

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

May 18, 1981

LB 158, 158A, 197, 197A,
LB 352, 204, 204A, 245,
245A, 292, 292A, 383, 512

take your seats and the Sergeant at Arms please get those who are not in the Chamber. There are none excused. I take it back, Senator Higgins is excused. Senator Koch and Senator Fowler, would you punch in please? Senator Maresh, Senator Wiitala, Senator Warner, Senator Lamb, Senator Hefner, Senator Newell, Senator Landis, Senator Hoagland, Senator Pirsch. Senator Koch, did you ask for a roll call vote? Okay.

CLERK: Mr. President, while we are waiting, your committee on Public Works reports LB 383 to General File with amendments.

Senators Peterson, Nichol, Burrows, Lowell Johnson, and Sieck would like to print amendments to 512; Senators Beutler and DeCamp to LB 352.

Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LBs 158, 158A, 197, 197A, 204, 204A, 245, 245A, 292, 292A. See page 2090, Legislative Journal.)

SENATOR NICHOL: Senator Lamb and Senator Carsten are the two that are not here yet. Senator Koch.

SENATOR KOCH: Mr. Chairman, can we take call in votes and speed this up?

SENATOR NICHOL: If you would like.

CLERK: Senator Chronister voting yes. Senator Hefner voting yes. Senator Hoagland voting yes.

SENATOR NICHOL: Record, Mr. Clerk.

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

SENATOR NICHOL: The bill is advanced.

CLERK: Mr. President, finally, the last item I am going to read in is a new resolution offered by Senators Kremer, Haberman and Rumery. (Read. See page 2092, Legislative Journal.) That will be laid over, Mr. President.

And, Mr. President, I have notice of hearing from Senator Warner regarding a meeting of the special committee regarding Federal-State-Local Fiscal and Program Policy.

SENATOR NICHOL: You will recall that Speaker Marvel announced

the concerns involved I think you have to know the background of the bill in dealing with the issue.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor vote aye, opposed vote no. A record vote? Okay, a record vote is requested. All those in favor of advancing the bill vote aye, opposed vote no. Okay, record.

CLERK: (Read record vote as found on page 794 of the Legislative Journal.) 35 ayes, 0 nays, Mr. President.

SPEAKER MARVEL: The bill is advanced. Okay, we are going to revert back to LB 383.

CLERK: Mr. President, LB 363 offered by Senator Warner. (Read.) The bill was read on January 19 of last year. It was referred to the Public Works Committee for a hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Public Works Committee.

SPEAKER MARVEL: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this bill is essentially as I understand it to correct a failure to clarify the law that we passed a number of years ago and basically the law that we passed a number of years ago said that for those truckers that were involved in interstate commerce, that a new system would be set up but whereby they could allocate fees according to mileage. There would be a per ton fee for the mileage that they drove in Nebraska and then the remainder of their taxes would be allocated to other states on the basis of how many miles they drove in those states. At the time that we did that everybody thought that the allocation system applied to power units and also to the trailers and semitrailers that they drag along. The law was followed in that manner for a number of years but recently there has been an Attorney General's opinion which says that the trailers and the semitrailers do not fall or are not part of that allocation system. So this bill goes back and clarifies the law and says that the trailers and the semitrailers will be treated like the power units and be a part of that allocation system. So it is technical in that sense. Now the committee amendments, I explained this to you because the committee amendments really do nothing other than facilitate that concept. We had to change a few words for technical reasons though basically nothing in the bill is changed by the committee amendment except for a couple of items which will be in one minute, amended out of the committee amendments and I will explain that when I explain the amendments to the committee amendments but if I haven't confused you thoroughly

at this point, the sum of what I'm trying to say is that the committee amendments are technical in nature and Senator Warner will explain the bill at length to you when he gets on the floor. Thank you.

CLERK: Senator... May I ask Senator Beutler a question?

SPEAKER MARVEL: Senator Beutler.

CLERK: Are you offering your amendment then to the committee amendments, Senator? Is that right? Okay, thank you.

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

CLERK: 19 ayes, 0 nays, Mr. President, on adoption of the Beutler amendment to the committee amendments.

SPEAKER MARVEL: Now the motion is the committee amendments. All those in favor of adoption of the committee amendments as explained vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 25 ayes, 0 nays on adoption of the amended committee amendments, Mr. President.

SPEAKER MARVEL: Senator Warner, do you want to explain your bill?

SENATOR WARNER: Yes. First I have an amendment which...

CLERK: Mr. President, Senator Warner would move to amend the bill. (Read Warner amendment as found on page 795 of the Legislative Journal.)

SENATOR WARNER: That is not printed but if you want to let them on the bill on page 15, line 19, if you will see it, the word motor vehicles used in that section is dealing with these fleets that are under the prorate under the international registration plan and part of the problem in this clarification process since '75 I guess it is, is whether or not a trailer is a motor vehicle which by the definition in the law covered motor vehicles, defining motor vehicles, it is not and so the purpose of the amendment in this section, in this section only, makes it very clear that the two words are not referring back to the definition section of motor vehicle. What it will do is permit the state to continue to prorate and collect as we essentially have done without any question and it hopefully will clarify this issue, keep us in compliance. The long run problem is that if we do not

stay in compliance you, in essence, would force, probably force Nebraska truckers under one system and the other states probably wouldn't even bother to do anything at all because they wouldn't be able to, that is perhaps they wouldn't even come through the state. But because they wouldn't be able to...there is no way for them to comply as a practical matter. So I would urge that the amendment be adopted which pure and simple will be consistent with what the Legislature has done in the past and will clearly continue the posture that the registration fee and the collection and the per tonnage amount, everything is on the unit that pulls the trailer and that a trailer or semitrailer is not a motor vehicle by definition for the purposes of collecting taxes. So it is all consistent and I would move adoption of the amendment.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Not on the amendment, on the bill.

SENATOR CLARK: Is there any further discussion on the Warner amendment? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: We're voting on the Warner amendment. Have you all voted? Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the Warner amendment.

SENATOR CLARK: The Warner amendment is adopted. Is there any further amendments?

CLERK: I have nothing further on the bill.

SENATOR CLARK: Senator Warner, do you wish to explain the bill?

SENATOR WARNER: Well in essence I think we have through the discussion of the amendments. I would just move it be advanced.

SENATOR CLARK: Senator Carsten, do you want to talk on the advancement of the bill?

SENATOR CARSTEN: Mr. President and members of the Legislature, LB 590 is a bill that as has been explained further clarifies

the bill we passed in '75, LB 530 which enacted that single fee. It was the intent of our committee and it was a Revenue Committee bill that it would include the registration fee and the property taxes on the power unit but trailers and semi-trailers of all vehicles that were operating within that fleet. Unfortunately it appears that there is a narrow legal interpretation that our bill in 1975 did not fully accomplish. So it appears that since the case of the Attorney General's opinion in '81 that we should pass 583, or 590, excuse me. If anyone thinks there is a question as to the properness of the fees involved or comparisons or whatever, it would appear that that should be done in a separate bill and that we only use this as a clarification. And I want to just tell you that we do and I sincerely urge you to support this bill. Under the old procedure that we were using we collected a million eight hundred thousand and in 1981 under the committee bill which provides for 30% of the \$32 per ton credited to the ad valorem taxes, we brought in four million, a hundred and twenty-six thousand dollars. It gave them more money and an opportunity for continued growth. So basically the philosophy of the original bill is sound and good and with this amendment does make it clear and concise and I certainly would urge you to support Senator Warner's LB 383.

SENATOR CLARK: The question before the House is the advancement of LB 383. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: LB 383 is advanced. We will now take up LB 590.

CLERK: Mr. President, LB 590 offered by Senators Kilgarin and Beutler. (Read.) The bill was read on January 6 of this year, referred to the Judiciary Committee for a hearing. The bill was advanced to General File, Mr. President.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would move the advancement of LB 590. LB 590 deals with the general concept of more unification which has been subject matter in this Legislature for the last five or six years. Basically the Legislature made the decision a few

February 24, 1982

LB 383, 547, 590, 598, 702,
736, 863, 892, 895

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Prayer by Reverend Bruce Currier of the Second Baptist Church, Lincoln.

REVEREND CURRIER: Prayer offered.

SPEAKER MARVEL: Roll call. Record your presence, please. Will you please check in so we can proceed with the business at hand? Okay, record.

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

SPEAKER MARVEL: Items in number 3.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 547 and recommend that same be placed on Select File with amendments, 383 Select File with amendments, 590 Select File with amendments, 598 Select File and 702 Select File with amendments, all signed by Senator Kilgarin. (See pages 825-826 of the Legislative Journal.)

Your committee on Education whose Chairman is Senator Koch reports LB 892 advanced to General File, 895 General File with committee amendments attached and LB 736 as indefinitely postponed. All signed by Senator Koch. (See pages 826-827 of the Legislative Journal.)

Your committee on Judiciary offers a report on a gubernatorial confirmation hearing, signed by Senator Nichol. (See pages 827-828 of the Legislative Journal.)

Senator Kremer and the Public Works Committee offers a gubernatorial appointment confirmation report. (See page 828 of the Legislative Journal.)

Your committee on Public Works gives notice of hearing for March 10, Mr. President.

I have a reference report from the Reference Committee referring LB 967 to the Public Works Committee.

I have an Attorney General's Opinion addressed to Senator Cullan regarding 863. (See pages 828-829 of the Legislative Journal.)

Senator Koch would like to be excused Thursday, February 25 and Monday, March 1.

March 1, 1982

LB 383, 547, 659, 854A

PRESIDENT: Before we get back into the agenda and taking up the agenda on Select File the Chair would like to announce that, some other birthdays. We have Senator Remmers. Senator Remmers, I believe you have a birthday on March 1 too, that you're trying to hide from us. We want to say happy birthday to you and to Senator Sieck whose birthday is the 29th day of February. You're one of those guys. You have a few birthdays so it is very important that we congratulate Senator Sieck on his birthday and Senator Remmers. Happy birthday. The Legislature will come back to order. Mr. Clerk, do you have some matters to read in at this time?

CLERK: Mr. President, very quickly, Senator Barrett would like to print amendments to LB 659. (See pages 904-905 of the Legislative Journal.)

Mr. President, a new A bill, LB 854A offered by Senator Fowler. (Read. See page 903 of the Legislative Journal.)

PRESIDENT: Alright we do have one more group. Oh, they have gone. We had a group from Senator Schmit's district from Wahoo. They were here during the ceremony. We will just note them for the record. We will go ahead then with Select File. The first bill is LB 547, Mr. Clerk, and Senator Kilgarin.

CLERK: E & R amendments, Senator.

PRESIDENT: E & R amendments, Senator Kilgarin, if you want to proceed.

SENATOR KILGARIN: I move the E & R amendment to LB 547.

PRESIDENT: The motion has been made to adopt the E & R amendment on LB 547. Any discussion? All those in favor signify by saying aye, opposed nay. The E & R amendment is adopted to LB 547. Do you have any further amendments, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: Senator Kilgarin, do you wish to move the bill?

SENATOR KILGARIN: I move we advance LB 547.

PRESIDENT: Motion to advance LB 547. Any discussion? If not, all those in favor signify by saying aye, opposed nay. LB 547 is advanced to E & R. We will now go to LB 383.

CLERK: There are E & R, Senator.

March 1, 1982

LB 383

PRESIDENT: Senator Kilgarin, go ahead.

SENATOR KILGARIN: I move the E & R amendment to LB 383.

PRESIDENT: Alright, motion to adopt the E & R amendments on LB 383. Any discussion? If not, all those in favor of adopting the E & R amendments on LB 383 signify by saying aye, opposed nay. The E & R amendments are adopted.

CLERK: Mr. President, Senator Nichol would now move to amend the bill. The Nichol amendment is Req. # 2738.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, if you don't have these on your desk, you will have them shortly. What this is is an amendment which is the same as LB 860 which was heard in front of the...Senator Kremer's Public Works Committee on Friday, February 26 and was advanced from the committee 5-0. What this actually does is...

PRESIDENT: The noise level is almost unbearable. Could we have attention to the speaker so that we could move these bills along, move these amendments on Select File.

SENATOR NICHOL: What this does is lengthen the number of feet that a wrecker and semi may have when moving a semi from disabling situations. For example, when a semi is wrecked or disabled on the highway or for that matter any other place, it now can only be sixty-five feet in length including the semi and the wrecker vehicle. Since we have lengthened the amount that a semi vehicle can be, we propose to lengthen this to ninety-five feet overall including the semi and the wrecker. South Dakota has currently adopted a hundred and twenty-five feet. The purpose of this is so that wreckers when they are towing semis from a disabled situation may place them in a secure safe-keeping place. May I say that the Public Works Committee amended it from "service repair or safety" to "service and safety." With this wording which did not seem to be quite as it ought to be the legal department of the Judiciary Committee and the Public Works Committee agreed that the wording "secure safe-keeping" would be more appropriate. So with that, Mr. Chairman, and also I should say that we're checking for sure to make sure that the federal funding will not be imperiled because of this amendment. We don't think that it is but we want to make sure between now and the next advancement of the bill that that is true. So with that, Mr. Chairman, I would move for the adoption of the amendment.

PRESIDENT: The Chair recognizes Senator Cullan. Alright, the Chair recognizes Senator Beutler. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I think this is a subject that would be worthy of some debate and I have some questions about beginning it at this early point in time, the process of taking the bills that are behind in the process and essentially in moving them ahead of priority bills by the technique of amending bills on the floor of the Legislature for that purpose. I think first of all, that it is a bad precedent to establish to start doing this. We're going to waste a great deal of time eventually and I have some questions on this particular bill with regard to bridge damage and abutment damage and some of the Department of Roads' concerns. I think we would be better off simply to reject the amendment on the basis that we don't want to get into the process of amending bills on the floor for the purpose of getting nonpriority bills placed ahead of priority bills. That is essentially what we are doing here as we start this technique. A great deal of our time is going to be consumed on nonpriority bills essentially. So I think we should stop at the very beginning this process and go back to our priority bill system as we have set it up and deal with the priority bills first. And for that reason mainly I would like to ask you to reject the amendment. There is no emergency on this particular item. Let's then go back and pick it up in the normal course of our process. If we hear it this year, fine. If we don't get around to it until next year, that is fine too. That is the way the system is set up. We're here to hear the priority bills first and that rule should not, for reasons of good policy, be circumvented. Thank you.

PRESIDENT: The Chair recognizes Senator Kahle.

SENATOR KAHLE: Mr. President, perhaps a question of Senator Nichol.

PRESIDENT: Senator Nichol, will you respond.

SENATOR NICHOL: Yes.

SENATOR KAHLE: Senator Nichol, if I understand the procedure now if they want to tow a disabled truck that will include the tractor and the semi they have to uncouple them because they are too long to pull. Is this correct?

SENATOR NICHOL: That is correct. In some instances that is correct.

SENATOR KAHLE: So as I travel up and down the interstate occasionally I see a trailer setting beside the road, the tractor has been taken off and to me this is a road hazard. So I support the Nichol amendment. I think while we are

going to have some juggling of bills as we progress if this happens every day. I think this is important. It is a safety measure and if I can't see the argument against it, I don't know why we can't move it along and if we're going to debate it for half a day I'm sure it is going to slow us down. Otherwise it shouldn't and it won't if we process it in an orderly manner. Thank you.

PRESIDENT: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. President, members, I wonder if Senator Nichol would respond to a question, please.

SENATOR NICHOL: Yes, sir.

PRESIDENT: Senator Nichol, will you respond.

SENATOR VICKERS: Senator Nichol, isn't there a bill introduced doing this very same thing and if it is, what is the number of the bill and what is the status of it? Could you tell us that?

SENATOR NICHOL: I don't know what the bill is. I believe Senator Beyer has information to that line but it isn't the same as I understand from him. Now if he knows that that is for sure, I believe it could be done by ruling of the Highway Department but I'm not sure. What the problem is, Senator Vickers, is that some law enforcement officers are going along with that now, however, few in the western part of the state are not going along with it and this creates a problem whereby some wrecker operators don't know how the law stands or what they can or can't do.

SENATOR VICKERS: Thank you, Senator Nichol, I understand that and you can explain that in your closing. I simply was trying to find out whether that bill was out of committee. Maybe Senator Beyer could explain it to me then, if Senator Beyer would respond to a question, please.

SENATOR BEYER: Okay.

SENATOR VICKERS: Senator Beyer, what is the number of the bill and where is the position of it now that is doing this same thing basically?

SENATOR BEYER: Well that was one that 408 has given special permission to the State Department of Roads to issue longer permits for testing purposes.

SENATOR VICKERS: Okay, it wouldn't affect this issue? I mean it would not affect directly to using the same language as what Senator Nichol is attempting to do here?

SENATOR BEYER: No, it wouldn't be the same language, no. But if they feel it is a problem they could test whether it can be done or not.

SENATOR VICKERS: To your knowledge there isn't a bill introduced doing this same thing? Is that correct?

SENATOR BEYER: No, not doing the same thing, no.

SENATOR VICKERS: Okay, thank you.

SPEAKER MARVEL PRESIDING

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

SENATOR KREMER: Mr. Chairman, I'd like to ask a question of Senator Nichol.

SPEAKER MARVEL: Senator Nichol, do you yield?

SENATOR NICHOL: Yes.

SENATOR KREMER: Senator Nichol, the amendment you are proposing to 383 is 860, is it not?

SENATOR NICHOL: Yes.

SENATOR KREMER: Does your amendment include the amendment word by word, what the committee amendment was to 860? Did you change that somewhat?

SENATOR NICHOL: Senator Kremer, yes, as I stated in my opening remarks, what the committee put in was instead of "service repair and safety" the committee struck "service and safety" and left only "safe". Now what the legal counsel of your committee and the Judiciary Committee agreed that "secure safe-keeping" would be better language instead of "safety." Would that be agreeable with you, sir?

SENATOR KREMER: I think it would. The committee was concerned about the word "service" in that you may have to take a vehicle all the way from western Nebraska to Omaha to get it repaired which would be unwise I think as far as taking overweight and it could be that distance.

SENATOR NICHOL: Yes.

SENATOR KREMER: So you are saying probably the first place where it could be kept safely. Then if it was to be transported onto a place of service then it would have to be dismantled. Is this right?

SENATOR NICHOL: Yes, to a degree. For example, you're correct basically, Senator Kremer: basically what it would do would remove the outfit, we'll call it, from the place of peril or from the place where it is not safe. But to leave it out in the country twenty miles from no place would be unreasonable too because of the't and so forth, so if there is a town close by where they could take it that would be reasonable and they could take it there. It is not meant in this bill or this amendment to say that they can drag these outfits uncoupled across the state to a place of repair. That is not the intent, for the record, of this amendment.

SENATOR KREMER: That was a concern of the committee. Now then, LB 860 was advanced from the committee, I believe on the 25th or 26th. Now your concern is that that bill may not get attention on the floor and you're tying it into LB 383 in order so it gets attention this session. Is that right?

SENATOR NICHOL: That is correct.

SENATOR KREMER: Thank you.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I can sort of agree to a certain extent with what Senator Beutler is saying but I just want to point out once again that when we have the entire subject of bill limitations and we have priorities and many other issues that it is difficult for the major types of legislation to sometimes be advanced. Some senators have a priority bill which is still locked in committee and may never get out of committee. As a result that senator sometimes does not have the opportunity to have that bill heard on the floor and so the process by which we are trying to expedite actually may, in effect, become a slowing down process. I can understand Senator Nichol and his concern for the bill and I see really no objection to allowing the amendment to be adopted so long as it meets the same criteria and as long as it is germane to the subject of the bill. I have done it in the past. It hasn't always worked out well, I'll tell you that. I'll be very frank to tell you that LB 547 which was introduced this year had to be introduced because of a problem of a combination of bills. It is one which you will want to look at carefully and Senator Beutler correctly pointed that out but I would not certainly object to Senator Nichol mending this bill with this provision. I would ask the amendment be adopted.

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

SENATOR VICKERS: Mr. President and members, I suggest that this body be very careful with what we are attempting to do here this morning. If the issue that Senator Nichol is attempting to address is such an important and such an issue that needs to be addressed in such a hurry, it seems to me that the bill LB 860 which I couldn't get the number from a while ago when I was asking questions, but I have found it out now, if that bill was so important then why didn't it have the emergency clause added to it? Now I understand that there is a concern with many people, myself included, with a few bills that we each would like to get enacted that is probably not going to get enacted this year. But to use this procedure to circumvent the committee action to adopt amendments of this nature, inserting another bill into a bill going across the floor, is not good legislation. Our committee structure since this is a unicameral body is structured so that it operates basically as our second house and for us to circumvent that action or to speed up the action is not good for the legislative process. Now Senator Nichol might have a good idea and I certainly might be able to support that idea in a bill that has gone through the regular procedures but I don't think I can support that idea in this manner and I don't think it is wise for us to start dealing with our priority bills in this manner. If we do, we can certainly expect that a number of priority bills are not going to be dealt with if we are going to attempt to insert in various priority bills some of our other pieces of legislation that may or may not be out of committee, may or may not be in the form that the committee would like to have it in and do things in such a hurried manner. I again would point out that if it is such a matter of importance, then LB 860 should have had the emergency clause on it it would seem to me. Thank you, Mr. President.

SPEAKER MARVEL: Do you wish to be recognized again?

SENATOR BEUTLER: Yes, sir.

SPEAKER MARVEL: Okay.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I first of all would have a question of Senator Nichol. The amendment as I read it would allow the towing of a vehicle directly to the nearest place of secure safe-keeping.

SENATOR NICHOL: Right.

SENATOR BEUTLER: Does that mean secure from the point of view of the owner of the vehicle secure from theft, from vandalism, that type of security or does it simply mean...? What does that mean?

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LB 383

SENATOR NICHOL: Safe-keeping means where the property will be secured from vandalism. The public will be secure from danger. Basically that is it.

SENATOR BEUTLER: Well if the headquarters of the truck company is a hundred and fifty miles away does that mean that they can take it to their storage place?

SENATOR NICHOL: No, that does not mean that. For the record, that does not mean that.

SENATOR BEUTLER: What language in that amendment precludes that?

SENATOR NICHOL: It doesn't say in the language either that they can't take it to New York City for repair either, but a place of secure safe-keeping does not mean the home base of the trucking company or bus company if that might be the case.

SENATOR BEUTLER: Well if my headquarters...I mean how do I secure a vehicle I guess is the point? Do I go out and immediately rent a warehouse someplace or...?

SENATOR NICHOL: Ordinarily in any town of any size you can find someone who will guard it, a garage where you can put it in or a fenced in area where you can place it so that it is not sitting out there in the country for all vandals to come and help themselves or if it is a bus and has people in it, of course, if it is towable sometime they take the bus with it loaded with people to a place where it is reasonable.

SENATOR BEUTLER: Okay, thank you, Senator Nichol. What I am trying to suggest is that the language I don't believe is very definite and that it needs a great deal of clarification to preclude the possibility of towing the vehicle large distances. Now these are overweight vehicles and the Department of Roads has indicated a concern about the increased axle weights. Increased axle weights caused by the towing operations shortens the life of our bridges and pavements. Our state highways have many older bridges of a lighter design that would be further overstressed with the overloading, etc., etc. There is a fiscal impact with this and it is very important that we be clear and limit the exemption as much as possible. I've mentioned the questions just to point out that there are questions. I want to go back again to what I consider an abuse of our process. The amendment that is being proposed today is a twelve page amendment. The amendment that is being proposed today has not been distributed to you. Here we are

about to adopt a twelve page amendment that none of you have read. You can't possibly have read it because the only copy is right here that I just stole from the Clerk. Not only is it a long amendment but it also has the effect of amending the committee amendments. Just how it amends the amendments already attached to 383 I don't know because I have not had the opportunity to go back and review that but it is something that should be reviewed. I would point out to you that this bill came out of committee without a dissenting vote which means that it will have the opportunity to go through the consent calendar as do all other bills that do not have a dissenting vote. But it should not have the opportunity to advance before those bills for the simple gratuitous reason that there happened to be another bill on the floor of the Legislature which had the same article and chapter number and, therefore, was susceptible to being amended. It just doesn't make sense at all in terms of the legislative process and again, I urge you not to start down this road this session of amending nonpriority bills into priority bills and taking more of our time on nonpriority items. Thank you.

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

SENATOR SCHMIT: Mr. President, members of the Legislature, I want to ask Senator Nichol a question if I could, please.

SENATOR NICHOL: Yes, sir.

SENATOR SCHMIT: Senator Nichol, all you are asking is that the vehicle be towed to the nearest point off the highway so that it is safe and it does not impede the traffic on the highway. Is that not right?

SENATOR NICHOL: No, that does not necessarily mean just to place off the highway. For example, you could take a semi off the interstate. That wouldn't be a place of safe-keeping because everybody that came along could steal everything off of it.

SENATOR SCHMIT: Well, yes, I mean...I don't mean just to get it off the road but to someplace where it would be deposited and could be guarded, that it would not be a three hundred mile move for example, from Scottsbluff to Grand Island.

SENATOR NICHOL: That is correct, Senator Schmit. The purpose is not to drag it any darn place you please. The place is of safe-keeping. It does not mean take it where you can get it repaired necessarily.

SENATOR SCHMIT: Mr. President and members of the Legislature, again I rise to support the amendment. In regard to the fact that the bill does not have the emergency clause there is a vast difference between the emergency clause and not passing a bill. I think that all too often we throw the emergency clause on bills just as a matter of convenience. I think the emergency clause should mean just exactly what it does mean. It is an emergency. The bill as introduced was not an emergency but it was a matter of necessity from the standpoint of the introducer. I would like to point out an actual experience which I know about where because of the lack of clarity in the law the Nebraska Safety Patrol asked a tow truck operator to move a vehicle that was an impediment to the ongoing traffic. The tow truck operator protested because he said as I move it it will be illegal. The Nebraska patrol officer told him to go ahead and move it anyway, he would provide him an escort. He did over the opposition, believe it or not, of a weigh station operator. Well when the tow truck operator came back the weigh station operator then accosted him and there was a very long and arduous problem for the tow truck operator because the weigh station man said he operated illegally. He was going to write him a ticket, he did. There was a lot of other problems that ensued. Now I believe that anytime this Legislature can with a minimum of problem, clarify the law to provide for additional safety on Nebraska's highways, to provide for additional safety in the transportation of these vehicles I think it ought to be done. An upset semitractor rig and trailer on the highway is not a small item. It is not a dead dog or a deer which can be moved with a minimum amount of effort. It requires certain equipment and we ought to give the people who operate that equipment the protection of the law. Now you don't have an attorney handy by you to defend you in the event you get yourself into trouble. If a Nebraska safety patrolman asks you to move a vehicle and you move it and then at a later date you find yourself in trouble, I think that is asking the equipment operator, the tow truck operator to extend himself in a manner which is not necessary. So I would hope, and I think very frankly the reference to the fact that the bill can come up on consent calendar is very likely not true, Senator Beutler. All it takes as I recall are any three members to knock a bill off of consent calendar. I have had a number of bills in previous years that have been put on the consent calendar only to be stymied not because, ladies and gentlemen, anyone really having objection to that particular bill, but because they might have objected to another bill of some kind. So the consent calendar is hogwash if you have a bill that someone wants to impede the progress of across this board. I would ask the amendment be adopted and that we advance the bill with the amendment.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I just rise to indicate since I introduced 383 that I have no objection to Senator Nichol's amendment. I concur with the suggestion that it is appropriate to be able to move those vehicles off in a reasonable manner and I think the provisions are reasonable but more importantly as Senator Nichol indicated, if the amendment is adopted here and we will be sure it is consistent with what the Department of Roads feels is appropriate for our highway system and the safety of those who are traveling on them, should there be a problem I assume it could be revised when it gets to Final Reading but I would hope we would adopt it this morning. One other item, I'm sure that this is not the first nor will it be the last time that we attempt to amend into some bill going across some other bill and while I may feel a certain amount of concurrence with Senator Beutler that we ought to discourage it, I also understand that the legislative process all yields to 25 votes and that process no doubt will be changed a time or two more before we adjourn.

SPEAKER MARVEL: The Chair recognizes Senator Nichol to close.

SENATOR NICHOL: Mr. Chairman, ladies and gentlemen, just briefly in closing, it wasn't my intent to mess up LB 383 as far as the wordage is concerned. We had the attorneys draw it up. It wasn't my wordage. I think it is good. This has nothing to do with the weight of vehicles and we are not abusing the process. If you're concerned about safety of the public, the safety of property of semis, buses, then I urge you to adopt the amendment. Thank you.

SPEAKER MARVEL: The first motion is the adoption of the Nichol amendment to the bill. All those in favor of the adoption of that amendment vote aye, opposed vote no. Record the vote.

CLERK: 29 ayes, 6 nays, Mr. President, on adoption of Senator Nichol's amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Senator Kilgarin, will you make the motion?

SENATOR KILGARIN: I move we advance LB 383.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. In the North balcony from Senator Kahle's district we welcome today 4 students, all seniors, from the Wilcox High School at Wilcox, Nebraska. Mr. Ken Meyers is the Government teacher. Will you hold up your hands so we can say

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LB 378, 383, 702

correctly engrossed; 383 and 702 all correctly engrossed.

Mr. President, the next amendment I have to 378 was one from Senator Richard Peterson and I understand he wishes to withdraw.

PRESIDENT: Senator Peterson.

SENATOR R. PETERSON: Mr. Speaker, yes, I wish to withdraw that.

PRESIDENT: Alright, Senator Peterson wishes to withdraw. It is withdrawn, Senator Peterson.

CLERK: Mr. President, the next amendment I have is from Senator Wesely. It is Request #2696. You'll find it in your bill books, Request #2696.

PRESIDENT: Senator Wesely.

SENATOR WESELY: I'll withdraw that amendment at this time.

PRESIDENT: Alright, the amendment is withdrawn, Senator Wesely, thank you. The next amendment, Mr. Clerk.

CLERK: Mr. President, the next amendment I have is from Senator Cullan. (Read Cullan amendment as found on page 976 of the Legislative Journal.)

SENATOR CULLAN: Mr. President, members of the Legislature, this imposes a \$500 application fee. The fiscal analyst believes and I guess the Department of Health has made the assertion that LB 378 will require additional staff and there will be some expense required as a result of the review panel meeting more often, changing it from the advisory committee and then expanding it somewhat and so to defray any potential fiscal impact of LB 378 I impose this license fee. Irrespective of whether LB 378 has a fiscal impact or not and I personally believe that it does not because it is my opinion and I think I could demonstrate it very clearly that LB 378 will significantly reduce the cost to the state of certificate of need because the work load of the Department of Health is going to be cut. The number of applications they are going to process is going to be cut by approximately 40%. So I personally believe that there is no additional fiscal impact but irrespective of that I think it is a good idea for there to be some money raised as a result of application fees on certificate of need applications. This will certainly do away with any contention that there needs to be an A bill and it will provide some additional funds for the Department

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LB 267, 383

SENATOR LAMB: The bill is passed on Final Reading. Before we proceed, we have some guests of Senator Kilgarin and all Omaha Senators, 43 junior high school students from Central High School in Omaha, Mr. Dean Neff, Instructor, in the North balcony. Please rise to be recognized. Welcome. I might explain that under the Constitution we read all bills on Final Reading and sometimes this is not too interesting but stick around, it gets more exciting as the day goes on. The next bill on Final Reading is LB 383. Please read the bill.

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

SENATOR LAMB: Read the motion.

CLERK: Senator Nichol would move to return LB 383 to Select File for specific amendment and Senator Nichol's amendment is on page 1014 of the Legislative Journal.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, this amendment was brought to us by the Department of Roads drafter who wished to clarify the language. It does not change the meaning of the bill any. You will recall that we were talking a few days ago about large wreckers removing large semis from roads or a position of peril, and in the measurement of these combined vehicles, that is the semi, the semi trailer, and the wrecker, the overall length should not be more than 95 feet. So what this does is just to use the word "combined" so that it is more clear that we are talking about a length including the semi trailer, the semi tractor and the wrecker. I move for the adoption...no, let's see, I guess I want to bring it back to Select File first. I move to bring LB 383 back to Select File from Final Reading.

SENATOR LAMB: You have heard the motion. All those in favor vote aye, opposed vote no. Have you all voted? Record.

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR LAMB: Senator Nichol on the amendment.

SENATOR NICHOL: Mr. Chairman, since the bill is returned to Select File, I move for the adoption of the amendment I explained a minute ago.

SENATOR LAMB: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: A question of Senator Nichol, please.

SENATOR LAMB: Will you respond, Senator Nichol?

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LB 383, 702

SENATOR NICHOL: Yes.

SENATOR HABERMAN: The amendment says strike "vehicle" and insert "disabled combination of vehicles". It also says "together with the wrecker or tow truck". Now am I to understand this takes out all of the other agricultural vehicles or this adds them in?

SENATOR NICHOL: No, it does not remove other vehicles. What we are talking about are the large wrecker removing a semi and semi tractor from a position of peril to a place of safekeeping, but it is not addressing farm vehicles at all or ordinary automobiles.

SENATOR HABERMAN: Then you are guaranteeing us or assuring us that it does not in any way affect the other things in the bill?

SENATOR NICHOL: That is correct. In all other cases, of course, they would not be any where near 95 feet in length.

SENATOR HABERMAN: Thank you, Senator Nichol.

SENATOR LAMB: Senator Nichol, do you have any closing? The motion is to adopt Senator Nichol's amendment. Those in favor vote aye, those opposed vote no. Have you all voted?

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Record.

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to adopt Senator Nichol's amendment.

SENATOR LAMB: Motion is carried. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I move for the advancement of LB 383 to Final Reading.

SENATOR LAMB: Motion is to advance the bill. All those in favor say aye, those opposed no. The bill is advanced. The next bill is LB 702. Please read the bill on Final Reading.

ASSISTANT CLERK: (Read LB 702 on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in support vote aye, those opposed vote no.

March 17, 1982

LB 127, 383, 421, 672,
626, 629A, 677, 731

CLERK: Mr. President, very quickly, your committee on Enrollment and Review respectfully reports that we have carefully examined and engrossed LB 127 and find the same correctly engrossed; 383 and 421, 626, 672, 677 all correctly engrossed. Those are signed by Senator Kilgarin. (See page 1241 of the Legislative Journal.)

Mr. President, Senators DeCamp and Schmit would move to place LB 731 on General File pursuant to Rule 3, Section 18(b). (See page 1242 of the Legislative Journal.)

SENATOR LAMB: The next bill is LB 629A.

CLERK: (Read LB 629A.)

SENATOR LAMB: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I move advancement of the bill and there is an item in there, I guess, what? \$15,000 is one of the items for Department of Roads. Possibly if we'd have had a little more advertising on some of these bids we'd have had 15 million or 150 million more in the coffers now.

SENATOR LAMB: The motion is to advance the bill. Senator Koch.

SENATOR KOCH: Senator DeCamp, would you redirect that fiscal note?

SENATOR LAMB: Senator DeCamp, would you respond.

SENATOR KOCH: I have been living in (inaudible), it's catching almost. I want to know what's going on here.

SENATOR DeCAMP: Its there for anybody to read, whatever the note is. There is no use of me.....(inaudible.)

SENATOR KOCH: The Department of Roads is the only one affected?

SENATOR DeCAMP: Pardon?

SENATOR KOCH: The Department of Roads is the only one affected in the state?

SENATOR DeCAMP: No, the entire state is affected. That is why I mentioned one item in there if you'd look at.

SENATOR KOCH: I'm talking about state government.

SENATOR DeCAMP: All of state government is affected, Senator Koch, even the schools.

March 24, 1982

LR 256, 267
LB 208, 383, 421, 577, 631,
634, 677, 720, 796, 827

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by Senator Rumery.

SENATOR RUMERY: Prayer offered.

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

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

PRESIDENT: Quorum being present, are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal stands as published. Any other messages, reports or announcements?

CLERK: Mr. President, two letters from the Governor. The first addressed to the Clerk. (Read letter regarding LBs 631 and 827.) The second, Mr. President, addressed to the membership. (Read letter regarding LBs 577 and 634.)

Mr. President, new resolution, LR 267 offered by Senator DeCamp. (Read LR 267 as found on pages 1392 through 1395 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, the bills that were read on Final Reading yesterday are now ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LBs 796, 720, 677, 421, 383, and 208. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: We are ready then for agenda item #4, resolutions. There is a 15 minute limit. Commencing with LR 256.

CLERK: Mr. President, LR 256 was offered by Senator Nichol and many of the members. It is found on page 1280 of the Journal. (Read LR 256.)

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. President and colleagues, the purpose of LR 256 is to call on the federal government and the

March 30, 1982

LR 256-260
LB 720, 796, 383, 421, 677
619

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain Palmer.

CHAPLAIN PALMER: Oh God, we pray as we look at the calendar and realize how much has been done but how much more needs doing. We ask for your contentment in this day that we may not waste what time is ours, desiring more than is likely but learn to use and enjoy that which is ours. We may not know everything but we do know Thee and Your will. We may not be rich but we can be generous. We do not have to have all wisdom to be understanding. We do not have to win every vote in order to be a good Senator. Our influence may not always be great but it can be good. Our speech may not always be eloquent but it can be truthful. We cannot all have good looks but we can have good conscience, and having that we shall have peace of mind and need fear no one. So this day may we be kind to one another, tenderhearted and forgiving as if each person's heart might be breaking, because it probably is. Amen.

PRESIDENT: Roll call. Have you all registered your presence? Has everyone registered his or her presence? Please do so so we can get underway. Record the presence Mr. Clerk.

CLERK: There is a quorum present Mr. President.

PRESIDENT: Quorum being present are there any messages, reports or announcements?

CLERK: Mr. President, yes sir there are. LR 256, 257, 258, 259 and 260 are ready for your signature, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 256, 257, 258, and 259 and 260.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 619 in the Legislative Journal. And, a communication from the Governor to the Clerk. (Letter appears on page 1462 of the Legislative Journal regarding LB 720, 796, 383, 421, 677).

PRESIDENT: Before we go on to Final Reading the Chair would like to recognize Senator Lamb, as acting Speaker, I think he has some announcements.