appreciative of Senator Schmit for withdrawing his amendment until we get a chance to study it over a little bit. I think it is all right but I think we want to be sure. The way it is now the trucks coming into the state have to pay a state tax on those gallons that if they come into the state with over thirty gallons and, like I say, that is kind of a hard job to measure this and a lot of time the law enforcement officers would just leave it go. And so I think this is the way to go and I urge you to advance this bill to Select File.

SPEAKER MARVEL: All those in favor of advancing LB 360 vote aye, opposed vote no. Now while we are waiting for the other votes, it is my privilege to introduce in the North balcony from Senator Schmit and Senator Warner's District 29 fourth grade students and five room mothers of Raymond Central School at Valparaiso, Mrs. Loretta Sterns is the teacher. Will you raise your hand so we can see where you are? Welcome to the Unicameral. Record the vote.

April 16, 1981

LB 360, 506

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

SPEAKER MARVEL: Motion is carried. The bill is advanced. We now move to LB 506.

CLERK: Mr. President, LB 506 (read title). The bill was read on January 20, referred to Revenue. The bill was advanced to General File. There are committee amendments pending, Mr. President, by the Revenue Committee.

SPEAKER MARVEL: Senator Hefner, do you want to take the committee amendments to LB 506?

SENATOR HEFNER: Mr. President and members of the body, I move the adoption of the committee amendments, and what they would do, the first part of it would delete the creation of the cash fund. The second part would delete the earmarking of the revenue from one cent increase and the third part of the committee amendment would delete the reduction of the wholesalers' commission and you will notice that in the original bill that the wholesalers' commission was reduced from five percent to three percent and what this would do is reinstate this. If I remember right, if I remember correctly at the committee hearing the industry showed proof that it does cost five percent to collect this tax and so I would urge the adoption of the committee amendments.

SPEAKER MARVEL: The motion is the adoption of the committee amendments. All those in favor of that motion to 506 vote aye, opposed vote no. Record the vote. Have you all voted? Now record the vote.

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

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Cullan. Senator Cullan, would you like to explain 506?

SENATOR CULLAN: Mr. President, members of the Legislature, I guess I will give an explanation of the bill as it has been amended and then Senator Warner will have an amendment that will change the bill, and at that point in time, I will urge you to support his amendment so we have kind of reached a compromise to solve some of the problems associated or some of the concerns some people had about LB 506. But at this point in time, I would like to introduce the bill to you. LB 506 is a proposal that increases the cigarette taxes in the State of Nebraska by one cent. The purpose

April 23, 1981

LB 35, 95, 132, 173, 266, 266A,
360, 477, 506, 541, 545
LR 57, 58, 59, 60

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Orin Graff, United Presbyterian Church, North Bend, Nebraska.

PASTOR GRAFF: Offered prayer.

SPEAKER MARVEL: Roll call. Would you please record your presence. Record.

CLERK: Quroum present Mr. President.

SPEAKER MARVEL: Do you have any items you want to

CLERK: Mr. President, a communication addressed to the Clerk regarding LB 173. Letter appears on page 1527 of the Legislative Journal.

Mr. President, your committee on Enrollment and Review respectfully reports they they have carefully examined LB 95 and recommend the same be placed on Select File with amendments, 541 Select File, 360 Select File with amendments, 506 Select File with amendments, 266 Select File with amendments, 266A Select File, 545 Select File with amendments, all signed Senator Kilgarin, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined engrossed Legislative Bill 35 and find the same correctly engrossed, 249 correctly engrossed, 477 correctly engrossed and LB 132 correctly re-engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, a new resolution LR 60 by Senators Koch and Wagner. Read LR 60. That will be laid over.

Mr. President, finally LR 57, 58 and 59 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 LR 57, LR 58, and LR 59.

We have some guests visiting us today and before we get started on other business, from Sidney, Australia underneath the north balcony visiting the Legislature today, Mr. Mon Khamis, will you please stand so that we can recognize you.

April 28, 1981

LR 65
LB 35, 132, 360

SENATOR NICHOL: Record, please.

CLERK: 34 ayes, 9 nays, Mr. President, on the motion to readvance the bill.

SENATOR NICHOL: The bill is advanced. Senator Labedz has 36 students in the north balcony who are students of CETA and are studying English as a secondary language, and 4 teachers. They are Steve Pearce, Thong Nugen, Lottie Ellison. Would you please raise your hands so you may be recognized? Thank you. Mr. Clerk, do you have something to read into the record?

CLERK: Yes, sir. Mr. President, new resolution, LR 65, offered by Senators Wesley, Fowler, Warner, Beutler, Landis and Marsh. (Read LR 65 as found on pages 1604 and 1605 of the Legislative Journal.)

Mr. President, Senator Warner would like to print amendments to LB 360. (See pages 1601 through 1604 of the Legislative Journal.)

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, we are on Final Reading. All legislators are to be in their seats. The next bill is 132E.

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

SPEAKER MARVEL: Read the motion.

CLERK: Mr. President, Senator Beutler moves to return LB 132 to Select File for a specific amendment. Senator, I have two from you. Do you want to offer the first one that you....?

SENATOR BEUTLER: Pat, I wish to withdraw the first one and offer the second one.

CLERK: Request 2135 with those changes in it, Senator? Is that the long one that you brought up?

SENATOR BEUTLER: It should be two separate pages, Pat. The number I don't have.

CLERK: The big long one with the changes.

SENATOR BEUTLER: Yes.

CLERK: Okay.

May 1, 1981

LB 360, 451

will move on. LB 451, isn't it? 451, Mr. Clerk.

CLERK: Mr. President, LB 451 offered by the Performance Review and Audit Committee and signed by its members. (Read title.) The bill was read on January 20, Mr. President. It was referred to Public Health and Welfare. The bill was advanced to General File.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I move the bill be advanced. It's the bill that dealt with sunset legislation dealing with the osteopaths that their Board of Examiners...this is one of these boards, as I recall had last met in 19... I think it was '64 or thereabouts and had last issued a license in some 15 to 20 years before that. In any event, the recommendation with the concurrence of all those involved is to place that within the Board of Examiners of Medicine and Surgery which existing law already requires osteopaths to be a member, or at least an osteopath is a member. So there is no change there. As far as I know it is obviously not controversial because there was no committee amendments unlike all the other Performance and Review bills. So I would move that the bill be advanced.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, the Public Health Committee did hear this bill. We did not find any need to amend the bill. We found it to be a very good step to take. Presently there are 28 licensed osteopaths in the state, 13 practicing osteopaths, and it just seemed like an unnecessary expense to have this board and felt that it should be merged. So it seems to me that a sunset process did identify a problem and I think this is a good bill. I urge your support.

PRESIDENT: Senator Warner, is there any close? No close. The close is waived. The question before the House is the advance of LB 451. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to advance the bill.

PRESIDENT: The motion carries and LB 451 is advanced to E & R Initial. The next bill on consent calendar is LB 428.

CLERK: Mr. President, if I may right before that, Senator Fenger would like to print amendments to LB 360 in the Legislative Journal. (See pages 1678 through 1682 of the

May 4, 1981

LB 562, 360

amendment. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 33 ayes, 1 nay Mr. President to adopt the Warner amendment.

SPEAKER MARVEL: Motion is carried, amendment is adopted.

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

SPEAKER MARVEL: Senator Warner, do you wish to advance the bill?

SENATOR WARNER: Sure.

SPEAKER MARVEL: Motion is to advance 562 to E & R for review. A machine vote has been requested. All those in favor vote aye, opposed vote no. Have you all voted? Clerk will record the vote.

CLERK: 30 ayes, 6 nays Mr. President on the motion to advance the bill.

SPEAKER MARVEL: Okay, the motion is carried, the bill is advanced.

CLERK: Mr. President, I have an explanation of vote from Senator Marvel and Senator Schmit would like to print amendments to LB 360 in the Journal. That is all that I have.

SPEAKER MARVEL: Senator Landis, do you want to recess us until tomorrow at 9:00 a.m.

SENATOR LANDIS: I move we recess until tomorrow at 9:00 a.m.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried we are recessed...we are adjourned. The Legislature is adjourned until Tuesday, May 5, 1981 at 9:00 in the morning.

EDITED BY:


Mary A. (Turner)

May 7, 1981

LB 360, 541A

RECESS

SPEAKER MARVEL: Please record your presence. We almost have a quorum. We need about six more ayes. Record.

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

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

CLERK: Very quickly, a new A bill, LB 541A offered by Senator Nichol. (Read. See page 1833 of the Legislative Journal.)

SPEAKER MARVEL: Okay, we are ready on Select File for LB 360.

CLERK: Mr. President, the first amendment I have is from Senator Schmit and the amendment is Request #2315. It is found on page 1497 of the Journal.

SPEAKER MARVEL: Is Senator Schmit present? Okay, Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, Senator Schmit asked me to take these amendments for him so I will read what it says here. Number one amendment...which one are you taking up first?

CLERK: We are taking up Request #2315.

SENATOR DeCAMP: I think that is the one that Warner disagrees with. Jerry, is that the one you disagree with?

CLERK: That is page 1497 of the Journal.

SENATOR DeCAMP: It says to exempt grain alcohol produced in the State of Nebraska...is that the one you don't like? Why don't we do the other one first? That is supposed to be the one that he don't care about. Is that okay? Request #2371?

CLERK: Well, I have one ahead of you then, Senator. Okay?

SENATOR DeCAMP: Yes, why not.

CLERK: Mr. President, the next amendment I have is from...well Senator Warner and Carsten had amendments that they want to withdraw.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, Senator Warner now moves to amend the bill and those are on page 1601 of the Journal.

May 7, 1981

LB 360

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Alright, Mr. President, members of the Legislature, this amendment would be...Senator DeCamp, this amendment is an alternative to the one that you started to discuss. Senator Schmit on the bill, the body will perhaps recall, on General File offered an amendment that would have completely exempted alcohol from any tax whatsoever for road use, gas tax, fuel tax which I would object to eliminating it in its entirety and what the amendment that I have offered does is gives the pure alcohol the same tax preference of five cents that gasohol enjoys as opposed to exemption from the full fuel tax. I think it was pointed out that there is relatively little loss in revenue at the current time. One letter I saw had approximately a thousand dollar reduction and that obviously is insignificant but ~~what is~~ significant is precedent and I do not think that it is appropriate that any fuel that is used on the roads should be totally exempt from any contribution to the road that that vehicle travels on by a total exemption of its fuel. And so the amendment that I have proposed is the same five cents for straight alcohol that gasohol enjoys so I would move its adoption. Now if you prefer to exempt it in total, then you should not support this and I assume support the amendment that apparently Senator DeCamp is going to offer instead. Is that right, John?

SPEAKER MARVEL: Any further discussion? Senator Kilgarin, do you want to move adoption of the E & R amendments.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 360.

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

SENATOR WARNER: Yes, I renew my motion for the adoption of the amendment, Mr. President.

SPEAKER MARVEL: Senator Hefner, do you wish to speak to the Warner amendment?

SENATOR HEFNER: Mr. President, members of the body, if I understand it correctly Senator Warner's amendment puts back on the tax on gasohol. Is this correct, Senator Warner?

SENATOR WARNER: No, no. The amendment that Senator Schmit offered the other day would have totally exempt pure alcohol from any fuel tax and I objected to it. What I am offering

May 7, 1981

LB 360

would give the same exemption, as I understand it, to pure alcohol that gasohol has which is a five cents reduction and the balance of the fuel tax would be paid on pure alcohol just as it is on gasohol and my reasons for it is one of precedent. It is an insignificant amount of funds at this point but I do not think that it is good state policy to begin to exempt the fuel totally from any road user fees because the net effect is only to add the burden of the tax to that fuel that is taxed because it is going to take X amount of dollars to maintain our roads no matter what.

SENATOR HEFNER: Okay, thank you, Senator Warner. I rise to support the Warner amendment then because I believe as Senator Warner does, that we need to get money into our highway trust fund and to our road fund to support the building and construction and the maintenance of our roads and so I would wholeheartedly urge you to support the Warner amendment.

SPEAKER MARVEL: Senator Kahle, do you wish to speak to the Warner amendment?

SENATOR KAHLE: Mr. Speaker, members, I have a question of Senator Warner if I might.

SPEAKER MARVEL: Senator Warner, do you yield?

SENATOR KAHLE: I think I agree with what you are trying to do but it really puts a sort of a penalty on the alcohol end of the mix, does it not, because the way it is now if we put one gallon of alcohol with nine gallons of gas we get, what, five cents a gallon off on the whole ten gallons?

SENATOR WARNER: Five cents on gasohol.

SENATOR KAHLE: On the ten gallons, so what you are saying now then you would get five cents off on a gallon of alcohol.

SENATOR WARNER: It would be the same.

SENATOR KAHLE: So if you would mix the alcohol with the nine gallons of gas, why you would get a reduction of fifty cents on ten gallons and you would only get a nickel on one gallon. See what I am driving at? I think you are right and I just want to make it clear that it is going to be to our advantage.

SENATOR WARNER: Yes, I guess...I would agree that it would be fifty cents on ten gallons and a nickel on one gallon, yes.

May 7, 1981

LB 360

SENATOR KAHLE: Okay, thank you.

SPEAKER MARVEL: Okay, we have the Warner amendment before us. Senator Koch, do you wish to speak to that amendment?

SENATOR KOCH: Just to move the previous question.

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

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

SPEAKER MARVEL: Debate is ceased. Senator Warner, do you wish to close? The motion is to adopt the Warner amendment as explained to LB 360. All those in favor of the Warner amendment vote aye, opposed vote no. Have you all voted? Record.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of the Warner amendment.

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

CLERK: Mr. President, the next amendment we have is from Senator Fenger. The Fenger amendment is found on page 1678 of the Journal.

SPEAKER MARVEL: Senator Fenger.

SENATOR FENGER: Mr. Speaker, members of the body, the purpose of this amendment is to delete the provisions of the present law which requires a bond be posted before a license is issued to obtain an importing dealer's license and/or a special fuel dealer's permit. The importing dealer's license permits a party to import gasoline into the State of Nebraska and as the first receiver of this gasoline he is then responsible to remit to the state the motor vehicle fuel taxes assessed on that fuel. A special fuel dealer is one who sells fuel other than gasoline that is used to propel a vehicle over our roads. This tax is collected at the time of sale based on meter readings of the pumps and used to dispense this fuel. These taxes are remitted monthly to the state. Of all the tax collectors that the state has, these are the only ones required to post a bond which guarantees payment of the taxes collected. We have sixty thousand plus sales tax collectors who do not post a bond. Thousands of employers who withhold state income taxes do not post a bond, nor do the tobacco and liquor distributors. Since the law was changed four or five years ago those who sell state fishing

and hunting licenses do not have to post a bond. Clearly this is now discrimination against a small group of merchants who I might add, have a very commendable record of collections that would total into billions of dollars since the first fuel tax was passed. John Decker of the Revenue Department has informed me that they have no objections to doing away with this bond requirement. They can see no problem with handling any collection problems that might come up in the same manner as they do the sales law tax. That is now that the tax commissioner has the discretion of requiring the posting of a bond in cases where he deems necessary. That same provision is included in this amendment. Further and I think most important, by dropping this requirement we are making it easier for people who now have diesel or LP gas powered cars and small trucks to comply with the law. It has become obvious many of these owners have access to fuel from farm storage tanks. They resent having to get a bond, make application, submit a financial statement and pay a premium to get a bond in order to permit them to fuel their vehicles out of their own fuel storage which they purchase in bulk quantities. It appears that many of them are not getting a permit and, therefore, paying no tax at all while using the roads and streets of our state. This amendment would just enable them to apply for a license, make their monthly remittance for the tax that they owe and operate legal which I am sure most of them would prefer to do and this is important as the number of diesel fuel cars will be increasing in the years ahead. In closing I would remind you that this body has already passed earlier in this session, a bill that does give the tax commissioner the authority to seize any personal property, sell it for any fuel taxes that are owed the state including any interest and penalty. Therefore, there is no longer any need for the posting of these bonds. Ladies and gentlemen, I would urge the adoption of the amendment.

SPEAKER MARVEL: Senator Warner, do you wish to speak to the Fenger amendment?

SENATOR WARNER: Just briefly, Mr. President, to support Senator Fenger's amendment. As he pointed out there is ample protection from the state's point of view in the event that someone does not or is not properly reporting but I think the more important aspect of this amendment is that it will at least assist, it will not cure, but it can at least assist in encouraging people, particularly in rural areas who want to use diesel fuel and have it at home, keep a separate tank, they won't have that bond requirement to pay which acts to some extent as a deterrent from individuals applying for it and I think it would be a

May 7, 1981

LB 360

proper amendment. We still have a problem in this area that we need to come up with a solution but I think that this is a step in the right direction and I support the amendment.

SPEAKER MARVEL: Senator Kahle, do you wish to speak to the Fenger amendment to 360?

SENATOR KAHLE: Mr. Speaker, members, I also support Senator Fenger. We have a first hand problem at our place. One of my sons has a diesel truck and a couple of diesel cars and he has had to go through the process of bonding himself to be a dealer in order to have this fuel on his farm. He does have it in a separate tank and I believe that by eliminating the bonding which I think costs about \$20 for the smallest dealer which isn't much but it is an incentive certainly not to do it and I think this would help some and there certainly are many more diesel cars on the road today and many farmers have diesel trucks also and many of them I am sure are not paying the tax on it which is illegal but you are kind of dumb if you go to all the trouble to get that license and pay your \$20 when you have got a tank of diesel fuel setting in your yard. It is a little more trouble to be honest. If you do try to be honest it is a hassle to get everything in order and get the bonding so I support Senator Fenger. I think this is an issue we need to look further into than just this deep because we should be able to handle that diesel fuel very similar to the way we handle gasoline on our farms. So I support Senator Fenger.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker and Senators, having been in the bonding business for over fifteen years I can tell you this is not the only bond the state requires. It is a pain in the neck to the businessman. It is a pain in the neck to the bonding companies. Sometimes we write these bonds and the premium is \$20. The commission an agent makes does not even pay him to write it. I would like to talk to Senator John DeCamp and ask him if maybe the Banking and Financing and Commerce Commission ought to do a study on all the bonds the state requires that go back fifty years and they are totally unnecessary and I would, even though, you know, I write some of these motor fuel tax bonds, I don't mind losing the commission on them because there is not that much in them. They are a pain in the neck and I do not think they are necessary in many cases. So I support Senator Fenger's amendment.

SPEAKER MARVEL: Do you want to respond?

May 7, 1981

LB 360

SENATOR DeCAMP: Yes, we are going to work on it this summer.

SPEAKER MARVEL: Senator Hefner, do you wish to speak to the Warner amendment, Fenger amendment, I'm sorry.

SENATOR HEFNER: Yes. Mr. President, I think we are talking to the Fenger amendment.

SPEAKER MARVEL: Yes.

SENATOR HEFNER: I just rise in support of it and the reason that I think we ought to change things here is because as you know we are in the oil business and we service a lot of farm accounts. A lot of these farm accounts have purchased diesel trucks, diesel pickups, diesel cars, but many of them told me that they will not bond themselves to pay the tax on this particular special fuel and so I feel that we should do away with the bonding and then I am sure that these farmers will comply with our state law and so, therefore, I would urge your support.

SPEAKER MARVEL: Senator Dworak, do you wish to speak to the Fenger amendment?

SENATOR DWORAK: If Senator Higgins would just send all that bonding business she doesn't want to Columbus we will write it.

SPEAKER MARVEL: That would be fine if we knew where Columbus was. Senator Fenger, do you wish to close on your amendment?

SENATOR FENGER: Since my supporters have done such an excellent job explaining it, Mr. Speaker, I prefer to waive closing.

SPEAKER MARVEL: All those in favor of the Fenger amendment to LB 360 vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 28 ayes, 0 nays, on adoption of Senator Fenger's amendment, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Now before we go to the next item, it is my pleasure to introduce Larry Maresh, the nephew of Senator Maresh. And Larry resides in Senator Landis' district and Larry's guest, Mr. Sharma of Nepal and Mundingo Ghogomu from the Department of Civil Aviation, Yaounde, the United Republic of Cameroon West Africa. Larry is with the Lincoln Airport Authority. His guests are in this country studying our airport management methods. So we welcome you to the

May 7, 1981

LB 360

Unicameral and I did my best on the pronunciation. Thank you. From Senator Burrows' district, 35 fourth graders from Park East School, Fairbury, Nebraska, Dorothy Bangert (phonetic) and Galen Napier the teachers. Where are you located so we may say hello? Welcome to the Unicameral. Go ahead, Mr. Clerk.

CLERK: Mr. President, I now have an amendment from Senator Schmit. This is the one on 1735. It is the one, Senator, that reads, "The department shall inspect..." Okay.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, Senator Schmit had two amendments. One went a little direction different, considerably different than Senator Warner's. The body adopted Senator Warner's amendment so I am not going to offer that one and Senator Schmit, should he elect to do that on Final Reading, he can do that and explain it. However, the other one is essentially a noncontroversial one, something I think needs to be done. It would authorize the Department of Agriculture to inspect and test gasohol for accuracy of the blend and purity of the contents. That is kind of self-explanatory. I think it is essentially noncontroversial. Of course the Ag Department already tests other petroleum based fuels so this is maybe kind of an important clarification and followup to make sure that there is not fraud or deception going on when you play around with gasohol. So I would urge adoption of the amendment and as I say, I think it is essentially completely noncontroversial and self-explanatory.

SPEAKER MARVEL: Senator Warner, do you wish to speak to the amendment?

SENATOR WARNER: Mr. President, I rise to support the amendment. There has been for some period of time there has been concern that occasionally fuels that are identified as gasohol may or may not have the full 10% requirement. It is a relatively simple test that the Ag Department can do as they are testing other fuels. They do it by the specific gravity, the weight test. There should be no particular cost. The Ag Department did estimate some cost to it on the assumption that they would have to test every pump all the time but the language would be the same as it is for other testing of fuels which is done on a random basis, sampling basis or upon complaint and I think that is adequate to ensure as it is adequate for other fuels to ensure that the standard is being met and I am of the opinion there is a definite need to do such testing to ensure that the fuel sold as gasohol is, in fact, meeting the legal requirement for the

May 7, 1981

LB 360, 506

tax exemption that they now enjoy. So I would support the amendment and hope the body adopts it.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I rise to support the Schmit amendment. I think it is a good amendment and we perhaps should have had it sooner. I think as we market more gasohol we need to be sure that we always have a quality product in these tanks and that the dealers are selling this quality product. Sometimes if you have a mixture of less than 10% it can cause you carburation problems and of course the same way if you should have over the 10%. I think that Senator Schmit's amendment will clarify a lot of things. I also believe that from time to time we do have a shady dealer and of course the dealers never know when these inspectors are coming through and so I think it is a very good amendment. I would urge you to support it.

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

SENATOR DeCAMP: Not really. Just vote for it.

SPEAKER MARVEL: Okay, the motion is the adoption of the Schmit amendment as explained by Senator DeCamp. All those in favor vote aye, opposed vote no. Record.

CLERK: 29 ayes, 0 nays, Mr. President, on the motion to adopt the Schmit amendment.

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

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

SPEAKER MARVEL: All those in favor of advancing the bill say aye, opposed no. The motion is carried. The bill is advanced. LB 506.

CLERK: Mr. President, there are E & R amendments to LB 506.

SPEAKER MARVEL: Senator Kilgarin, do you want to move the E & R amendments.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 506.

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

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

May 12, 1981

favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

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

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

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

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

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

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

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

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

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

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

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

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

May 19, 1981

LB 336, 336A, 360

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read LB 336A. It turned out, Senator Barrett, to be no problem.

CLERK: Read LB 336A 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, those opposed vote no. 336A. Record.

CLERK: 41 ayes, 0 nays, 2 present and not voting, 6 excused and not voting. Vote appears on page 2101 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Clerk will read LB 360.

CLERK: Mr. President, I have three amendments on the bill. The first is, Senator Schmit, you had one on 1497, I think that is the one you want to withdraw Senator, if I'm not mistaking.

SENATOR SCHMIT: Withdraw that one.

CLERK: All right. Mr. President, the next motion I have is from Senator Carsten. Senator Carsten would move to return the bill for a specific amendment.

SPEAKER MARVEL: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, this amendment, and I move to return LB 360 to Select File for a specific amendment. It was brought to me by Senator Warner's office this morning. Senator Warner is at the hospital with his wife this morning and could not be here. However, I have had the explanation of the amendment given to me and will convey that to you on behalf of Senator Warner. This amendment does strike on page 9, lines six through eight, and lines twenty-two and twenty-three, strikes that new matter and does insert, "bus, truck-tractor or a truck with more than two axles, except one registered as a farm truck." Then in line eight after "or" insert "in". Now the purpose of this amendment as has been explained to me is the clarification of what it really means. It had been interpreted two ways and after counselling with Mr. Vitamvas it was his suggestion that this amendment should be inserted for clarification to know exactly what it means. It is for that purpose and with that intent that I submit to you

this proposal to return it for this specific amendment on behalf of Senator Warner.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President, I support the Carsten amendment.

SPEAKER MARVEL: The motion before the House is the adoption of the Carsten amendment to return the bill for a specific amendment. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record.

CLERK: 29 ayes, 0 nays on the motion to return the bill.

SPEAKER MARVEL: The motion is carried, the bill is returned. Now the motion is to adopt the. . . .all those in favor vote aye, opposed vote no. Record.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Carsten's amendment.

SPEAKER MARVEL: The amendment is adopted. All those in favor of rereferring the bill say aye, opposed say no. The motion is carried the bill is rereferred.

CLERK: Mr. President, Senator Schmit will now move to return LB 360 to Select file for specific amendment.

SENATOR SCHMIT: Mr. President, members of the Legislature, I attempted this when the bill was on General File, I was absent when the bill was offered on Select File, at that time an amendment was offered that would give to wet alcohol, alcohol of less than 200 proof the same exemption that is provided to anhydrous alcohol, which is a five cent per gallon exemption. Let me tell you why that is not consistent. The 5¢ per gallon exemption that is awarded to anhydrous ethyl alcohol translates into a 50¢ per gallon subsidy for anhydrous alcohol. There is a growing trend towards utilization of wet alcohol in engines. If you happened to read the Public Pulse this morning Mr. Walt Baylon, a Columbus inventor and business man, has for years suggested that we should be using a total alcohol fuel as a substitute for gasoline. It is a more economic method of producing alcohol and it is one that is gaining a certain amount of favor in many parts of the world. A number of alcohol built companies, General Motors, Volkswagon, Ford are producing at the present time engines which will burn

wet alcohol. At the present time the way the law reads we give a 50¢ per gallon subsidy to the production of anhydrous alcohol. We give a 5¢ per gallon subsidy to wet alcohol. If we adopt this amendment we will remove the special fuels tax which will be 13½¢ per gallon on wet alcohol, which is still less than one-third, almost one-fourth of the subsidy which is granted to anhydrous alcohol. I know that there is some concern about the loss of tax revenue. Let me explain to you that the loss of tax revenue is not going to be of any great concern because at the present time we have a very small number of plants in Nebraska that are producing wet alcohol. It is not used in any large amount and the idea behind this amendment is to encourage the construction of the plants which will produce the wet alcohol as a direct replacement for gasoline. I believe it can be economical. Those producers of alcohol in that category have told me they can compete with gasoline with that kind of a subsidy. It is less than a subsidy than anhydrous alcohol. I'm not suggesting that somebody might say lets wipe out that subsidy on anhydrous alcohol. What I'm saying is that in order to give to the small alcohol producer an equitable opportunity in the market place, that we need to adopt this kind of an amendment and that we need to adopt it at this time, because there is in the State of Nebraska a growing interest in service stations purchasing and selling direct to the public wet alcohol. There have been a number of them that have contacted me and have asked that we adopt this amendment. I would hope that you would adopt it. I do not believe the loss of revenue will be substantial. At the present time the only vehicles that I know of that are burning this alcohol, wet alcohol, are several state patrol vehicles. But there are a number of stations which have told me they will purchase the alcohol and sell it direct if the exemption becomes a part of the law. Another thing that this amendment does is that it applies the exemption to alcohol produced outside of Nebraska. The reason that I have done that is because I do not believe that it will hold up in court to limit that exemption to alcohol produced only in Nebraska. That has been tried in several states, it has been in the courts. I do not wish to find this amendment or this bill tied up in the courts, therefore, I am suggesting that we apply it to wet alcohol produced anywhere. I would hope that the Legislature would try it for one year. If we find that it does cause a serious loss of revenue, which I can not foresee because we do not have the alcohol plants

on line at the present time, except for one or two. Then we can always come back and readjust it. We passed the first exemption for anhydrous alcohol ten years ago. We increase that from 3¢ to 5¢ a number of years later with one of Senator DeCamp's bills. The present amendment I believe is in keeping with the development in the alcohol fields industry. It is consistent and I believe we ought to adopt it. I would ask you adopt this amendment.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Marsh.

SENATOR MARSH: Mr. Chairman and members of the Legislature, I am not an expert in this field nor do I claim to be. I simply would point out to you that Senator Warner is not here this morning. Senator Warner is opposed to this amendment and I feel that it is necessary for someone to stand and speak on his behalf. I think that this is not the time nor the place on Final Reading to be adding this amendment. I will vote no.

SENATOR NICHOL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I guess I'm not necessarily opposing the amendment but I rise in opposition in the same vein as Senator Marsh. I know that Senator Warner did oppose the amendment or does oppose the amendment. I think that it is basically on the grounds of the fiscal impact that it might have. I guess I would turn to Senator Schmit and see if there is any projection that he has with the fiscal impact that might be in.....as he suggests for one year even. Senator Schmit, could you answer that for me so that we might know a little bit more about it.

SENATOR SCHMIT: Senator Carsten, at the present time, as I said, there are only two state patrol vehicles that are burning wet alcohol on an experimental basis. We are hopeful that others will try to burn it. But in order for that to become realistic on the marketplace, we need to adopt the 13½¢ exemption. At the present time I know of a single plant that is producing alcohol and I don't think the capacity would amount to a 100,000 gallons per year. There are several others that are trying to come on line. Without this kind of encouragement we are going to continue to encourage people to produce anhydrous alcohol

which is more expensive, which I think is an interim kind of fuel, but I do not believe that it is consistent with the times. I believe that if we are going to be aware of the continuing need for development in the alcohol fuels industry, we need to provide this kind of encouragement to another phase of the industry. I did offer the amendment, as you recall, on General File. At that time there was some concern about its financial or its fiscal impact. I told Senator Warner and yourself at that time that I would withdraw it and hold it for a later time. As I indicated earlier I was not here when the bill was read on Select. The impact, as nearly as I can determine, would be minimal. I would guarantee this body that if they would adopt the amendment, Senator Carsten, that I will come back next year and give you a full report. But I would say that the impact would be less than several thousand dollars for the balance of this year. I do not think that is a very high price to pay for the possibility of developing an alcohol fuels industry here in this state.

SENATOR CARSTEN: Senator Schmit, one other question, do we have any sunset on any of the exemption on the gasohol or any of the other special fuels that you are aware of?

SENATOR SCHMIT: I am not aware of any sunset any longer, Senator Carsten, but we did remove the provision that we had in the bill sometime ago that we would review the impact at the 20 million gallon sales level, but we removed that.

SENATOR CARSTEN: Thank you, Senator Schmit.

SENATOR NICHOL: Senator Schmit, the Speaker has asked me to ask you if you would consider holding this over until Senator Warner gets back, would you consider that or not?

SENATOR SCHMIT: I will be glad to consider it if it doesn't.... I don't want to delay the bill unnecessarily but if the bill can come up later on, and there is no objection from anyone else then I would do that. I would have no objection. But, I do not want to delay the bill. I don't think that it is necessary to delay the bill. But, I don't want the bill to be placed in a category where it can not become law because of my action.

SENATOR NICHOL: So, you are saying yes or no?

SENATOR SCHMIT: If you will pass over the bill and restore it to its place when Senator Warner comes back, I'll hold the amendment.

May 19, 1981

LB 360, 326

SENATOR NICHOL: So ordered. Senator Hoagland, are you ready to go back on the bill we passed over a minute ago? Senator Beutler.

SENATOR BEUTLER: Are we passing over that bill, Mr. Speaker?

SENATOR NICHOL: Senator Schmit's bill?

SENATOR BEUTLER: No, I'm sorry, 360.

SENATOR NICHOL: We are passing over 360 until Senator Warner comes back.

SENATOR BEUTLER: Well it seems to me that Senator Warner will have an opportunity to object because this will have to come back on Final Reading again if the amendment is adopted. The other day I mistakenly asked for the order to be changed on Final Reading and bills switched around and the Speaker suggested to me that that wasn't a good procedure that we should proceed with this as planned. I don't really see the difference here. I think we should proceed with it as planned.

SENATOR NICHOL: Senator Beutler, ordinarily we would handle it this way because of courtesy for the one that is excused. If you would prefer to go back you can challenge the Chair but I wouldn't suggest it.

SENATOR BEUTLER: Okay, so the principle is that if the introducer is not here we will pass over it.

SENATOR NICHOL: As long as I am here that is the way we will do it but I won't be here very long.

SENATOR BEUTLER: Thank you.

SENATOR NICHOL: Back to 326, Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, Senator Kremer and I are co-sponsoring an amendment to 326 which is a Public Works Committee bill that has to do with the water planning process. Now this amendment is of a technical nature and it amends Section 7 of the bill and it has to do with how the findings and the reports and the materials accumulated by the Commission are to be distributed while the water planning process is under going. Now, this amendment was an omission when the bill was introduced and essentially it conforms this bill with

May 20, 1981

LB 98, 134, 224, 326, 360
LR 186, 187

I can assure you that next year there is going to be legislation, whether or not this agreement is reached by May 30th.

SPEAKER MARVEL: Senator Kremer, do you wish to close on the resolution? Okay. All those in favor of the adoption of LR 186 vote aye, opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: The motion is carried. The resolution is adopted. Now we go to LR 187.

CLERK: Mr. President, LR 187 offered by Senators Fowler, Wesely, Vard Johnson, DeCamp, Wagner, VonMinden and Fitzgerald is found on page 2109. (Read.)

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: This resolution was brought to me and the other legislators by a Vietnam veteran's organization that is working across the state to gain attention for the issues that are raised in this resolution. This resolution would be a statement of support for the issues of concern indicating that the Legislature finds these to be important and significant public issues that Congress should review. The Vietnam veteran has often been called the forgotten veteran. I think that more attention now is being focused on the needs, the issues that surround the Vietnam veteran and their families. With that, I would move for adoption of the resolution.

SPEAKER MARVEL: The motion is the adoption of LR 187. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of LR 187.

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

CLERK: Mr. President, while we are waiting, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 134 and find the same correctly engrossed; 224 correctly engrossed; 326 correctly engrossed and 360 correctly engrossed, all signed by Senator Kilgarin, Chair.

Mr. President, one other item, I have a request from Senator Wesely to add his name to LB 98 as coinroducer.

SPEAKER MARVEL: No objections, so ordered. Will the Legislature please, will you return to your seats so that we can

May 26, 1981

LB 224, 326, 360

PRESIDENT: LB 134 passes. The next bill on Final Reading is LB 224.

CLERK: (Read LB 224 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 224 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 2248 of the Legislative Journal.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

PRESIDENT: LB 224 passes. The next bill on Final Reading is LB 326.

CLERK: (Read LB 326 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 326 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 2249 of the Legislative Journal.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

PRESIDENT: LB 326 passes with the emergency clause attached. Before we come to the last bill on Final Reading this morning, the Chair takes great pleasure in introducing some twelve legislators from Imo State in Nigeria visiting the Unicameral in Lincoln today accompanied by Bill Brown and John Buckwater. Would the legislators from Imo State in Nigeria please stand and be recognized by the Nebraska Unicameral Legislature? Welcome, gentlemen. We will now proceed with the final bill on Final Reading, LB 360, Mr. Clerk.

ASSISTANT CLERK: (Read LB 360 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 360 pass? All those in favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 2250 of the Legislative Journal.) The vote is 45 ayes, 0 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

May 26, 1981

LB 316, 352, 360, 448,
477, 477A, 512

PRESIDENT: LB 360 passes and that will conclude Final Reading for today. Do you have any matters to read in, Mr. Clerk, at this point?

CLERK: Very quickly, Mr. President, I have two Attorney General's Opinions, the first addressed to Senator Beutler regarding LB 352, and one to Senator Howard Peterson on LB 512. Both will be inserted in the Journal. (See pages 2250 through 2253 of the Legislative Journal.)

Mr. President, I have a letter from the Governor addressed to the Clerk. (Read letter regarding LBs 477, 477A and 316 as found on page 2254 of the Legislative Journal.)

PRESIDENT: We are ready then, Mr. Clerk, for General File. Thirty minute limit. Mr. Speaker, do you want to say anything at this time about the limits on General File and General File position. I recognize Speaker Marvel.

SPEAKER MARVEL: I think that this is to encourage people to understand that we are practically down to the end of the line and that they should treat things accordingly. That's....in other words, we can't force that issue but we can encourage it.

PRESIDENT: All right, we are ready then, Mr. Clerk, for LB 448.

CLERK: LB 448 was introduced by the Performance Review and Audit Committee and signed by its members. (Read title.) The bill was originally read on January 20 of this year. At that time it was referred to the Public Health and Welfare Committee for hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, first of all I guess I would not believe that this is a piece of legislation that has to be enacted in this session of the Legislature and I was quite surprised to see that the bill was place on the agenda. I personally would hope that we would simply pass over the bill until next year, and I guess at this point in time I would simply offer....well, I guess we will process it and see. But I really see absolutely no reason to process LB 448 in this session of the Legislature. But I should address at this point in time what the committee amendments do. The committee amendments to the bill delete the 16 hours of

May 26, 1981

LB 218, 134, 224, 326, 360

on the bill? I will be happy to answer them, but I move that we advance the bill.

PRESIDENT: All right, are there any further discussions then on LB 218? Hearing none, I guess that is your opening and your closing. The question now is, the motion is to advance LB 218 to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? We are under Call. The House is under Call so I guess we will have to start rounding up some people if we don't get the votes. Or have a roll call vote, whatever you want to do. We will accept call ins. There are quite a number of people that are not here. Sergeant at Arms, do you want to start finding somebody? There's no tie, or I would, I'll tell you. If I could contrive this into a tie, I would sure vote. You are tied up, huh? Record the vote.

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

PRESIDENT: The motion carries. The LB 218 is advanced to E & R Initial. Do you have some matters to read in, Mr. Clerk?

CLERK: Mr. President, I don't believe I do, no.

PRESIDENT: That will conclude the General File portion of the agenda. I don't know what...whether the Speaker wants to start with Select File. I would suggest too because they will probably want to continue their meeting. Just be at ease for a moment, we will see if we probably will just recess at this time, and then come back right after lunch to continue with Select File, but we will check with the Speaker. We have one matter to take care of and then we will recess for lunch.

CLERK: Mr. President, LBs 134, 224, 326 and 360 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 134, LB 224, LB 326 and LB 360. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: Senator Marsh, would you recess us?

SENATOR MARSH: I move we recess until 1:30.

PRESIDENT: Motion to recess until 1:30. All those in favor signify by saying aye. Opposed nay. We are recessed until 1:30.

May 26, 1981

LB 551, 134, 224, 326, 360

SENATOR HEFNER: Mr. Chairman, members of the body, this is correct. Senator Fitzgerald, you are correct and I do have a corrective amendment up there, after we pass this.

SENATOR FITZGERALD: (Mike not turned on.) I want to know what I am voting on. I mean I'm voting six miles and, my golly, I will be going down into some other county.

SENATOR HEFNER: Okay, the amendment changes this to three.

SENATOR FITZGERALD: Oh.

SENATOR CLARK: The Clerk will call the roll.

CLERK: (Roll call vote taken. See pages 2263 and 2264, Legislative Journal.) 24 ayes, 19 nays, Mr. President.

SENATOR CLARK: The motion failed. What else is on the bill? Any other motions?

CLERK: Senator Hefner, do you want to offer that? No. I have nothing further on the bill, Mr. President.

SENATOR CLARK: The question before the House is the advancement of the bill. Is there any discussion? All those in favor vote aye, all those opposed vote nay. Record the vote.

CLERK: 30 ayes, 1 nay, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. LB 552.

CLERK: Mr. President, Senator Stoney would like to be excused Friday, June 5.

Mr. President, I have an Education Committee report regarding gubernatorial appointments. (See pages 2264-2265 of the Legislative Journal.)

Mr. President, your Enrolling Clerk has presented to the Governor the bills that we read on Final Reading this morning. (Re: LB 134, 224, 326, 360. Page 2264 of the Legislative Journal.)

Mr. President with respect to 552 I do have E & R amendments.

Quite honestly, the only one that I am concerned about of (a), (b), (c), (d) and (e) is (d) and I think that is the one that the majority of the people of the State of Nebraska are concerned about. How is it going to affect our water, both surface and underground water in the State of Nebraska. I think there could be probably an answer to that. We could probably find out as to whether or not it interferes with the unreasonable hazards for the use of the right-of-way as (a) calls for. I think probably the state engineer is qualified to do that. (b) where it talks about whether it serves the transportation interests and needs of the state. I don't know who in the world would be able to answer that question. Where it talks about under (d) whether the pipeline can reasonably be expected to have a significant adverse effect upon the state's economy. Again, I don't know where you are ever going to get an answer to that question. I think that this is a perfect example of using a sledge hammer to kill a fly on the last moment of the session and even though, as I indicated, I am strongly opposed to the coal slurry pipeline and I certainly have a lot of sympathy for the cause that Senator Cullan has so adequately carried over the years. I do believe that there is a lot of problems with this particular method that is being used at this point in time.

PRESIDENT: Senator Haberman.

SENATOR HABERMAN: I yield to Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I told Senator Nichol when I initiated this process that I would withdraw the amendment if it became a problem. More than thirty members of this Legislature told me or Senator Wesely or others that they supported this concept and so I still don't believe that there is a problem but I agreed to Senator Nichol that I would do that if he believed a problem was developing and so I will withdraw it but I think it should be an indication to those who...well, I guess that is enough. Thank you.

PRESIDENT: Thank you, Senator Cullan. He has withdrawn the motion to return so we are...there is a further motion I believe though, so the Cullan motion is withdrawn. Is there...? Go ahead.

CLERK: Mr. President, if I may, right before that, I have a communication from the Governor addressed to the Clerk. (Read communication re: LB 134, 224, 326 and 360.) (See page 2329 of the Legislative Journal.)