

January 20, 1981

LB 389-433

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Chairman and Senator Chambers, I merely want to state the fact that your very presence here and the fact that we are listening to you is a contradiction of your remarks that you do not have freedom. Thank you, Mr. President.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Speaker, members of the body, I would like to request permission we lay over the resolution until the hostages are in the air.

SPEAKER MARVEL: Any objection? If not, so ordered. We will go to item #6 now, introduction of bills.

CLERK: Mr. President, new bills. (Read by title LB 389-432. See pages 271-280 of the Legislative Journal.)

SENATOR CLARK PRESIDING

SENATOR CLARK: Could I have your attention just a moment, please? The AP has reported that the American hostages will fly out of Iran in the next thirty minutes. (applause).

CLERK: (Read by title LB 433. See pages 280-281.)

SENATOR CLARK: Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I wanted to say something but I don't want to say it if we have urgent business to do. This will take about two or three minutes.

SENATOR CLARK: Continue, we don't have any business right now.

SENATOR NICHOL: Okay, Senator Marsh has a bill in having to do with mammals and I wanted to tell you the story of the three mammals if I may. May I do that, sir?

SENATOR CLARK: Go right ahead if it is funny.

SENATOR NICHOL: Well, I don't know about that but once upon a time there were three mammals who lived happily in Mammalary Land. There was a papa mammal that we called Pappy and mama mammal that we called Mama and baby mammal we called Babble and the reason we called baby mammal Babble was because he talked a lot and asked embarrassing questions.

March 25, 1981

LB 384, 284, 387, 394

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

CLERK: 26 ayes, 13 nays Mr. President on the motion to advance the bill.

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

CLERK: Mr. President, while we are waiting I have amendments from Senator Koch to 284 and from Senator Fowler to 387 that they would like inserted in the Journal. Senator Nichol offers an appreciation note. Senator Hefner asks unanimous consent to add his name to LB 394 as co-introducer.

SPEAKER MARVEL: If no objections, so ordered. We will start with 384 and the Clerk will. . . .

CLERK: Mr. President, LB 384 was a bill introduced by Senator Loran Schmit and Senator John DeCamp. Read title. The bill was first read on January 19th. It was referred to the Ag and Environment Committee for hearing. The bill was advanced to General File. I do have a committee amendment from the Ag and Environment Committee, Mr. President.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. Chairman, I move the adoption of the committee amendments. The committee amendments are very simple, Mr. President, they include in the provisions which allow for lending privileges the credibility for apiaries. That was done at the request of Senator Richard Peterson who is in the bee business and he asks that we do it and the committee consented and I ask the amendment be adopted.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 384. All those in favor of adopting those amendments vote aye, opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: The motion is carried, the committee amendments are adopted. Senator Schmit, do you want to explain the bill before we proceed further.

March 27, 1981

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Royce Willerton of the Southview Christian Church.

REV. WILLERTON: Prayer offered.

PRESIDENT: Roll call. Has everyone registered their presence?

CLERK: Mr. President, Senator Vard Johnson, Beyer, Fenger and Chronister would like to be excused for the day. Senator Kilgarin, Hoagland, Chambers until they arrive.

PRESIDENT: Record the presence, Mr. Clerk.

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

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

CLERK: The Journal is all right, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 531 and recommend that same be placed on Select File; 291 Select File; 311 Select File; 111 Select File with amendments, (Signed) Senator Kilgarin, Chair. (See pages 1158-1159 of the Legislative Journal.)

Mr. President, your committee on Business and Labor reports LB 394 to General File with amendments, 410 General File with amendments, 470 General File with amendments, (Signed) Senator Maresh, Chairman. (See pages 1159-1160 of the Journal.)

Your committee on Judiciary reports LB 512 to General File with amendments, (Signed) Senator Nichol, Chair.

Mr. President, I have a Lobby Registration report for March 12 through March 26, signed by...on file in my office.

PRESIDENT: All right then, we will proceed then with agenda item #4, a resolution on LR 47, Mr. Clerk. Will you read it.

CLERK: (Read LR 47.) Mr. President, the resolution is found on page 1126. Senator Vickers would like to amend

April 23, 1981

LB 326, 394

SENATOR NICHOL: The Warner amendrent is adopted.

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

SENATOR NICHOL: Senator Kremer, what do you want to do with the bill?

SENATOR KREMER: Now Mr. Chairman, I move that LB 326 be advanced as I explained it.

SENATOR NICHOL: We are now voting on the advancement of LB 326 from General File. All those in favor vote aye, opposed vote nay.

CLERK: Senator Nichol voting aye.

SENATOR NICHOL: Record please.

CLERK: 34 ayes, 1 nay Mr. President on the motion to advance the bill.

SENATOR NICHOL: LB 326 is advanced from General to Select File or to E & R Initial. We will move on now to 394.

CLERK: Mr. President, LB 394 was introduced by Richard Maresh, Senator Vickers and Senator Elroy Hefner. Read title of bill.

SENATOR NICHOL: Senator Hefner, are you going to handle the amendments? Oh, Senator Maresh, excuse me.

SENATOR MARESH: Thank you Mr. Chairman. LB 394 has quite a few amendments and I move the amendments....the committee amendments be adopted. LB 394 retains the original 394 provision cutting the weekly benefit amounts in half for those individuals who leave work voluntarily without good cause. Number two, adds the provisions out of LB 337 raising benefits to \$116 and also eliminating the bottom two levels of the unemployment benefit table. Number three, it adds the provisions of LB 337 which raises the amount of wages necessary to qualify for unemployment benefits to \$1,200 in the base period with \$300 in each of the two calendar quarters in the base period. This hasn't been changed since 1963 so it is time that this would be increased because of inflation. Number four, adds a new section which makes the disqualification for voluntarily quits and discharge for misconduct applicable only to the separation from the most recent work. Thus individuals

April 23, 1981

LB 394

laid off from employment would not be assessed any disqualification for quitting any work or being discharged for misconduct at earlier periods during the base period. This is a provision that Senator Vickers and I have worked out and it was acceptable to the committee. Number five, it retains the original LB 394 provision setting up a statutory rate table and a solvency rate to add additional revenues when required. This table as originally proposed has run into quite a bit of opposition so the sponsors of the bill have worked out with those that were concerned a slower phase in that the first year we would use the present system and the second year we would add one-half percent to the table on the left hand side as you will note in the amendments from ten to ten and a half percent. Then the next year we would go to the original version of the committee amendments which is the ten percent. This is a slower phase and we feel that the contractors and the seasonal workers that do have a minus balance in their accounts will be helped by phasing this in slowly. Unemployment compensation has been a problem with many employers for a number of years. The Business and Labor Committee has conducted interim studies and has had hearings on this and we hear the same thing over and over that people quit their jobs without just cause and do draw unemployment. So this would help to give unemployment compensation a better name that we would do a better job of keeping the people at work. I think that if we cut their payments in half they will be more apt to look for work instead of drawing full unemployment, which is tax free, and there is no incentive to be looking for a different job if they are receiving the amount that is set up. This committee amendment helps the laboring people because it will add ten dollars to the weekly benefits. I think that this is important and I think we worked out a just bill for both the laboring people and the employer. So I hope that the committee amendments would be adopted and I have some amendments to the committee amendments, mostly are clarification amendments. So, I would move that the committee amendments be adopted.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: We will take up the first amendment to the committee amendments.

CLERK: Mr. President, Senator Maresh first moves to amend the committee amendments. Read Maresh amendment.

SENATOR MARESH: Mr. Speaker, this is a clarification a

housekeeping amendment because the way the amendments are drafted the half percent could be spread out over a whole year instead of over just the twenty-six weeks as unemployment compensation is presently allocated. So, a person would stay unemployed for a longer period of time with no incentive to go back to work by specifying that these half payments shall be made in the initial twenty-six weeks this will spell this out very definitely. I move that this amendment to the committee amendment be adopted.

SPEAKER MARVEL: The motion is the adoption of the first amendment. All those in favor of that motion vote aye, opposed vote no. Okay, record.

CLERK: 21 ayes, 0 nays on the adoption of the Maresh amendment to the committee amendments Mr. President.

SPEAKER MARVEL: The motion is carried. What is the next one?

CLERK: Mr. President, Senator Maresh now moves to amend the committee amendments, it is the white request, 2324.

SENATOR MARESH: Mr. Speaker, this is the amendment that I was speaking about to phase in the solvency rate for the high rate unemployment employer. It would, the first year we would go along with the present system, the next year it would be a half percent added to the positive balance and then the third year we would go to the ten percent which would hit the employers harder. We are proposing to have an interim study this year and I hope the contractors and those people will let us know if they have concerns about this solvency rate. It will not effect them for another year so we will have time to work out any changes if they so desire. I hope that the body adopts this amendment to phase it in gradually instead of striking them with the full amounts.

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

SENATOR STONEY: Mr. Speaker, members of the Legislature, a question of Senator Maresh if he would respond please. Senator Maresh, I have had some telephone calls over the recess from some small business operators and owners and additionally some in the construction industry who are concerned about this new formula and I assume that this amendment is the new formula that we are talking about adopting.

SENATOR MARESH: Senator Stoney this formula is going to help small businesses. Last fall the Governor had a conference on small businesses and we heard more about those businesses that never lay off anybody, nobody ever quits their employment with them and still their rates go up and up and they kept telling us what could be done, so this will help the small businesses but it will be a bigger burden for the ones that have the high experience of unemployment such as contractors, the home builders and those. What this does now is it phases it in gradually. the first year we have no change, the second year will be a half percent and then the last year it will be the way the schedule is worked out. So it will raise more money from those that have the high unemployment experience.

SENATOR STONEY: Senator Maresh, perhaps you could address one of the questions that was posed to me by an individual that has a small electric firm in my particular district, has approximately thirty employees and it seemed to be the indication that his unemployment compensation participation would be increased from approximately 3.7% to 7.4% which is a doubling. Now from your understanding of this particular formula, is that correct?

SENATOR MARESH: Senator Stoney, I think that by cutting the unemployment benefits for those that quit voluntarily will save about four million dollars there. Another point that those that have the high unemployment should pay more. I think that they have been penalizing those that have no unemployment so we need to take a new look and adjust the figures. I think what they are doing, they are getting figures from the Department of Labor which I think is stretching the point a little bit. They say that they are going to raise that much but I don't think it is necessary. Probably if the unemployment in the state will go up then we will need to raise more money but with present conditions I think that they are over exaggerating the amount that will be increased. I don't think that they will raise any more than they need to. I think that they are projecting higher figures than are needed for the number of dollars that are needed.

SENATOR STONEY: Senator Maresh, I don't know whether some of these individuals.....difficulties with this particular portion of the bill and this formula are real or imaginary. But, they are concerned about it. It is also my understanding that this is a technical and a comprehensive change in

Nebraska's law for calculation and it was also explained to me that there is no other state that has adopted a system quite this ambitious relative to a formula. Is that correct? And, I'm wondering why we as a rather conservative state are or seem to be leading in the forefront with a proposal such as this.

SENATOR MARESH: Maybe we are leaders in many ways. We have a low unemployment rate compared to most states. We are keeping a balance on our unemployment compensation balance while some states such as Pennsylvania and Michigan either have over a billion dollars debt, either close to a billion dollars or over a billion and I think this is..... last fall Larry Sheer and myself went to Washington D.C. to a conference on unemployment compensation. The total national debt is about sixteen billion dollars and we have no debt, so I guess we are trying to keep the balance as it is to not go into the red and not hit those small businesses as we are doing presently. We are trying to make it fair to all of the employers. If they have seasonal work they are going to have to pay more according to this formula.

SENATOR STONEY: Senator Maresh, I don't have much difficulty with that, those in the construction trades and those that do have seasonal work. But, the gentleman that I visited with again had a small electric firm, about thirty employees and I'm sure that he doesn't have a large amount of turnover in that business. It is a small business and his concern was expressed that his rate would be doubling. Now where he obtained that information may have been from the Department of Labor, I don't know, but I think that I will need a little further explanation a more detailed explanation of this formula and how it will impact on people before I will be in a position to feel comfortable in supporting it.

SENATOR MARESH: Is he a contractor that hires part-time labor?

SPEAKER MARVEL: Senator Stoney, you have one more minute.

SENATOR STONEY: Thank you.

SENATOR MARESH: And then they go on unemployment part of the year, is that. . . . .

SENATOR STONEY: That was no my understand Senator Maresh.

SENATOR MARESH: I thought since its electrical that maybe



April 23, 1981

LB 394

he does a lot of wiring in homes and new buildings and that he probably hires part time help and they draw unemployment and his experience is probably in the negative balance and maybe that is why he was told that his rates would go up.

SENATOR STONEY: Thank you Senator Maresh. Ladies and gentlemen in the few seconds that I have left, again I have expressed some concerns and with the questioning of Senator Maresh I still do not feel totally comfortably with the new formula that we are imposing at the present time. I think we should give very careful consideration to that before we make a decision to further consider this proposal in its present form. Thank you.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, I would like to ask if Senator Maresh would yield to a question or two.

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Yes, Senator Higgins.

SENATOR HIGGINS: I don't have any quams about the ten dollar a week raise. Certainly I think that would be justified. But, I am concerned with the seasonal employer. I think the second largest industry in Nebraska is construction. Now as you and the rest of us all know, your contribution rate is a part of your payroll. Construction workers are making very high scale, particularly if they are in a union. So the contractors and the construction industry is going to have a high pay roll because they are paying anywhere from eight, nine, ten up to fifteen dollars an hour for some of their help. Because their business is seasonal they are forced to lay people off. To me we are penalizing an industry because they are incapable of working year around. Not only the construction industry but look at your lawn and garden and tree trimmers, they are kind of seasonal and I feel like we are punishing them for laying people off when they really have no control whatsoever over the weather. When you consider that their payroll is so very very high and then you are going to raise the rate even higher we are talking about putting not just small contractors buy maybe even larger contractors out of business. It is my thinking that if you are getting paid fifteen, sixteen dollars an hour maybe they should put a longer waiting period on them or something. I'm really concerned about just putting

contractors out of business and if you put them out of business it is the second largest industry in Nebraska. It is not their fault that they can't build roads in the wintertime. It isn't the tree trimmers and the people that take care of lawns and such in the summertime, it isn't their fault that they don't have any work in the wintertime. I don't think that it is fair and they have told me that they think that it will really put a lot of them out of business. My question is, can you come up with a better plan?

SENATOR MARESH: Senator Higgins, the first \$6,000 is what they are taxed on, all employers, so the high wages have no effect on unemployment compensation. \$6,000 is all that is taxed, that is levied on.

SENATOR HIGGINS: Are you telling me that the only contribution you make is on \$6,000?

SENATOR MARESH: The first \$6,000, yes. Some states are thinking about increasing that to get out of the red. At this conference they told us that this should be raised, this \$6,000, they are asking the federal government to increase that amount because of inflation. But it is taxed on the first \$6,000.

SENATOR HIGGINS: You mean that I have two secretaries and say combined they have a total of \$12,000 payroll a year that I am not going to pay anything into the unemployment contribution over and above the first \$6,000?

SENATOR MARESH: Based on the first \$6,000 the rate goes against. . . .

SENATOR HIGGINS: The rate is based on that but they are going to pay on their entire payroll.

SENATOR MARESH: Just the \$6,000 per employee and it depends upon how many employees they have. That is what they pay.

SENATOR HIGGINS: Every employee that makes \$6,000 or more, they are only going to tax the first \$6,000 of each employee. But in the construction industry darn near every employee makes well over \$6,000 so there won't be any employees that they will not be paying it on. They will be paying almost double the rate, according to this contribution rate you have now.

SENATOR MARESH: Senator Higgins, that is why we are are phasing this in slowly and if it does cause a lot of concern we can come back next year and rewrite the formula but we thought that we should enact this to get it next year, not this first year but second year and gradually phase it in in three steps, no change the first year and a gradual change the following year and then the full amount the third year. We are going to have an interim study and if the contractors can come up with these large increases we can come back next year and make a more moderate increase.

SENATOR HIGGINS: Senator, let me ask you this.

SPEAKER MARVEL: Thirty seconds.

SENATOR HIGGINS: Why should they pay more, since they have no control over how long their season will run? I mean, if they were firing people left and right without cause, or laying them off without cause, but this is something they have no control over. I think when you phase this in you are going to phase the construction industry out.

SENATOR MARESH: Do you think that it is fair to have the person that has no unemployment experience at all to be having their rates increased constantly? Do you think that is fair? The small business people that never fire anybody?

SENATOR HIGGINS: I am one of them. I am one of them. I don't like paying it either.

SPEAKER MARVEL: Your time is up.

SENATOR HIGGINS: Thank you.

SPEAKER MARVEL: Senator Newell, Senator Newell and then Senator Vickers.

SENATOR NEWELL: Mr. President, I would speak very briefly. One of the things that bothers me about this bill is that we have a situation where we are making some tremendous changes. Now some people don't think they are tremendous they are just significant. I don't know if there is much of a difference between tremendous and significant but there are quite a few changes in the bill. One of them is one that employers seem very happy with, very comfortable

with and that is the 50% cut for those people who leave to quit employment. Now I have some amendments because I think that that whole area really needs to be clarified. One of the things that Nebraskans, that Nebraska has done has been very strict in terms of what is good cause, a good cause quit. We have not recognized some of the key areas that many in fact, most of the states have done. Unless we deal with these issues, good cause like sexual harassment or good cause being quitting to follow a spouse or other general categorical sorts of similar situations. Then what we have done with this 50% cut is really create a burden and a difficulty for the department to administer because frankly then you argue two or three other associated arguments in terms of good cause. You also encourage people to appeal unless we clarify these. Legally you allow for a great deal of appeals and frankly some of these areas have not been very clear. Now I urged earlier that the committee look and analyze this and also some other areas in terms of seasonal employment, as Senator Higgins was talking about and the committee basically I understood the committee was going to do an in depth study on this whole area of unemployment comp during the summer. Now then something happened and they didn't do the study, they decided they would put out this "compromise bill" which I'm not sure has been as thought out as it ought to be. One of the key arguments, and I mean it is real simple to understand a 50% cut in terms of voluntary quits, it is not very simple to understand just how that effects those people who may be but are not yet authorized in terms of good cause or justified in terms of good cause and we really haven't done any clarification in this bill it leaves everything as it presently stands, not analyzing whether sexual harassment or quitting to follow a spouse or quitting to better oneself are good cause or not. Frankly those are some questions I think the committee should have looked at with a little more depth, should look at at least, which they did not. But it seems to me that the central issue here, that many people are asking about is the whole question. This whole question of the multiplier and how in fact that is going to impact on certain key industries in this whole question. It seems to me, and I may be incorrect and I'm not real positive, but it seems to me that what is happening here is that we are going to an untried system which really kind of defeats the whole question of unemployment insurance and creates a brand new question of user fees and it does so in such a way there is no maximums, there is questions about the impact in terms of the fund, how much additional revenues would

be raised. Some people say 40%, the department says over a hundred and some percent. Others have no idea, it has not really been tried in other states. The multiplier is quite unique in terms of this whole thing. The add on seems to be more a tried and true method. I think that we are really moving away, if we know how, if somebody really understands how we are moving away, I think we are moving away from unemployment insurance to self insurance and if that is the case I think we ought to make those laws very clear and.....

SPEAKER MARVEL: You have thirty seconds.

SENATOR NEWELL .....and very specific in terms of how we do that. If we are going to move to self insurance then frankly maybe we ought to set some guidelines and just do away with the whole system, which I think also would have some problems but it seems to be the direction in which we are headed. At this point and time I am very concerned about this legislation. I will be offering amendments. I would hope that the body would pay particular attention to the full ramifications of this bill because I'm not sure that this is in fact the compromise that it has been said to be.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Chairman and members, first of all a question of the Chair. Are we not discussing Senator Maresh's amendment to 394?

SPEAKER MARVEL: Yes.

SENATOR VICKERS: Thank you. I'll attempt to keep my remarks to the amendment to 394 offered by Senator Maresh and discuss the merits of the bill and discuss some of the comments relative to Senator Newell's discussion a little bit later on. The amendment offered by Senator Maresh to 394 would make the solvency rate go into effect in a three year period of time. I was a little bit amused by Senator Higgins comments and Senator Stoney's comments although I can certainly understand their concerns. But I think anybody that is familiar at all with insurance and I assume both of those individuals are, know that insurance is based on the use. In other words if I wreck my car two or three times a year my insurance rates are going to go up. It is that simple. If you never wreck your car the chances are that your insurance is not going to go up near as much as mine. Now, unemployment compensation is a form of insurance. As Senator Higgins pointed out those people that are in construction

or other various forms of employment that are seasonal do, as a matter of course, lay a lot of people off, do use the system. Therefore if you believe in use taxes, Senator Higgins remarked about fairness, if you believe in use taxes is it not fair to require those people who use the system to pay for it. I assume you don't like, if you don't believe in that and if you don't think we should do it then I assume you don't like gas taxes paying for the highways and that sort of thing. One of the big problems with unemployment compensation, one of the big questions that comes up many times in the Business and Labor Committee this past year was the concern of the average businessman up and down the street, large or small, that don't really contribute to the unemployment problem, they really don't lay people off all of the time yet they see their rates going up all of the time. That is one of the reasons that unemployment compensation is looked at with such disfavor by employers. Now it seems to me that it is reasonable that we cause those employers that periodically lay people off, use unemployment compensation to bear the brunt of the burden to pay for it. Now that is the reason for the amendment that Senator Maresh is offering. The contractors indicated to us, said look, we have got our contracts already let for next year. We have got some two year contracts. The cost of administering this solvency fund we are going to have to build into our contracts. I can understand that so the amendment that Senator Maresh is offering would cause this solvency fund to take effect over a three year period, so the contractors wouldn't be hit with it all at once so they could in fact built it into their costs of operation and recover some of those costs. Now it seems to me that Senator Maresh's amendment if your concern is that area, you should certainly vote for Senator Maresh's amendment because it causes the solvency fund to go in effect in a three year period of time. Again, I would emphasize there are some other things in the bill.....

SPEAKER MARVEL: One minute.

SENATOR VICKERS: .....and I don't want to discuss the bill because we are discussing this amendment, but there are some other things in the bill that would help out the situation of the seasonal employee so that he was able to take other work during the interim, during the time he was laid off without being disqualified for it later on, which has been happening in the past. So in the end there are probably less people using less money from the fund even though the contracts are going to be asked or the

seasonal employer is going to be asked to put in more dollars. So if you believe in use taxes, if you understand how insurance works, and this is a form of insurance, then it seems to me that the Maresh amendment should be adopted and I urge the body's adoption of the Maresh amendment.

SPEAKER MARVEL: Senator Rumery.

SENATOR RUMERY: Mr. President, members of the Legislature I would like to ask Senator Maresh a few questions, if I might.

SPEAKER MARVEL: Senator Maresh, do you yield?

SENATOR MARESH: Yes, Senator Rumery.

SENATOR RUMERY: Senator does the white copy now which came in as an amendment to 394, does that actually become the bill now?

SENATOR MARESH: Yes, Senator Rumery. We took parts of various bills, 201 and 337 and 394 and made one bill out of those bills. So, they are all in this heavy copy and then the lighter copy is an amendment to the white copy. That has to do with the phasing in gradually of the solvency rate.

SENATOR RUMERY: Thank you. In the first section of the amendment that you handed out this morning, the one labelled E, the Labor Department estimates that the 112.5% increase in the base rates will be needed. Has this been verified by you or members of the committee?

SENATOR MARESH: No, I think those figures were given by Department of Labor and they don't seem to support the bill. They have been working against the amendments even against LB 394 from the beginning so I think they are stretching the point a bit by saying that it would be that much. I think with the reduction in payments, because the 50%, there will be some saving there so it shouldn't....I don't think they took that into account either.

SENATOR RUMERY: Where do these other estimates come from that range from 40-200% increase?

SENATOR MARESH: Senator Goodrich, I think he got that from the Department of Labor. Let Senator Goodrich answer where he got those figures.

SENATOR RUMERY: Senator, would you answer that please.

SENATOR GOODRICH: Mr. Speaker, is that okay? Okay, yes the 112% increase that is being referred to that is called for in the bill in other words, is the conservative figure from the Department of Labor. There are some estimates that even say that is higher. Now, the reason that that is considered to be a possibility of being higher is, let me explain what in effect will happen if you pass this bill in its present form. Every employer in the State of Nebraska will get a 112% increase in the contributions that they make now. For example one firm in Grand Island pays \$19,000 in now his will be very close to \$40,000. Every single employer regardless of what his rate is, regardless of what his turnover rate is gets 112% increase. Let me add one more thing on top of that. That is the fact that there is on page 12, I believe it is, or anyhow they call for on page 18 rather line 12 of the committee amendment form of the bill it says in essence that they are going to get a 3% of the base as a reserve after all claims have been paid. Right now there is a balance in the fund of about 77 million dollars. It started out at the beginning of 1980 they started out with about 79 million. At the end of 80 they had about 77 million they dropped a couple of million dollars. Okay, they are going to pick that up. They anticipate an increase in 81 over and above what they lost in 80. So what they want to do is continue this 112% increase on every single employer in the State of Nebraska until such time as a reserve fund is 90 million dollars over and above the claims that are filed during the course of the year. So they are going to wind up pulling anywhere from 60 to 90 million dollars out of the economy of the State of Nebraska just as a reserve fund over there. Now what that does. . . .

SPEAKER MARVEL: You have one minute.

SENATOR GOODRICH: What that does, is effect the amount of the type of claims they just honor everything and anything that comes down the tube whether it is legitimate or not legitimate, they can really give them an incentive, they have all of the money they need, give it, give all the claims that you want to give but you can't run out of money any more they have got it arranged so they will get a 90 million dollar fund because it is 3% of the base. The base in Nebraska is three and a quarter billion dollars. Three percent of that is a little over 90 million dollars and that is what they want as a reserve fund over and above the claims.



April 23, 1981

LB 394

SENATOR RUMERY: One question senator, who are "they" that you refer to?

SENATOR GOODRICH: The Department of Labor.

SENATOR RUMERY: Thank you very much.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, colleagues, I support the Maresh amendment and I think that I should perhaps correct some of the statements that were made. I do not feel that at this time it would be feasible, say if this bill passes, or this amendment passes that the rates would go up 112%. I don't know why we would have to have a 90 million dollar reserve in this fund. I believe that that is wrong information and I would certainly fight that all the way. But my question here on this amendment is why should other employers pay for the employers who have a negative balance. I think it is their responsibility and therefore I think this amendment is a good amendment. It doesn't take effect right away. It is phased in over a three year period. I have been talking to quite a few contractors about this and they feel that they should pay more. At the present time their maximum, if they have a negative account is 3.7%. The other employers that have a reserve ratio can pay up to a maximum of up to 2.7%. So I think it is only fair and just that those employers that have a negative balance pay more. I would like to cite you some examples. I was talking to a contractor just a short time ago and he was telling me I just lay off all of my employees when it comes November 1st. He said I lay them off for six months. He says I realize that I have got to pay this 3.7% but that is a cheap way out of it for me. But, do you know what? These other employers are picking up part of that tab. Other employers that do have a reserve in this unemployment compensation fund. Let me cite you another instance, this negative balance employers consist of other employers besides contractors. Take for instance dehy alfalfa plants and I'm associated with one, but our management sees to it that they hire people that either go to highschool or college and use them during the season or also, those that are drawing Social Security. For instance if you draw Social Security then you can not draw unemployment compensation. So I think if we get this rate a little higher for employers with negative balances then they will find ways that they can keep their employees on during the winter months. Therefore I would certainly urge you to support the Maresh amendment.

SPEAKER MARVEL: Senator Higgins and then Senator Stoney.

SENATOR HIGGINS: Mr. Speaker, I would like to refer back to some of Senator Vickers remarks. When you mention the fact that I have some experience in insurance and that your insurance rates go up when you have an accident. That is true Senator Vickers if you are at fault. But, if you are driving down the highway and a deer runs in front of your car and does a thousand dollars damage, the insurance company doesn't raise your rate because that is an act of God, they consider it. You are not at fault. So the only time they raise your rate is if you have an accident and they deem you at fault. Usually under collision insurance. But, when you collide with a deer or a cow or something that wanders on the road, you do not get an insurance increase for that. This again comes back to what I am talking about the construction industry. It is an act of God if the weather gets cold and it freezes up. Second thing that you mentioned that you might address later on in the bill is you said are some provisions that might make it easier for construction workers to get employment when they are laid off. I also spend about two years working for an employment agency. Immediately when the construction industry laid people off, we would get a large amount of people that came in and applied for jobs and they would want to work. They would say, I'm through with the construction industry, I'm tired of being laid off three or four months out of the year, I want a permanent job. I don't care who I called and asked them to hire them, told them what a good worker they are, they said no, as long as they are in construction we don't want them because we can only pay them about half what the construction industry is paying and the minute construction opens up again we know these fellows will leave. So unless you get us somebody that isn't from construction, we don't want them. Now these men and women have actually tried to go to work but I know the problem. Employers don't want to hire them because they know that they will go back to that high paying industry. At this time I'm trying to find out from the budget department how much money did the State of Nebraska spend last year in construction of buildings and roads. Senator's you all know that our construction is put out for bid. So, no matter how many millions of dollars it is going to amount to all the contractors, when they bid, road construction or building construction, if we raise their employment contribution a 112% as Senator Goodrich said, you can look for an increase in the cost of all of our capital construction. Any construction that the state does, the tax payers are ultimately going to pay for it when we raise these unemployment compensation rate

contributions, because a contractor has to bid that and he has to include that as part of his cost of doing business. When I get the figure of how many millions of dollars the state spends every year in construction then you can figure out how much the cost of construction for the state is going to go up and it will also effect cities and counties that also do construction work. I would like you to think about that along with the other things that I have mentioned. Again, I sympathize, I am an employer myself that is paying this 3.7 rate. But I really and truthfully believe from the contractors that I have talked to that this will be the straw that will break the construction industries back in Nebraska. High interest is already putting them...the smaller ones out of business. There hasn't been that much construction because of the interest rates. If we do this to them, then you talk about unemployment, when those contractors go out of business who is going to contribute then to the fellows and women that are laid off? When that runs out then we go to welfare. Then it is no longer the employers that pay, then it is going to be the tax payer again. I would just like all of you to think about this when you think about the Maresh amendment. Thank you.

SPEAKER MARVEL: Okay, we have four that wish to speak before noon; Senator Stoney, Senator Goodrich, Senator Cope, Senator Maresh, Senator Newell, five. Senator Stoney.

SENATOR STONEY: Thank you Mr. Speaker. Mr. Speaker, some additional questions of Senator Maresh if he would respond please. Senator Maresh, I think that the debate that we have had on this issue has been very informative, it has been very helpful to me. To help me better understand why we are advocating this change it might be well for me to know who is advocating this change? Is it the State Department of Labor here in Nebraska?

SENATOR MARESH: No, they have been opposing the bill. Commerce and industry proposed this formula in our original bill, 394.

SENATOR STONEY: So the Department of Labor feels comfortable with the present formula that we are using.

SENATOR MARESH: I think it is easier for them to administer than this would be. I can't see why they are putting out the information of going up to 90 million when it isn't necessary. Can you imagine the employers putting up with

large a reserve. There is an annual hearing held on this and I can't see how the department would be able to live with it, to have \$20 million in reserve that isn't necessary. So for some reason they don't agree with the bill and at the hearing even though they were supposed to be just witnesses to give us information purposes, they definitely went on record as being against the bill.

SENATOR STONEY: I see. Senator Maresh, it is my understanding, you can correct me if I am wrong, that the present fund approximates \$70 million here in the state.

SENATOR MARESH: That is correct.

SENATOR STONEY: I have a little difficulty in justifying, if these are sufficient dollars, and I would assume that they are, to meet the needs that we have here in the state, that again we would go to a solvency rate formula which incorporates a multiplier which we know is very comprehensive, very complex in changing a formula when we have one that presently works. Senator Warner has said before, if something is working, why should we change it and I think that is pretty good philosophy.

SENATOR MARESH: But don't you, Senator Stoney, have a lot of complaints from the average employer that has no unemployment experience and their rates go up and they have to keep paying in? Don't you get a response from them that they want the system changed?

SENATOR STONEY: I have (interruption).

SENATOR MARESH: That is what I hear all the time. At the Governor's conference last fall, unemployment compensation was one of the biggest issues. They felt that we are penalizing business that has no experience in unemployment so that is why we came up with this formula.

SENATOR STONEY: Thank you, Senator Maresh. I would just again state, and I think this is critical and we ought to pay very careful consideration to it, and that is that we make the change here in the State of Nebraska. Now Senator Maresh has said that the Department of Labor is opposed to this particular concept. They feel that the present formula is functioning and they have a surplus of \$70 million which would be indicative that there are sufficient funds to fund what we need in the way of unemployment. I am wondering if it would be possible for us to perhaps delete this section and use it as a vehicle for a study during the interim to see whether or not this compre-

hensive change should be made. In my earlier remarks I mentioned that there was not another state here in the United States that had a similar system. I will adjust that and correct it by saying that the State of Kansas did at one time but it was not functional for them, and for that reason they no longer have this solvency rate which incorporates the multiplier. So, ladies and gentlemen, I would again cautiously request that you look at this particular amendment and make the decision as to whether or not it is necessary at the present time with all the information that has been provided for us to go from a tried and true formula which appears to be meeting the needs relative to unemployment to one that is virtually untried. Thank you very much.

SPEAKER MARVEL: Senator Goodrich, do you wish to add to what you have already said?

SENATOR GOODRICH: Yes. It has been, well, a couple of things have been said on the floor here but let me take a specific company in mind. This specific company has a \$26,000 positive balance in this fund that being charged at the rate of 2.7%. This solvency rate would add 3.4 to the 2.7 for a total contribution of 5.74%, 5 and 3/4 percent which means that we are doubling, a little more than doubling the contribution rate. Now remember I said that the firm in Grand Island, for example, had a \$19,000 premium cost each year. They are now going to pay close to \$40,000 and every single employer, just take an employer that has the best turnover rate of any employer in the State of Nebraska. That is a one tenth of one percent. You add to that this solvency rate of one point...one point eleven percent, a little over one percent for a total of two tenths, two point one tenth of one percent or another twenty-one hundredths of a percent. Even the best employer is going to get increased by 112%. When you get down to the negative employer, negative balance employer, the worst category we have, that is 3.7%, they would get a 4.16 increase for a total of 7.86%. Now the total wage base, now this is the assessable wage base, this is \$6,000 times the number of employees that any firm has. That is the base, the taxable base. That is \$3,212,000,000 for the year 1980. When we get down a little further in this amendment, we will have an amendment up there to amend it to instead of drawing \$90 million out of the economy over and above the claims, cut it to 1% over and above the claims, that will still produce \$31 million or \$32 million over and above the claims. So consequently there is no way in the world you can justify going over 1% over and above the claims. Consequently, for example, what we have been asked to do here is to force the employer, for example, to keep

on his seasonal employees all year around. Well, you fellows from the outstate areas know that seasonal employees are going back to the farm, doing the farm work during the summer months and they go in and work the dehy plants and everything else during the winter months but you are going to force the employers to keep them employed year around. I don't think the employers can afford to do it. You will bankrupt them. I am just telling you, for example, there is no other state in the United States that has developed this particular method of doing this. They have all gone to a little different method which is what Senator Stoney was referring to, the multiplier deal. There has got to be some ceilings put on this thing. Otherwise you are giving the Department of Labor a complete free hand to do anything they want to to all the employers in the State of Nebraska.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, members, I had a question for Senator Maresh. I don't see him.

SPEAKER MARVEL: He left the room temporarily. Do you want to hold your question until he gets back? Senator Newell. I am going to try to push this to get some kind of a decision by noon.

SENATOR NEWELL: Mr. President, members of the body, I think the proposal that Senator Maresh has offered, while it is an attempt to deal with this issue, it really doesn't deal with it. It just simply delays it. It says that we are still going to have the same burden, whatever that may be, and there is no real good estimate. It ranges from a 40% increase to a hundred and some percent increase in terms of cost for individuals down the road and we really don't know. But basically this amendment offers us the opportunity to delay that decision. It doesn't deal with a number of the other problems that have been brought up and those problems are how does this all relate with the good cause on employment for various issues which may be a little more legitimate than others, et cetera. We keep in here the seven to ten week delay for those people who are deemed not to have quit for good cause but at the same time we have not clarified any of the outstanding questions in terms of good cause, the things that really kept us from making that a fifteen to twenty to thirty week delay for that or totally doing away for unemployment for those people who quit not for good cause. We are not dealing with any of those kinds of issues in a substantive manner. In fact they haven't even been analyzed in relationship to what the whole bill does but now what we are trying to do is trying to ameliorate or looks

like, I mean it is supposed to look like we are trying to ameliorate the problem for the construction industry and, in fact, we are not. We are not ameliorating the problem. What we are doing is we are saying, "Well, we are going to kind of phase it in so it hurts you a little bit this year, a lot next year, and the year after, depending on whose figures are correct, it will kill you, maybe, if we have the right figures. And if we don't have the right figures it may only hurt you real bad", and if anybody understands just exactly what the impact is going to be, I would like them to speak and explain it to us because I think it is important that we know that. So if we accept the Maresh amendment, what we are saying is that we are going to get stuck in the neck but to what extent is the construction industry going to get stuck in the neck no one knows. But they are going to get stuck in the neck and it is going to look like we got a compromise or look like we have got some sort of agreement on this thing which obviously I think from the testimony and from the people speaking, et cetera, we do not have. We have the multiplier which Senator Stoney pointed out was used once and then dropped because it didn't work real well and that is exactly what this compromise is going to end up being because it hasn't been totally analyzed. It is going to be something that has been used for awhile and then we are going to come back in and we are going to say "Remember the compromise we passed. Well, we have to make some additional amendments." I mean Senator Maresh came to me and said, "Senator Newell, you ought to put your name on this bill. It does tremendous things." And I said, "Well, explain them to me." And he did and I understood some of it and he said, "This is the compromise we should go with", and now he has offered an amendment to his compromise. It is all or nothing he told me but now we have an amendment to this compromise because it can't be all or nothing and it isn't satisfying anybody because it really says we are going to phase in the pain and sorrow that is going to be created here and no one still knows what the total impact is going to be. I would urge this body to oppose the Maresh amendment. I think we need to look at this whole question. I think we need to look at this over a period of time. We need to see if we can get some agreement from the industry and the department and the individuals involved in terms of what the cost and what the fiscal impact is going to be on these employers. We need to get that information pretty well locked down so that when we make a decision, when we make this kind of policy decision on this floor of this Legislature, we have some assurances that we know what is going to happen. This amendment doesn't do that. This bill really doesn't do that either and for that reason I think we ought not confuse the issue by adding this amendment.

April 23, 1981

LB 394

SPEAKER MARVEL: You have got one minute.

SENATOR NEWELL: That instead we ought to really send this back to committee and say to the committee please be able to tell us with some assurances just what is going to happen so that we can go to our constituents and say this is going to happen and this is why it is going to happen and that is a solid well-understood policy decision that this Legislature has made. Because in the end, if you vote for this amendment and if you vote for this bill, you are going to have to explain that to constituents and I would challenge the members of this body when they honestly admit and they think about it and they analyze the amendment, they analyze the bill, I challenge you to one simple question. Can you fully explain the bill and its resulting impact? I think for the large majority of us the answer is no immediately, and for those who say they can, I think there has to be some questions in their minds. So I urge you to oppose the Maresh amendment. Thank you.

SPEAKER MARVEL: Senator Cope, you had a question of Senator Maresh.

SENATOR COPE: Senator Maresh, first, I agree with the concept but this does give me problems after hearing Senator Goodrich and let me, first of all, is our fund now, unemployment fund, are we solvent?

SENATOR MARESH: Yes, we are. What they are talking about is building up a \$20 million over the solvency figure. They are talking about \$90 million instead of \$70 million and which I can't see why they'd want to raise that much money from the employers (interruption).

SENATOR COPE: If we are solvent and we did several years ago, we brought it up. We were below and all businesses, industry had to pay a premium.

SENATOR MARESH: That is right.

SENATOR COPE: And if we are solvent now, I really can't see the reason for it. Secondly, and let me give you an illustration. A year from now when it takes effect, let's say there is a business or industry that has not one single unemployment benefit to pay for the first year. Now, is that business going to be increased 112%?

SENATOR MARESH: I can't see how they would. Their rate should go down for more than one reason.



April 23, 1981

LB 394

SENATOR COPE: There is the difference between...there is two concepts, the one Senator Goodrich gave now and yours and this bothers me because I would hope that it would go down.

SENATOR MARESH: But can you see why the Labor Department would want to raise \$20 million more than they need. It is about like our Board of Equalization, would they if they were given...they have the power to increase the income tax to 20% and probably the sales tax to 4% if they wanted to but do you think it would be politically feasible for them to do so and the same thing with the Labor Department. They are appointed by the Governor and can you see building up a reserve of \$20 million when it wasn't necessary? I think that is just grasping for straws and they are using this to defeat the bill.

SENATOR COPE: But if they are, you said contractors, anyone, alfalfa dehydrators, that do have high unemployment turnovers, if they are increased, then the one that has, the small business or the person, there is no change, should be decreased, right?

SENATOR MARESH: That is correct. That is the reason for the formula.

SENATOR COPE: And that is what you believe this bill will do?

SENATOR MARESH: Definitely. That is why we have this formula to help the small business that have no experience with unemployment. They keep their employees and they never apply for unemployment compensation for their workers so I think they should get some help and that is what this bill is designed to do.

SENATOR COPE: Thank you.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: I move the previous question.

SPEAKER MARVEL: Do I see five hands? Okay, all those in favor of ceasing debate vote aye, opposed vote no. To cease debate is the issue. Record.

CLERK: 31 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate ceases. The Chair recognizes Senator Maresh to close on his amendment to the committee amendments.

April 23, 1981

LR 61  
LB 394, 134, 400

SENATOR MARESH: Mr. Speaker, I hope the body adopts the amendments. As I said this will be phased in gradually. The first year there is no change so that we will be back into session if need be. I am sure the Business and Labor Committee after a study will find out the impact. Probably we should have an independent study, not have the Labor Department giving us figures which we don't believe in, to have some other agency study this issue and give us their thinking on this. And I am sure by reducing the payments for those that quit voluntarily and otherwise that are laid off, that this will save quite a bit of money and that we will see a net saving there of probably \$6 million and these people will maybe cause to even have a bigger saving because seasonal workers instead of receiving fifty percent of their payment if they quit voluntarily will look for other work and won't be draining the accounts. So probably it will help the seasonal employers to have this provision in the bill and I can't see why the Labor Department would want to build up a reserve of \$20 million just because the law says they could. I think we need to adopt this amendment to have a solvency rate to help the small business people. I move that the amendment be adopted.

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

CLERK: 28 ayes, 3 nays...28 yes, 3 no, Mr. President, on adoption of the Maresch amendment.

SPEAKER MARVEL: The motion is carried and the Maresch amendment to the committee amendment is adopted. Do you have some items to read in?

CLERK: Yes, sir. Mr. President, Senator Marsh would like to print amendments to LB 134; and Senator Vickers to print amendments to LB 400.

And, Mr. President, LR 61 offered by Senator Wagner. It calls for an interim study for purposes of clarifying statutes relating to per diem allowance for all public officers and employees and make necessary suggestions which resolve problems or conflicting sections of law. That will be referred to the Executive Board.

SPEAKER MARVEL: Okay, I would remind you again that this afternoon we will be discussing appropriations bills. And the motion now, Senator Remmers, will you recess us until one-thirty?

April 24, 1981

LB 328A, 394

CLERK: 26 ayes, 3 nays, Mr. President, on the motion to advance the A bill.

SPEAKER MARVEL: Motion is carried. The A bill is advanced. Next, 328A.

CLERK: Mr. President, LB 328A, offered by Senators Pirsch, Schmit and Chambers. (Read title.)

SPEAKER MARVEL: Senator Schmit, would you like to move the bill?

SENATOR SCHMIT: Mr. President, I move the advancement of the bill.

SPEAKER MARVEL: All those in favor of advancing 328A vote aye, opposed vote no. Have you all voted? 328A. Record.

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

SPEAKER MARVEL: The next bill is LB 394.

CLERK: Mr. President....

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Is Senator Vickers excused? He is the co-sponsor of this bill. I don't see him here.

SPEAKER MARVEL: No, he isn't excused. He's right behind you.

SENATOR MARESH: Oh, okay.

CLERK: Mr. President, LB 394 offered by Senators Maresh, Vickers, Hefner. (Read title.) The bill was considered yesterday by the membership. At that time we had before us, Mr. President, the committee amendments. There was an amendment to the committee amendments from Senator Maresh that was adopted; a second from Senator Maresh to the committee amendments that was adopted. I now have pending, Mr. President, an amendment from Senator Newell to the committee amendments which would read as follows: (Read the Newell amendment as found on page 1497 of the Journal.) That amendment is found on page 1497 of the Journal, Mr. President.

SPEAKER MARVEL: Senator Newell.

April 24, 1981

LB 394

SENATOR NEWELL: Mr. President and members of the body, this amendment comes at the most inopportune time. I would like to withdraw it for right now and try the second one. I will explain....

SPEAKER MARVEL: Do you want to withdraw the other one? How many do you have up there?

SENATOR NEWELL: I have got one more that I would like to discuss very briefly.

SPEAKER MARVEL: Okay, you ask unanimous consent to withdraw the first one?

SENATOR NEWELL: Yes.

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: Mr. President, Senator Newell moves to amend: (Read the Newell amendment.) Mr. President, that amendment is also found on page 1497 of the Journal.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Yes. Mr. President and members of the body, I offer this amendment, basically as I said earlier when we were discussing 394 that with the kind of changes that this bill is making we really do need to clarify some things that have not been clarified previously, and that is, what is good cause. If, in fact, you are going to see fit to cut benefits after a 7 to 10 week period by half, then I think we must more accurately determine what exactly is good cause. What I am proposing here is to make two provisions which have long been important and should have been put in the statute long ago, good cause, sexual harassment and quitting to follow a spouse. Frankly, sexual harassment speaks for itself, and quitting to follow a spouse I think is very simple. In many families today two incomes are necessary to keep the family finances in order and oftentimes when one spouse must change employment, that requires...especially if there is a move, that requires the second spouse to quit their job and search for new employment in a new area. I think it is important that we provide that provision, make that understanding that we want to keep families together, that we are concerned about people and, therefore, quitting to follow a spouse is, in fact, good cause. That is basically what the amendments do. I think they are meritorious. They should be added to this bill if, in fact, this bill is going to move, and so I urge the body to accept this amendment.

April 24, 1981

LB 394

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Mr. Speaker, I would like to call attention to this bill that we thought we worked out a balanced bill for both sides and we are going to go weighing towards one or the other side, I think we will need to have adjustments on the opposite side. So if this passes, I will have to ask the body to adopt the longer disqualification period from 8 to 12 weeks instead of 7 to 10 weeks, and I think this is something we should consider that the committee worked hard to work out a balanced plan, and by inserting amendments like this we are going to get it out of balance and I think we should reject this amendment.

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

SENATOR VICKERS: Yes, I do. Thank you, Mr. Chairman. Mr. Chairman and members, I would rise to oppose the Newell amendment for a couple of reasons. First of all as outlined by Senator Maresh, there are some agreements with this bill that we discussed in committee and it was discussed about making the disqualification period longer, and it was agreed not to. Secondly, it seems to me that what Senator Newell is doing is to some degree opening the door considerably to more abuse perhaps of the system. Let's think for a minute, if we will, about the problem, if there is a problem, of a spouse following her husband or a husband following a wife and not being able to get a job in the next town or the next city, it would seem to me that that would be part of the family decision to be made when an opportunity to move came up for one or the other. If it happened to be for the husband, it would seem that the wife's ability to get a job in a new town would be part of the decision that the two of them would have to make in determining whether or not to make the move, and I would think... I would assume that once the move was made or once the decision was made to go ahead and take the new job, then the spouse, the wife or husband, should be in a position, it seems to me, to attempt to get a job in the new community and not be guaranteed of a job. As I say, I think that... or guaranteed of unemployment compensation if they moved because of the fact that it is a family decision at that point in time. Also, I would rise to oppose and point out to the body that the sexual harassment language, as Senator Newell has in here, although it is a very noble language and noble cause, sexual harassment already would not be a reason to disqualify somebody that left a job. If it was proven that they had left a job because of sexual harassments, there is a law against that and it wouldn't be any

disqualification assessed in that sort of a situation. The remainder of the language where he mentions, "or to conditions of employment maintained at the place of employment attributable to the employer or to conditions of employment maintained at the place of employment", that it seems to me would be pretty broad. I am not exactly sure how that would be interpreted, but it could be interpreted I assume that any type of condition could be claimed by a certain employee that that was what forced him to leave. And I think that would be a disastrous effect on the unemployment compensation fund. I don't think that is the intention. I think we need to keep in mind that the real intention of unemployment compensation is to compensate those people that through no fault of their own are out of work, not to compensate those people that voluntarily quit their job, unless under certain specific circumstances like sexual harassment or something of that nature where they can prove that there was a reason they quit, then they are not disqualified right now. So I strongly urge the body's rejection of Senator Newell's amendment because I think it would open the door considerably more than what any of us would really like it to do.

SPEAKER MARVEL: Before we call on Senator Hefner, there are a hundred students either in the balcony or will be in the north balcony from Creighton, Nebraska. Mrs. Faith is the teacher, and Senator Hefner is the legislator. Are you all up there from Creighton? Okay, then there must be some more coming. I think some of them went up to see the Sower and they will be down in a little while. Now, Senator Hefner, do you wish to be recognized on the.....?

SENATOR HEFNER: Yes, Mr. Speaker, I would like to be recognized. Mr. Speaker, members of the body, I rise to oppose this amendment. If you will recall in earlier debate it was mentioned that the Business and Labor Committee had approximately 12 to 15 bills that dealt with the unemployment compensation situation, and, of course, this is one of the bills that they moved to the floor, LB 394. I feel that good cause is spelled out now and it is also determined by the Labor Commissioner. I think what Senator Newell here is doing is weakening the bill. Last fall when the Small Business Conference, Governor's Conference met, one of the things that they wanted to see the Legislature do was to tighten up the unemployment compensation bills that we have in Nebraska. They felt that we needed to take care of those employees that quit or that were laid off at no fault of their own, and now we have with this amendment saying that they could receive benefits if they left for certain reasons or if their spouse left for certain reasons, well we would

April 24, 1981

LB 394

be willing to take care of them. I think this weakens the bill, and I would certainly urge you to vote against it.

SPEAKER MARVEL: Senator Landis. Is Senator Landis in the room? Mr. Sergeant at Arms, will you see if Senator Landis is out in the rotunda, please? Do you wish to be recognized on 394?

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I intend to support the concept of the Newell amendments but not in the form offered to us right now. I support the policy that Senator Newell suggests to this body in this form, however, because LB 394 is in a delicate state of equilibrium right now, and I understand that to influence or to affect on one side or the other that balance, is to column the question a carefully arrived at coalition. I am going to oppose its adoption to this bill. However, there is an accompanying bill. It is the next one on General File. I believe the number is 470, and it has to do with unemployment compensation as well. It is a vehicle without which there has been delicate negotiation and for which there exists all the potential in the world for changing the public policy with respect to UI or unemployment insurance. What is the public policy switch that Senator Newell suggests with this amendment? Well, he attempts to breathe into that cold legal phrase "good cause" some very personal relevant meaning for individuals who oftentimes find themselves between a rock and a hard spot. What do they do? They have got some manager who is indicating that their future assignments, that their promotion, that their livelihood is dependent on their submission to some kind of sexual exchange. They have that on the one side, or if they quit their job because they don't want to put up with that, they face 10 weeks of disqualification. That is the kind of law that we have right now, as I understand it. You either have to submit on the one hand, or you quit and you find yourself without means of support for 10 weeks because we don't tolerate quitting under those circumstances. That is apparently a personal reason. That is a reason for which the individual should suffer a denial of benefits. I think Senator Newell calls us up short in an area that we are short. I don't think our public policy should say that an individual has to choose between sexual harassment and a denial of benefits. That should be considered good cause and I intend to support that policy when offered to another bill. What is the other one that he suggests to us? Well, he suggests to us that where an individual is a part of a family, the family is going to make a change, they are going to move, they are

April 24, 1981

LB 394

going to change their place of location and the spouse quits out of deference to the occupational advantage to the other spouse with the new job. They leave the working area, the community, they quit and follow their family, that they also not be faced with the denial of benefits. I think a lot of people in 1980 regarded those election results generally in this state and nationally to be pro family, but you certainly couldn't tell it by Nebraska law because in the Nebraska law we put people in the very interesting position of either having to choose between following the spouse and being denied unemployment benefits, or not following the spouse and committing an act which under our divorce laws is grounds for irreparable dissolution of marriage. Whichever way you go the state penalizes you. If you keep your family together, the state will penalize you for moving by denying you benefits. They will say that you don't have good cause to quit your job. If you don't follow your spouse, then the divorce law covers the situation and you have quite possibly broken the bonds of the marriage irretrievably and have given your spouse the cause necessary to establish a case for divorce. I can hardly consider the existing predicament that an individual finds them in to be pro family. And I would suggest that Senator Newell offers us one of the first real pro family opportunities this session to make a gesture to keep families together and to reduce the deterrence and the disincentives for families to stay together. We have built into our law a penalty of roughly I would say six, seven, eight hundred dollars to a family to stay together under an unemployment insurance law, and I would hope that this body would see fit to change that policy and to bring into conformance with what I think is the trend in this state and this country, to make sure that the government fosters as best as possible an attitude in the law that encourages families to stay together. I will support the policies urged on us in the Newell amendment but not as they are applied to 394.

SPEAKER MARVEL: You have about 15 seconds.

SENATOR LANDIS: I hope they will be offered to LB 470, in which case I intend to support them in that context. Thank you.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President and members, I would have to oppose the amendment. I am thinking particularly of the part where the person and the family moves continues to receive unemployment benefits. Unemployment benefits, when



it was inaugurated, I think had a very worthwhile purpose. I think it still does but it has spread pretty thin since then. The idea originally was to sustain an employee in case of poor business, could not keep them on the payroll, depressions, a dozen different things that might happen, no fault of the employee whatsoever. But they could not be employed for financial reasons of the employer, so...and the employer pays those benefits. Now we have spread it so thin that it just doesn't seem reasonable to me if a family decide to make a move, I can see no reason why the employer has to underwrite the family to better themselves. They lose the employee and lots of times they are the ones that spend money training them. They get no good out of it whatsoever. It just doesn't make good sense. And remember this always, it isn't the employer that pays these benefits. It is the consumer, it isn't the state, the employer; the consumer pays it, and as a consumer I don't think they should be paying these extra costs.

SPEAKER MARVEL: Senator Newell, do you want to close on your motion?

SENATOR NEWELL: Mr. President and members of the body, there has been a lot said about the "balance of this bill", and yet we find that contractors and the construction industry are suggesting that there are many changes that need to be promoted or at least developed into this wonderful, meritorious, well thought out piece of legislation before it should advance. And there was a lot of criticism the first time this bill came up and a lot of discussion about the questions of whether or not we totally understand its fiscal impact, its intentions and so forth, and yet we have a number of people on the floor of this Legislature saying, well, it is precariously balanced, it's well thought out, about 20 minutes in committee, it is a good bill. And while these things may have some merit, say some of these individuals, we have an agreement. Well, frankly, this bill hasn't been well thought out. It hasn't been precariously balanced. There has been no thought in relationship to good cause or the effect of cutting in half the unemployment benefits even after the seven to ten week delay. There has really been no consideration of whether or not good cause should include those people who quit because they are sexually harassed or those people who are quitting to follow a spouse when, in fact, there is little or nothing they can do except if they want to keep their families and their homes together is to quit and follow that individual or their spouse. And, in fact, there is little choice for individuals to make in this decade and

April 24, 1981

LB 394

this time when two incomes are absolutely necessary. In many cases this loss of income, until the spouse can find employment, can be very detrimental to the family. I think these things should be also considered. This bill is not so precariously balanced that they can't afford to look at or consider other factors. This bill, in fact, has been assaulted by the industry itself and so consequently I think it is only right, and I would urge this body to accept this amendment. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Newell amendment as found in LB 394. All those in favor of adopting the Newell amendment vote aye, opposed vote no. Have you all voted? Senator Newell. Okay, record the vote.

CLERK: 3 ayes, 20 nays, Mr. President, on the motion to adopt the amendment.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, Senator Goodrich would move to amend the committee amendments to LB 394. (Read the Goodrich amendment as found on page 1573 of the Legislative Journal.)

SENATOR GOODRICH: Mr. President and members of the body, what I am proposing here is, you will recall for example that the bill has that feature in it that says if they can muster up a 3 percent reserve over and above the claims, I am suggesting that if...since our base, our wage base, for this is three and a quarter billion dollars, 1 percent would be \$32 million and that would be sufficient base, sufficient reserve rather. Instead of mustering 3 percent reserve they would be held to a 1 percent or \$32 million reserve over the claims. Now remember that the fund has now got \$77 million in it and this would build that up to the \$90 million figure in and of itself approximately. We don't need the 3 percent. The other part of the thing is to put a lid on the total amount that any employer would have to contribute. The lid would be 5 percent. Now, in other words, the top percentage now is 3.7 percent. If we tell the employers that the maximum they have to contribute is 5 percent, then we can dispel a lot of the anxiety and fear of this particular bill. For that reason I would move the adoption of the amendment.

SPEAKER MARVEL: Senator Vickers, do you want to speak to the Goodrich amendment?

SENATOR VICKERS: Mr. Chairman and members, I would like to point out a few things about the 3 percent that Senator

April 24, 1981

LB 394

Goodrich is talking about, the fund at the present time has no ceiling on it, no limit. Senator Goodrich is attempting to lower the ceiling that 394 is attempting to put in. Now I don't believe that the unemployment funds should be unlimited. I agree with Senator Goodrich in that regard. I think there should be a limit to the number of dollars that the fund has in it that is actually being taken from the employers of the State of Nebraska. But I would point out to this body that there are a number of states, 16 states I think, that are in a bankrupt situation right now with their unemployment compensation. One of the things that the Department of Labor has to do is to attempt to guess as to what the economy is going to do in advance and adjust the fund accordingly. That is the way they have operated in the past, try to keep enough in the fund to be sure and cover the draw down on it for the next year. Now what we attempted to do with 394 was to say that 3 percent is plenty. We don't need to have any more than that. Let's put a ceiling in. Again, I remind you there is no ceiling right now, none whatsoever. It could be 500 million right now, if the Department chose to do it. Obviously they haven't. Senator Goodrich is attempting to lower this ceiling down to 1 percent and I think part of the reason being that several people have got the impression that the ceiling is actually a floor, that they are going to throw \$90 million in there. Now that is certainly not the intention of the 3 percent ceiling that we have got in 394. If anybody interprets in the Department or on this floor or anywhere else that the ceiling is, in fact, a floor, then I think the record needs to be made clear that it is a ceiling, no more than. It doesn't say that you have to have this much. It says no more than 3 percent. Now I would support Senator Goodrich's lowering that ceiling except for one thing. I am afraid that if we hold the ceiling down too low by statute, that if the economy, God forbid, should turn real bad, then we might get in a situation like some of these other 16 states, and I certainly don't want to do that either. I think we need to give the Department a little bit of discretion. And I suggest that the 3 percent is not that bad. On the other side, the 5 percent limit on the solvency fund....

SPEAKER MARVEL: You have 30 seconds.

SENATOR VICKERS: ....I oppose the 5 percent limit and I told Senator Goodrich that I would do this. I also told him that I would hope that we could wait since the solvency fund takes 3 years to take effect, we could wait by that point in time and see if we need a limit on that but under the concept that those that contribute more to the problem

April 24, 1981

LB 394

should pay more to the problem than it seems to me that we shouldn't put a 5 percent limit on a negative balance side of the equation, if you will, or the rates. So I would rise to oppose the Goodrich amendment for those reasons.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President, and members of the body, it is with great reluctance I rise to oppose the Goodrich amendment. You know, I thought there was a lot wrong in this bill but since no one is willing to compromise it, I don't think that Senator Goodrich or any of those other folks ought to be out of the bill either. I mean it is not a good bill, we all...most of us know that, but I think we ought to stay with the committee. They basically, at least the majority of them made this compromise. I think everybody ought to suffer together. If we are going to do something like this, I think we ought to all stick in here and wear that shoe no matter how hard it pinches. So I am now a convert. I think this is one rotten bill but I think it ought to stay just as rotten as it is presently written. With that in mind, I would urge my colleagues not to support the Goodrich amendment.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I personally support Senator Goodrich's amendment and I think it is a good amendment. I think it will accomplish some good. But it's like anything when you get to dealing with these dollars and numbers and what should be there and I think he is going too far down as I thought the 3 percent was too far up. And I believe if you would work somewhere in the  $1\frac{1}{2}$  to 2 percent area, you would be about where we are in numbers now, and I would ask Senator Goodrich a question if he would yield.

SENATOR GOODRICH: Yes, yes, if I can get my mike on.

SENATOR DeCAMP: Senator Goodrich, as you know this is a complicated area and as you know it involves multi, multi, megamillion bucks.

SENATOR GOODRICH: Yes, I know it.

SENATOR DeCAMP: Now, changing from 3 percent to 1 percent, as I understand, changes it about \$60 million. Is that right?

SENATOR GOODRICH: Yes.

April 24, 1981

LB 394

SENATOR DeCAMP: I mean round numbers, what's a few million anyway.

SENATOR GOODRICH: 64 million, to be exact.

SENATOR DeCAMP: I get the impression from talking to the people that supposedly know more about it than I am ever going to know, the labor and industry people and the Labor Department and so on and so forth that that is just not enough as a reserve in case we do fall on hard times or whatever. Would you consent to possibly changing your amendment to somewhere in the neighborhood of, let's say 1 3/4 percent? That would add about what, 20...another 25 million, and we would have that much and so we wouldn't have to worry about it. Would that make sense?

SENATOR GOODRICH: Well, it's about \$32 million per each 1 percent, so if you go 1 1/2 percent, for example, that is 45. I would, even though the Nebraska Association of Commerce and Industry has agreed to the 1 percent clause... 1 percent amendment, I would say, yes, John, I would go for 1 1/2.

SENATOR DeCAMP: How about 1 3/4?

SENATOR GOODRICH: Yes, John, I would go for 1 1/2.

SENATOR DeCAMP: You know, I would love to be 1 percent, but I just think as a practical matter you have got to have enough bucks in there so we don't get ourselves in deep trouble. What, from a half to three-quarters is only another 5 or 6 million dollars and we've got her any way, right?

SENATOR GOODRICH: John, the one thing I would point out to you is the fact that they have overestimated the expenditures on this fund every year....

SENATOR DeCAMP: I am aware of that.

SENATOR GOODRICH: ...the Department of Labor has.

SENATOR DeCAMP: I am aware of that.

SENATOR GOODRICH: Consequently, they are using 1.8 million... 1.8 percent, I'm sorry, 1.8 percent which is very close to your figure. However, I would suggest that if they are overestimating it already, 1 1/2 would be sufficient, however, I am not going to argue with you over 1 3/4.

SENATOR DeCAMP: So you would change it to 1 3/4?

April 24, 1981

LB 394

SENATOR GOODRICH: In spite of the fact that the Nebraska Association of Commerce and Industry has already agreed to 1.

SENATOR DeCAMP: Well, they suggested to me they wanted about 2, but that is why I suggested the 1 3/4. They were kind of kidding you a little bit about 1. They really want about 1 3/4, I think.

SENATOR GOODRICH: Go ahead.

SENATOR DeCAMP: So I think Senator Goodrich would like to change his thing to 1 3/4 there, if you would let him.

SENATOR GOODRICH: Yes, that is okay.

CLERK: What do you.....

SENATOR GOODRICH: Yes, go ahead. I would ask the Clerk just to go ahead and voluntarily change the 1, put a 3/4 behind it.

SENATOR DeCAMP: I certainly support that.

CLERK: 1 3/4, just....

SENATOR GOODRICH: 1 3/4 on the first part of it.

SENATOR DeCAMP: I just think it makes the amendment more saleable and the system more workable and all that. And it does alter it about 35 or 40 million from what the original committee amendments were. You know, it's amazing, I can't make my car payments but I can handle 40 million here.

SPEAKER MARVEL: Senator Goodrich, where are you?

CLERK: Senator, just for clarification then, when it says, "strike 3 percent and insert 1 3/4 percent", is that what you want to do?

SENATOR GOODRICH: That is exactly right.

CLERK: Thank you. Okay.

SPEAKER MARVEL: Is there any discussion in regard to the Goodrich....the new Goodrich amendment? Okay, the motion is to adopt that amendment, is that right? Senator Goodrich, do you want to close on your amendment? Okay. All those in favor of the new Goodrich amendment as proposed vote aye,

April 24, 1981

LB 394

opposed vote no. Have you all voted? All this vote needs is a simple majority. Does anybody else wish to vote? Okay, record the vote.

CLERK: 23 ayes, 8 nays, Mr. President, on adoption of Senator Goodrich's amendment to the committee amendments.

SPEAKER MARVEL: The motion is carried and the Goodrich amendment to the committee amendments is adopted.

CLERK: Mr. President, Senator Stoney now moves to amend the committee amendments by striking section 5.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker and members of the Legislature, you will recall yesterday when we discussed this issue that I offered some reservation relative to making the change in our current percentage structure for calculating benefits for unemployment compensation. My concern is that we are going from a tried and true system which is one that is supported by the State Department of Labor and in the alternative adopting one that allows for a solvency rate adding a multiplying factor, one which is very comprehensive and would change our system here very dramatically in the State of Nebraska. I really have to say that I see no demonstrated need for this particular change. Now I know that there are...and Senator Maresh confirmed yesterday during our debate, \$70 million presently in the fund, so there is not a shortage. There is an abundance of funding. The claims that are being made for unemployment compensation are being met. Therefore, I see no reason for this change. If it is necessary to adjust either the ceiling or the floor, I am sure that with the present formula the proper alterations could be made which would be acceptable and provide the additional dollars that would be necessary in meeting unemployment compensation claim needs. I also found that this particular position which is espoused by the Nebraska Association of Commerce and Industry may not be a majority opinion... I don't want to say that it is a minority opinion, it is just my understanding that the members of this association did not have an opportunity to vote collectively on this issue, so we may be expressing rather than a majority opinion a minority in its stead. I also mentioned yesterday that the new formula which we are attempting to implement with the passage of this bill is a new one. It is very unique. No other state in the Union has attempted to use this formula, with the exception of the State of Kansas, our neighbor to the south, and they had an unfavorable

April 24, 1981

LB 394

experience with this formula, therefore have no longer implemented that and have returned to a formula that they had formerly used. So, again I stress the point that there appears to be no demonstrated need. I think if it is something that is deserving of further consideration, that the Business and Labor Committee could very easily during this interim in 1981 offer a legislative resolution and study this issue to see whether or not it is feasible for us to change the system which we now have in calculating these particular funds. So I would ask that you join me in striking from this bill the section which would change the present form for calculation of unemployment compensation rates and place in its stead the solvency rate which has the multiplier effect. Thank you.

SPEAKER MARVEL: Before we proceed, I would like to introduce in the north balcony from Senator Von Minden's District eight students from Wayne State College. Are you up there? We welcome....welcome to the Unicameral. And, Senator Sieck....Senator Sieck has his son, Jerry, his wife, Berta, and Heidi and Mrs. Sieck. Where are you folks located? Okay. Senator Maresh, do you wish to speak to the motion?

SENATOR MARESH: Yes. Mr. Speaker and members of the Legislature, I oppose the Stoney amendment. He said about us having an interim study and coming up with legislation next year, this doesn't go into effect for another year so there will be time to study it and see if this should be continued or not. I would like to call attention that 16 percent of the employers use up 50 percent of the unemployment compensation and they contribute a little less than 6 percent of the contributions. So we can see that this is a high risk employment that is using up a lot of our funds. And this has caused a problem in a lot of our states that are close to a billion dollars in debt and some over a billion dollars, and I think we are fortunate that we have a state like Nebraska that is trying to be solvent. And by putting in this formula we are going to be solvent and it is going to relieve the pressure that is placed on the small business people. So I hope we don't adopt this amendment, that we can keep this on there and then we will have something to study. We will have the Labor Department give us some true figures to tell us just how it is going to affect the seasonal employers.

SPEAKER MARVEL: Senator Goodrich.

SENATOR GOODRICH: Mr. President and members of the body, I rise in support of the Stoney amendment, and I would like to reiterate for you for just a moment what it does. The



Stoney amendment strikes section 5 from the bill which is the solvency section. That would leave in the bill the \$10 increase that the employees are asking for and it would also leave in the bill the 50 percent clause that if he voluntarily quits, walks away from his job, he only collects 50 percent of his weekly benefit. If we just passed that much of the bill, which is what the Stoney amendment would do, then we could come back and work over the summer months to work on the add-on provision instead of a multiplier provision as far as the solvency rate is concerned. We could then...and since we are not going to put it into effect this coming year anyhow, what harm have we done? I would suggest we adopt the Stoney amendment, eliminate the solvency problem, and then we have left in the \$10 thing and, we have left in the \$10 increase for the benefits for each employee, and we have got the 50 percent reduction if he walks away from his job deal. I would remind you, for example, what Senator Stoney said. Kansas went with the multiplier deal. They have abandoned it. The add-on method is much better because you can add on specifically to the sections, the categories of those employers that do cause the problems on the drain of the fund, but you add on just to them and you are not hurting the present employers that do have good experiences. For that reason I would support the Stoney amendment and urge you to pass this which would in essence leave the bill something that both sides get something out of and be done with it. I would urge your adoption of the Stoney amendment.

SPEAKER MARVEL: Senator Higgins and then Senator Vickers.

SENATOR HIGGINS: Mr. Speaker and members of the body, I hate to be repetitious, but I think Senator Hefner made the point that 16 percent of the employers were using the bulk of the compensation funds. Was it you, Senator Hefner, that made that statement, or maybe Senator Maresh? Sixteen percent of them might be using up the bulk of the money, but they are the second largest industry in the whole State of Nebraska, and if you didn't have them, I wonder how much to the economy they are contributing. We are talking about what they are taking out of the unemployment compensation fund. Nobody is talking about the millions of dollars that they are putting into the economy every day, the construction industry. Nobody is talking about the people that would be laid off if these new rates go into effect because the construction industry is going to be hit the hardest since by an act of God they have to be a seasonal operation. Now I will grant you some contractors such as those building houses or commercial buildings, they can work around to working indoors part of the time. But your roadbuilders don't.

April 24, 1981

LB 394

They have to quit building roads as soon as the bad weather comes. And remember the State of Nebraska this year is going to allocate \$111 million for road building in the State of Nebraska and the taxpayers are going to have to pay that money out themselves in unemployment compensation, because when the contractors bid the jobs, they are going to include this high 112 percent minimum increase in their bid for the state. So maybe what they will actually be doing is just borrowing money...they will be loaning the state money until they get it back when they get their contract paid, because we are putting the cost up to ourselves every time we put out a road job for bid. This new rate is going to be included in the bid. I again would like to urge you to accept the Stoney amendment and, frankly, I am thinking of making a motion to kill the whole bill and start all over again next week, but at this time I will just ask you to urge the Stoney amendment. Thank you.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Chairman and members, I rise to strongly oppose the Stoney amendment. But before I start, I would like to ask Senator Higgins a question, if I may, if she would respond. Senator Higgins, you mentioned the construction industry as the second largest industry in the state. Could I ask you what the first largest industry is?

SENATOR HIGGINS: Senator Vickers, are you asking me facetiously?

SENATOR VICKERS: No, I just want to know what you....

SENATOR HIGGINS: I understand it is agriculture.

SENATOR VICKERS: Okay, thank you.

SENATOR HIGGINS: I thought it was a facetious question you being a rancher.

SENATOR VICKERS: No, I was serious. I assumed that is what you would answer because I assumed that is what it was also.

SENATOR HIGGINS: Agriculture doesn't have unemployment compensation, do they?

SENATOR VICKERS: That is correct.

SENATOR HIGGINS: Not today anyway.

SENATOR VICKERS: I was going to point that out that somebody can be laid off or quit or whatever from agriculture and not get a dime. Also the largest industry in the State of Nebraska is losing money considerably and I don't see this body getting too much up in arms about it. I would also mention that the solvency fund that Senator Stoney is attempting to remove from this bill has been amended by Senator Mares' so that it takes three years before it takes effect. Now Senator Higgins talked about the second largest industry, meaning the construction industry, and indicating that those people I guess had no way of passing their cost on. I will tell you one thing, the first largest industry in this state doesn't have any method of passing their costs on. But I will suggest to you that the second largest industry does. That is the reason we amended it so that it will take three years to take effect. We did it on purpose so that those that have a contract out there right now and don't have their additional costs built into it, their additional costs that might be incurred by the solvency rate, then we held it like it is right now so that by taking a three year period of time to get the solvency rate into effect it will give them an opportunity to bid with that in mind so that they could, in fact, pass their costs on. I don't see this putting any construction industry out of business, putting anybody in the construction industry out of work. Goodness sakes, if a couple 2 or 3 percent is going to do it, then I would assume that the interest rates going up like they have been is really going to disastrously put them out of business, which I admit has hurt them. But I don't think this 2 or 3 percent on just the first, what, \$6000 of each employment... employer is going to do it, particularly when we are putting it in effect so that they can pass their costs along. Okay, the reason for the solvency fund, again it is a situation where those that use the system pay for the system. In the Business and Labor Committee this year we had a number of bills... a number of bills that some of them were a lot more stronger than 394 is dealing with unemployment compensation backed by business and industry, and I can tell you honestly business and industry, the average businessman up and down the street is upset about unemployment compensation and the reason he is upset is because he has probably not laid anybody off for a long period of time and yet his rates keep going up. At the present time the way it works is that when the fund is depleted, the Department raises it on the bottom end from 10 to 10½ and up to 11 percent, raises it to that individual that hasn't laid anybody off, hasn't got anybody drawing on their fund. Now I ask you, is that fair? I don't think it is. Senator Stoney pointed out that not all the members of the business organization

April 24, 1981

LB 394

are probably in favor of this. That's true. That's true. Obviously, the contractors or the alfalfa mill dehydrators or that type of an industry probably is not in favor of it. But ask yourself who is by far the largest number of businesses in the State of Nebraska. The largest number of businesses are the small businesses up and down the main streets of every town. They are the ones that are having to pay for the program right now. Is that the way you want it to work, or do you want those people that are in a type of business that know periodically they lay people off, or do you want those people to pay for it? I think it is that simple. Honestly, I will admit it, I want those people to pay for it because they are the ones that are using the system all the time. I think that is the way it should be. If I wrecked my car every two or three years, then I should pay more for car insurance than somebody that never wrecks a car. But when the car insurance goes up, somebody that has never wrecked one, they get pretty upset about it. Well, I think it is pretty obvious why they do. So I strongly oppose Senator Stoney's effort to remove this section from this bill. I will point out one more thing, this bill has had a lot of work with the various sides and it has been mentioned before, it is in a position where not everybody likes all portions of the bill which must mean it is in the middle.

SPEAKER MARVEL: You have 30 seconds left.

SENATOR VICKERS: And I would strongly urge this body's rejecting these amendments that are swinging it to one side or the other. Honestly, if it gets too far on one side or the other, then we are going to have to put a kill motion on it ourself, and I think it is a good bill the way it is right now, and would urge the body's rejection of the Stoney amendment.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, I just want to respond to Senator Vickers' statement that I said there is no way that the construction industry gets to add this on. This is what I said the last time I got up, that's exactly what they are going to do, they are going to add the cost on and the state is one of them...the state is one party that is going to be paying through the nose. And the construction industry is already in trouble because of the high interest rates, so when we raise our unemployment contribution, it is going to put their cost of doing business even higher and in that respect it is going to break the backs of a lot of them. But I have never said they don't

have a way of passing it on. I said that is exactly what they will do and when they do, they will price themselves out of the business and when you are talking about them taking 16...the largest portion out of the unemployment compensation fund, the next thing you are going to be crying about is all those X employees of theirs drawing the most welfare. Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator DeCamp. Do I see five hands to cease debate? I do. All those in favor of ceasing debate vote aye, opposed vote no. Okay, the motion first of all is the Stoney amendment to the committee amendments. Senator Stoney, do you want to close? Okay. We got ahead of the game. All in favor of ceasing debate vote aye, opposed vote no. While we are waiting for that, there were 32 students from Blue Rapids, Kansas, with teachers, Mrs. Marilyn Voita and Mrs. Carol Musial, and they were in the north balcony. Are some of you still up there? Okay. It will be duly recorded in the Journal. Record.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. Senator Stoney.

SENATOR STONEY: Mr. Speaker and members of the Legislature, I will keep this closing brief, and I think the point that I wish to make again is that there seems to be no demonstrated need for having this provision in LB 394. If there were, I would certainly be supportive of this attempt to change the present system. I will rely on some of the facts that Senator Goodrich circulated yesterday and help refresh your memories by saying that this new system, if this amendment is not adopted, completely restructures the method of adjusting contribution rates. There is no other state that is found to have this type of a multiplier which has been mentioned before. The Labor Department which opposes this particular provision of the bill, and is supportive of the present system, estimates that a 112½ percent increase can come about in these base rates if the adjustment is made, and other estimates range from 40 to 200 percent. Now Senator Maresh in addressing his comments to this proposed amendment touched on the issue of solvency, and I might say that with the figures that we have, there is no indication that the State of Nebraska is in anything but a very solvent condition. Now this is untrue of states such as Michigan who have experienced the problems in the automobile industry. But here in our state it is very stable and there is no need, or demonstrated need for change. So I would ask that you adopt this amendment and that we advance the bill with the other provisions intact. Thank you.

April 24, 1981

LB 394

SPEAKER MARVEL: Any further discussion? Okay. All those in favor of the Stoney amendment as presented vote aye, opposed vote no. Record the vote.

CLERK: 5 ayes, 13 nays, Mr. President, on adoption of the Stoney amendment.

SPEAKER MARVEL: Motion lost.

CLERK: Mr. President, Senator Vickers and Witala move to amend the committee amendments by amending the Goodrich amendment by striking the sentence, "In no event shall a negative balance employer pay a contribution rate of greater than 5%".

SPEAKER MARVEL: Senator Vickers, do you want to take the motion?

SENATOR VICKERS: Okay. Mr. Chairman and members, this is the second half of the Goodrich amendment that we just adopted a little bit ago, and I apologize, I should have asked to divide the question at that time. I guess I didn't realize that there was that much strength to get the Goodrich amendment adopted. The Goodrich amendment, if you recall, put a limit on the amount of funds that could be collected. Well, it lowered the limit. I will put it that way. There isn't any limit right now. The bill calls for a 3 percent limit. Senator Goodrich's amendment lowered it down to 1 3/4, I think. Is that correct? And then he also put a limit on the solvency fund...or on the negative balance that an employer could pay of no more than 5 percent. Now the arguments have been made I think very well and very long as far as the merits of the solvency fund, and since it is going to be a part of the bill and the intention is to cause those people that use the system to pay a little more for it, then it seems to me that we shouldn't have a limit on that negative balance. Also, it seems that since it takes a three year period of time to take effect, that if it does look like there is going to be a problem out there at some point in time between now and three years from now, that it certainly can be changed at that point. So I would urge the body's adoption of this amendment, which is simply to remove that 5 percent limitation on the negative balance contributor.

SPEAKER MARVEL: Senator Goodrich.

SENATOR GOODRICH: Mr. President and members of the body, I would rise in opposition to this particular amendment, or this motion rather. What it does is eliminates the 5 percent

lid on the amount that can be called...or any employer can be called upon to contribute to the fund. Right now a negative balance person, a negative balance company can be called upon for 3.7 percent. I put it up 25 percent to 5 percent. That is a 25 percent increase. If the employer, for example, who is asked to budget for his company and to manage his company in such a way he can stay fiscally sound needs a lid, he needs a way to say, okay, at least the maximum I can get hit for on this one is 5 percent. Let's try 5 percent, like I said before, let's try this 5 percent for a while. We can always change it if there continues to be an increased drag. If the 25 percent increase that we are giving them already, going up to 25 percent, isn't enough, we can always come back and change that. But let's wait for a year or two until we have got some experience with this thing at the rate of 5 percent and see what that will do for the fund, and at least the employers that are in the negative balance category will have some maximum that they can depend on not having to budget for more than that amount. I would strongly urge that we do not adopt this particular amendment.

SPEAKER MARVEL: Before we go to the next speaker, underneath the south balcony is guests of Senator Nichol, John Harms, Herschel Baird, Robert Hyde, David Groshans, all of Scottsbluff. Will you please stand so we can recognize you? Senator Wiitala.

SENATOR WIITALA: Mr. Speaker and members of the Legislature, I urge your support of the Vickers amendment largely because the amendment returns the bill, 394, back to its original form as introduced to the floor. I have heard all kinds of commentary on 394 and I just want to speak to the body largely in respect to the history of this piece of legislation as best as I can because it incorporates some very difficult features. 394 incorporates about three bills that were seriously looked at in committee, looked at by the business community and the labor community, and compromised into one bill. It is the kind of bill that if you look at it through the lenses, through the spectacles, of the business and employer world, you are not going to see all that you desire and want in it, because there are some parts that represent the employee. If you put the spectacles on the employee when he takes a look at it, there are some portions of it that bother him also because they represent the world of the employer. I want you to understand that. But this is a very good bill. It is a very good bill because very seldom is a bill referred out of committee where competing pieces of legislation are looked at seriously and where you bring in the whole economic

April 24, 1981

LB 394

community in conference on it and gain nearly the majority or most of their support in favor of it. And so I would ask this body to recognize the delicateness of this legislation, and in order to keep the compromise intact to advance it in its original form as introduced and not amend it. I understand also that where a lot of you are coming from, when you take a look at this legislation, for those of you that are interested in the employer or the employee's position and when new legislation is introduced to the floor, it is very easy to take issue with this legislation, but understand that it represents the better part, the greatest part of the economic world and the interests that they have and are concerned with. Thank you.

SPEAKER MARVEL: Senator DeCamp, do you wish to be recognized? Senator DeCamp, do you want to be recognized? Your light is on. Senator Landis, do you wish to be recognized?

SENATOR LANDIS: I do want to make some brief remarks, Mr. Speaker. I have kind of been torn because I, too, have been...have bought into the theory of accepting the committee's compromise down the line. But bottom line I guess I would have to say that Senator Goodrich offers a reasonable piece of public policy when he offered and had attached that language which now Senator Vickers seeks to have taken out of the bill, the reason being that unemployment insurance is a form of insurance and insurance conceptually is the evening out of risk. It is using a group to minimize the risk factor for individuals in the group, not only in the case of the individual who loses the job but also the employers who pay money into the fund that ultimately underwrites the benefits that are paid out. Seasonal employers do not act in bad faith. They don't lay people off for some sense of ill will. They lay people off because simply the economy demands. Their services are required by other businesses. They construct the new sites for Kawasaki and OMC and Falstaff and all the rest, who can work all year round. It seems to me that it's reasonable to acknowledge the fact that seasonal employers drain on that fund more than other employers, but what Senator Vickers actually offers you is the idea of self-insurance. He is saying, make sure that the benefits that you pay out are commensurate with your drain that you provide to the fund. I guess the way to simplify that idea down is, every employer pays every unemployment compensation benefit that is drawn against them. We don't need the fund. We don't need the idea of insurance. We don't need the idea of evening out risk. Simply pay for the employees of yours who go out of work through no fault of their own. Well, we



have system in our UI law. It is available to hospitals and it is utilized. It is available to other public entities and I suppose an employer can choose if they wish to to self-employ, or rather to self-insure. But, generally, if they don't utilize that mechanism, we use this lumping theory to minimize the costs of what is a universal economic benefit, the UI system. I think to adopt Senator Vickers' approach is to put blinders on and to say, this is not a systemwide or economywide system, it's not a form of shared risk across the economy, but, in fact, it is an individual accounting by each employer for those people that they put on the UI rolls. I think that has some merit but can be drawn too narrowly, and what we have done with 394 is walk the tight rope. The 5 percent maximum says that a pension employer who is burdening the UI rolls more than other employers bears a greater cost, but they do not bear every dollar they put on there, that we recognize that they too provide a part of the economic whole. They provide a part of the system that is important, that is valuable, that all other businesses enjoy and utilize and require for the growth of this economy as a system. So I would oppose the Vickers amendment because I think we have sufficiently recognized the responsibility of negative balance employers to give more money to the fund than those who have a good experience account. We now have the variation between .1 percent for the very best experience account employers with positive balances down to a full 5 percent, and that is a fifty times greater responsibility for the negative balance employer than for the best of the positive balance employers. And that spectrum is wide enough, I think, to penalize the negative balance employer without going completely to the system of self-insurance. I think we have walked a very fair line with the language so far. I intend to vote against the Vickers amendment and support LB 394 as written.

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

SENATOR NEWELL: Mr. President and members of the body, I am not sure I like this amendment. Then I think that we have, in fact, a situation where we have a very delicate tightrope that everybody wants to walk, and we have a bill that, frankly, I am not sure that anybody has well....that is well thought out. But I don't know how you can take one part of it, separate it off and accept the rest of it. I think that is the key question here. As I understand it, Senator Maresh can maybe enlighten us, but as I understand it, this bill has been well thought out, that the provisions here for the multiplier that will be applied now has been thought out, that there are cost estimates and so forth.

April 24, 1981

LB 394

Isn't that correct, Senator Maresh? Would you like to respond to this very general question? Do you feel very secure with the proposals that have been presented to us and favor the Vickers amendment which would put the bill back in its original form? Do you feel secure with the proposals and the information that you have gotten so far?

SENATOR MARESH: Yes. Yes, Senator Dave Newell. We are going to have one year to conduct a study and get the Department of Labor to give us some accurate figures and then we can come up with legislation next year if we find that it is not reasonable.

SENATOR NEWELL: Well, let me ask you this, Senator Maresh, what is the....and I understand you put an amendment on to delay it for one year, I don't understand why are we passing the bill with a delay factor of one year when, in fact, we could do it all at the same time?

SENATOR MARESH: Because these contractors have their bids on contract, you know, for projects and they can't compensate for the increase in the cost to their program. So we are giving them time to not affect these projects that are let this year and they will have one year to adjust their estimate for the next year when they make bids on projects.

SENATOR NEWELL: Thank you, Senator Maresh. Thank you.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: Mr. President, I call the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? Okay. The question before the House is, shall debate cease? All in favor of that motion vote aye, opposed vote no. Record. Have you all voted? Okay, record.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

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

SENATOR VICKERS: Thank you, Mr. Chairman. Mr. Chairman and members, again I would like to stress that under the philosophy of the solvency rate, under the philosophy that those employers that lay off the largest number of people should pay the largest amount of dollars to the fund, and it is true that they do now up to a certain point, but if

April 24, 1981

LB 394

the philosophy of the solvency fund is going to be used, then I see no reason to have a limit on at this point in time and particularly when it is going to take three years for it to take effect. If it looks like it is going to be a problem, we can certainly put a limit on it two or three years from now. Secondly, I would like to point out that there are some other things in 394 that I believe will help the drain on the fund sufficiently to not cause that percentage to go up a great lot, which a lot of people seem to think will happen. First of all, we have got the 50 percent reduction on voluntary quits. We have got the section of the bill that says the last employment is the only employment that is going to count. Now how is that going to affect the construction industry or the seasonal worker? Now, we have indicated that it is the construction industry all the time and actually there are other employers that are seasonal also that are not construction, perhaps, but the fact of the matter is that many of these employees that are laid off during the winter right now draw unemployment even though there might be some part-time jobs available, because if they take that part-time work and then go back to their...and then quit that part-time work to go back to their regular employment in the spring, then the next time they are laid off because they quit a job in the base period or that last year, then they have to go through the disqualification period, the 7 to 10 week period because they quit a job. I believe truly that there will be a number of people that will take part-time work during the winter rather than draw unemployment compensation to start with, which is a benefit to that type of an employer, which will probably not cause the rates to go up nearly as much as many people are saying that it will. Again, because it is a three year period to take effect, I think it is not incumbent on us to put a limit on at this point in time operating under the assumption of the solvency rate. So I urge this body's adoption of this amendment.

SPEAKER MARVEL: Okay, the motion is the Vickers-Wiitala amendment to the committee amendments. All in favor of that motion vote aye, opposed vote no. This is the motion to approve the Vicker-Wiitala amendment to the committee amendments. Have you all voted? It is a simple majority.

CLERK: 15 ayes, 9 nays, Mr. President, on adoption of the Vickers-Wiitala amendment.

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

CLERK: Mr. President, we now need to consider the committee

April 24, 1981

LB 394

amendments as amended.

SPEAKER MARVEL: Senator Maresh, do you wish to speak to the committee amendments as amended?

SENATOR MARESH: Yes. Mr. Speaker, I think we have spent a lot of time on this bill and I guess I would like to remind the body that what this bill does, it will cut the benefits 50 percent for those that quit voluntarily or get laid off for misconduct. It will raise the benefit from \$106 weekly to \$116. It will add a provision out of LB 337 which raises the amount of wages necessary to qualify for unemployment benefits to \$1200 in a base period with \$300 in each of two calendar quarters in a base period. This hasn't been changed since 1963. It adds a new section which makes the disqualifications for voluntary quits and discharge for misconduct applicable only to the separation from the most recent work. And it retains the provision of LB 394 setting up a statutory rate table which is the solvency rate. So I move that this bill be advanced to E & R Initial.

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

CLERK: 28 ayes, 7 nays on adoption of the committee amendments as amended, Mr. President.

SPEAKER MARVEL: Okay, the motion is carried. The committee amendments are adopted. Senator Maresh.

SENATOR MARESH: Are there more amendments?

CLERK: Yes, sir.

SENATOR MARESH: Oh, okay.

CLERK: Mr. President, I now have an amendment to the bill from Senator Higgins. Senator Higgins would amend LB 394 to include all farm and ranch employees whether seasonal, full-time or part-time under the Unemployment Compensation Act.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, Senators, I hope I got your attention this time. I want you to think about it. If you are in the farming business and there are certain times

of the year you have to reap and sow, are you going to like it that you are going to pay a higher rate than anyone else just because the nature of your business, Howard, is that you are seasonal? I mean, I am putting it to you the way you are telling it to the construction industry...you are seasonal and God help you. Well, the farmers are seasonal, ranchers are seasonal. You don't even pay into unemployment compensation that much, if you pay any. I don't even know if some of your employees come under it. But the point is, I have put this amendment in so that I can see if we vote on it how you are going to vote. I am sure all of you are in favor of putting your ranchhands or your farmhands under unemployment compensation and raising your cost of doing business, and I am sure that when you have to pay into the unemployment compensation fund, none of you will object because you are going to pay a higher rate than Marge Higgins has to pay for her insurance employees, because we never have to lay them off. They work year around. I want you to also remember, this is called unemployment compensation insurance. Senator Vickers talks a lot about insurance. He is a rancher, but he seems to know a lot about insurance. Insurance is a pool. What you are talking about today is this, only the people that go to the hospital and get sick ought to have to pay. You are talking about rates being high today for hospitalization insurance. Well if only those who got sick had to pay and those who don't ever go to the hospital didn't have to pay, then what do you think it would cost you for hospitalization insurance? Or what would it cost you just to go to a hospital? And that is what you are saying today in LB 394. You are saying that certain industries construction, farm and labor, if they are brought under it, they should be given a penalty because they are seasonal. If you are going to have an insurance policy, it is going to be a pool so that if John DeCamp gets sick and Howard Peterson doesn't, they are still going to pay the same rate even though DeCamp is the only one going to collect. But if we are going to have it that only those that get sick have to pay, then it is not an insurance pool. That's what Senator Lamb just said, it's self-insurance. Everybody pays their own. So I put this amendment on the bill, my gentlemen farmer friends and gentlemen rancher friends, simply to make a point and I will now withdraw the motion. Thank you.

SPEAKER MARVEL: Okay, motion is to advance the bill. All those in favor of advancing 394 to E & R for Review....all those in favor vote aye, opposed vote no. Record.

CLERK: 25 ayes, 6 nays, Mr. President, on the motion to advance the bill.

April 24, 1981

LB 3, 134, 248A, 327,  
328A, 394, 470

SPEAKER MARVEL: Motion carried. The bill is advanced.  
Any other items?

CLERK: Yes, Mr. President, if I may, I have Reference Report referring gubernatorial appointments to the Ag and Environment Committee for hearing. (See page 1574 of the Legislative Journal.)

Senator Schmit would like to print amendments to LB 327. (See pages 1574 and 1575 of the Legislative Journal.)  
Senator Schmit to LB 328A. (See page 1575 of the Journal.)  
Senator Fenger to LB 134. (See page 1575 of the Journal.)  
And Senator Carsten to LB 3. (See page 1575 of the Journal.)

SPEAKER MARVEL: We have got two items we are going to take up before we adjourn, and one is LB 248A. Senator Fowler.

CLERK: Mr. President, LB 248A was offered by Senator Fowler. (Read title.)

SENATOR FOWLER: This is the appropriation bill that accompanies Senator Wiitala's retirement bill. I introduced it as Chairman of the Retirement Committee. It was based on the actuarial report and the actuarial assumptions on the fiscal impact of that bill. I would move it be advanced.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor of that motion....all in favor of that motion vote aye, opposed vote no. 248A. It is the second item under General File. Have you all voted? Record the vote.

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

SPEAKER MARVEL: Okay, the motion is carried, the bill...(Mike off). Item 470. LB 470.

CLERK: Yes, sir. Mr. President, LB 470 was introduced by the Business and Labor Committee and signed by its members. (Read title.) The bill was first read on January 20, referred to Business and Labor for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: Senator Mares.

SENATOR MARESH: Mr. Speaker and members of the Legislature, this bill puts Nebraska in conformity with national

April 28, 1981

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

SPEAKER MARVEL PRESIDING

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

PASTOR HAROLD M. ONWILDER: Prayer offered.

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

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

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

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

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

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

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

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

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

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

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

SPEAKER MARVEL: Read the motion.

May 8, 1981

LB 328A, 394

SENATOR CLARK: Senator Kilgarin, 328A.

SENATOR KILGARIN: I move we advance LB 328A to E & R for Engrossment.

SENATOR CLARK: You have heard the motion. All those in favor say aye. Opposed. The bill is advanced. LB 394.

CLERK: Mr. President, I have E & R amendments to LB 394.

SENATOR CLARK: Senator Kilgarin. The E & R amendments to 394.

SENATOR KILGARIN: I move to adopt the E & R amendments to LB 394.

SENATOR CLARK: The E & R amendments to 394. All those in favor say aye. Opposed. They are adopted.

CLERK: I have an amendment from Senator Newell who is excused.

SENATOR CLARK: Who from?

CLERK: Newell.

SENATOR CLARK: Senator Newell, is anyone taking the amendment for him?

CLERK: Mr. President, in the absence of Senator Newell, Senator Vard Johnson has an amendment to the bill.

SENATOR CLARK: Senator Johnson.

SENATOR JOHNSON: Mr. President and members of the body, my amendment has absolutely no relationship to Senator Newell nor his amendment, and it just so happens that he is absent, but I have this amendment totally independent of anything Senator Newell might have on the desk. This is a very simple amendment, incidentally, which was triggered by two things that have been occurring. One is our discussion of LB 192 which is the attorney's fee bill that requires the State of Nebraska to pay an attorney's fee to anybody involved in the administrative process, or anybody who might be sued by the state, or anybody who challenges the state statute. And the second thing that has triggered my amendment is that the first of this month the Nebraska Supreme Court, in a case called School District #20 versus Commissioner of Labor, had to deal with the attorney fee question in the unemployment compensation area, and in a concurring and descending opinion Senator....or Judge Robert McGowan pointed out that there is a real injustice in the



May 8, 1981

LB 394

Unemployment Compensation Act in that the act as interpreted by the Supreme Court precludes the allowance of an attorney's fee on appeals...on appeals from the administrative level into the District Court and into the Supreme Court unless that allowance has, in fact, been approved at the outset by the Commissioner of Labor. So what I have done in this amendment, and it's a very simple amendment and you can read it, it says, whoever takes an appeal, whether it be the employer or whether it be the claimant, from the administrative decision in an unemployment compensation matter, whoever takes an appeal into the District Court and is successful, shall be allowed...shall be allowed that person's attorney's fees and other costs to be paid by the Department of Labor, to be paid by the Commissioner. And if, in fact, there is a further appeal from the District Court to the Supreme Court, then the successful party in that court shall have his or her attorney's fees, whether it be the employer or the claimant, paid for by the Commissioner of Labor. Now this amendment is in line, as I indicated a little bit earlier, with what this body, in my opinion, is certainly considering doing in LB 192 which is another bill that would require attorneys' fees to be paid by the State of Nebraska in conjunction with suits brought by the state, or in conjunction with appeals from the administrative process to litigants. In my opinion, because most unemployment compensation cases involved modest amounts of money, such as \$100 a week, denied benefits, or \$100 a week, allowed benefits, the cost incurred either to an employer or to a claimant in vigorously pursuing his or her statutory rights in the District Court and the Appeals Court oftentimes outweigh the amount at issue, and as a result of their outweighing the amount at issue, those kinds of appeals are not taken. So it seems to me only a question of simple justice and simple justice says, look, whoever is successful in the appellate area, whether it be in the District Court or the Supreme Court, should have his or her attorney's fees paid not by the loser but by that organization that is responsible for the administration of the program, i. e. the Department of Labor. I ask the approval of this amendment.

SENATOR CLARK: Senator Maresh.

SENATOR MARESH: Mr. President and members of the Legislature, I support the amendment but I think something we should call attention to is that this is paid from the Security Administration Fund. So this will be paid by the employers, correct? Are you sure? Okay. At first, Vard was going to just....Senator Johnson was going to just have it for the employee but I felt that we should have it for both employer and employee and I think we should give this

May 8, 1981

LB 394

a test and see if this will solve the problems that people have. But if it gets so that it will be burdensome, then I think we will have to do something different, because if this is going to cause everybody to be appealing a decision, that might be a problem in the future. But I think it might be a good thing to try to see how this will work. So I support the amendment.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: I would like to ask Senator Johnson a question, if I may.

SENATOR CLARK: Senator Johnson.

SENATOR V. JOHNSON: Yes, Senator Vickers.

SENATOR VICKERS: Senator Johnson, does your amendment address the employer and the employee both?

SENATOR V. JOHNSON: Yes, it does. It is kind of interesting, Senator Vickers, when I first drafted the amendment I used the word "claimant" and I thought claimant would cover the waterfront but Senator Maresh called it to my attention that claimant really only will apply to the employee, so I made sure that the words "or employer" were put in the amendment. It covers either side, or both sides.

SENATOR VICKERS: Okay, thank you very much, Senator Johnson. And with that explanation I, too, rise in support of the Johnson amendment. I don't see that that is any.... this is a...as most of you realize this bill is in a very delicate balance but I don't think that this amendment will upset that balance at all, and so, therefore, I do support the Johnson amendment.

SENATOR CLARK: Senator Johnson, do you wish to close? Senator Landis, pardon me, is on. Senator Landis.

SENATOR LANDIS: I have had my light on. I would just like to ask Senator Johnson a couple of questions.

SENATOR CLARK: All right.

SENATOR LANDIS: Senator Johnson, many times the claimants in these actions are individuals who have been unemployed for a while and are not people of means, therefore they go through the process with Legal Aid attorneys so that they have representation before the tribunal. And then if they go to the District Court, they are represented oftentimes

by Legal Aid attorneys. In the event there is a decision on behalf of the claimant while being represented by a Legal Aid attorney, what do you anticipate will be the award of the court since, in fact, Legal Aid attorneys are supplied by federal monies?

SENATOR V. JOHNSON: Generally speaking, Senator Landis, when that has occurred in other cases involving attorney's fees, such as the successful use of the Truth and Lending Act where an attorney's fee is allowed, the court will set the fee based on the hours involved in the case plus the reasonable hourly wage used in the community by attorneys... by private attorneys. So....and that money will go to a Legal Aid program and go into its general funds, its own operating coffers, not to the attorney but to the Legal Aid program.

SENATOR LANDIS: Well, I guess I....I would just like to use the balance of my time to point out to the body without further question of Senator Johnson, that what the net effect of this will be, having served as an Appeal Tribunal Hearing Officer, claimants are represented by counsel infrequently, but when they are, I would guess that in five out of six cases those were Legal Aid attorneys because the individuals are within the realm of that population which utilize Legal Aid services. And if those claimants are successful on the appellate level what we will be doing then is paying an amount of money for legal fees incurred by Legal Aid lawyers and placing that money from state obligations through our own funds here, the state level, to reimburse the Legal Aid system and their general funds. Now that may be acceptable to the body, it may not, but that is the net effect of allowing attorney's fees, at least for claimants in this case, that, in fact, the kinds of people that will be utilizing attorneys are most likely clients of the Legal Aid services and they are probably talking about an attorney fee being paid to the general fund of Legal Aid.

SENATOR CLARK: Before I call on Senator Johnson to close, I would like to announce there are 80 fourth grade students and 15 adults from Carriage Hill Elementary School, Papillion. Miss Nickerson, there, Mrs. Luhrs, Mrs. Golding and Miss Hopewell are the teachers. They are in the north balcony. Would you hold up your hands so we can recognize you. Welcome to the Legislature. Senator Johnson, do you wish to close?

SENATOR V. JOHNSON: Mr. Speaker and members of the body, Senator Maresh asked me to explain on closing that to the extent the attorney's fee is removed from the Employment

May 8, 1981

LB 39<sup>4</sup>

Security Administration Fund which I believe is where it would come from under this amendment, which incidentally now can allow some fees in special cases, though the Director of the Department of Labor has never indicated what a special case is, that that fund is in part federally funded but also in the main employer funded. So in the end some of that money will come from that general pool of employer monies that are out there. Now the real question is, why should an attorney's fee even be paid? Senator Landis has suggested that, well, maybe this could be used I suppose to feather the nest of the Legal Aid lawyers and Legal Aid Societies that take these cases. Actually, very few of these cases are handled by Legal Aid lawyers and Legal Aid Societies. Frankly, there are very few of these cases that percolate through the District and Supreme Court, mostly because the money involved, i.e. weekly benefits for 8 weeks or 10 weeks, or what have you, is very small. But when those cases do percolate through the court, whether they be employer cases or claimant cases because the employer or the claimant is taking an appeal from what was an adverse state decision, it is only fit and proper in my opinion for the state through the Employment Security Administration Fund to foot the bill for the costs in vindicating statutory rights. I think this is a concept that this body is being asked to approve in LB 192. It is not out of keeping with that concept. I think it ought to be a part of this measure, and again I move this amendment to the bill.

SENATOR CLARK: The question before the House is the amendment as explained by Senator Johnson. All those in favor vote aye. All those opposed vote no. Voting no.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more have you all voted? Record the vote. Call of the House has been requested. All those in favor of a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 11 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All legislators will return to their seats and check in, please. All unauthorized personnel will leave the floor. Will all legislators return to their seats. They are scattered all over the floor. We are looking for Senator Koch, Senator Cope, Senator Schmit, Senator Johnson, Senator DeCamp. How many are excused? There are seven excused. Senator Hoagland. Senator Hoagland we are looking for. We need a

May 8, 1981

LR 168  
LB 394

couple of detectives to find Senator Hoagland. Senator Marsh. We need Senator Shirley Marsh. She is not excused. Call the roll. All Senators will return to their seats. We won't call the roll until they are in their seats. (Gavel). Senator Beutler, Senator Cullan, stop hiding back there, I see you. Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: Mr. Chairman, Senator Cullan is in his seat. He is just sitting down.

SENATOR CLARK: Call the roll.

CLERK: (Read the roll call vote as found on page 1882 of the Legislative Journal.)

SENATOR CLARK: (Gavel). Can we have a little quiet, the Clerk must verify the count.

CLERK: Mr. President, I would like to verify the vote, if I may. (Read the roll call vote as found on page 1882 of the Legislative Journal.) 24 ayes, 13 nays, Mr. President.

SENATOR CLARK: The motion failed. Do you have anything further on the bill?

CLERK: Mr. President, I have....

SENATOR CLARK: The call is raised.

CLERK: Senator Newell had amendments I understand he wishes to withdraw.

SENATOR CLARK: All right.

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

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 394 to E & R for Engrossment.

SENATOR CLARK: You heard the motion. All those in favor say aye. Opposed. The bill is advanced. LB 499.

CLERK: Mr. President, if I may right before that, I have some study resolutions. LR 168 by Senator Koch calls for a study exploring the feasibility of providing potential funding for various public elementary and secondary education needs through a statutory enactment of punitive damages.

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 326, 394, 411

specific amendment. All in favor of that motion vote aye, opposed vote no. The motion is to return as specified by Senator Kremer. Record the vote.

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

SPEAKER MARVEL: The bill is returned. Now, Senator Kremer, do you wish to adopt the motion?

SENATOR KREMER: (inaudible).

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

CLERK: 29 ayes, 0 nays, on the adoption of the Hoagland-Kremer amendment, Mr. President.

SPEAKER MARVEL: The motion is carried, the amendment is adopted. Now the motion is to rerefer the bill. All those in favor say aye, opposed no. The motion is carried the bill is rereferred. The next bill on Final Reading LB 394. The Clerk will read.

CLERK: Read LB 394 on Final Reading.

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass. Those in favor vote aye, opposed vote no. LB 394 on Final Reading. Have you all voted? Senator Maresh. Okay, record your presence please. Senator Schmit, Senator Lowell Johnson, Senator DeCamp, Senator Labedz, Senator Higgins. There are two absent Senator Maresh, Senator DeCamp and Senator Schmit. Okay, proceed with the roll call.

CLERK: Roll call vote. 22 ayes, 18 nays, 3 excused and not voting, 6 present and not voting. Vote appears on page 2103 of the Legislative Journal.

SPEAKER MARVEL: The motion fails. The next bill is LB 411.

CLERK: Mr. President, I have a motion on the desk. Senator Sieck moves to return LB 411 to Select File for a specific amendment. The amendment is on page 1982 of the Journal.

SPEAKER MARVEL: The Chair recognizes Senator Sieck.

May 19, 1981

LB 321, 364, 394

vote aye, opposed vote no. Record.

CLERK: 26 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: All legislators are to be in their seats. You will record your presence. Senator Fenger, Senator Cullan, Senator Schmit, no, he is excused, Senator Lamb, Senator Hefner, Senator Vickers, Senator Chambers, Senator VonMinden. Senator Koch, everybody is accounted for except Senator Chambers. We have two absent. Okay, call the roll.

CLERK: (Read roll call vote found on page 2121 of the Legislative Journal.) 30 ayes, 15 nays, Mr. President, on the motion to advance.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The Clerk has some items to read into the record and then I have got an announcement to make.

CLERK: Mr. President, Senator Kremer would like to print amendments to LB 364. (See pages 2121-2122 of the Journal.)

Mr. President, Senator Johnson would move to reconsider the body's action in failing to pass LB 394 on Final Reading.

Mr. President, Senator Vard Johnson and Fowler move to override the Governor's line item veto of Program No. 305 relating to Local Transit Authorities. That is all that I have.

SPEAKER MARVEL: Is that all? We are going to talk about the work that we have yet to do in the session and this starts tomorrow so it is a short paragraph. I will read it. "Select File will be worked tomorrow which is Wednesday. The order will be changed from the work sheet order, that is priority bills will be handled first. Actual order will be Select File, A bills, an Appropriation bills, priority bills, special order bills, all other bills, namely bills advanced from consent calendar and the final item is that we possibly may go into the evening session if we can't somehow or other make a little more progress than we have in the last few hours. Thursday we will handle Select File again and then go back to General File on Friday." And if we are lucky and if we have cooperation we may get our work done before we adjourn sine die. Tomorrow morning we start at nine o'clock because the Exec Board has an important meeting at eight o'clock. Senator Nichol, do you want to adjourn us until nine o'clock? What is the matter? Senator Clark.

SENATOR CLARK: Mr. President, I just wonder if there is time to get anything off of General File on Friday. We would never be able to get it across, would we?



May 21, 1981

LB 234, 394

CLERK: 27 ayes, 7 nays Mr. President on the adoption of the DeCamp amendment.

SENATOR NICHOL: All those in favor of advancing the bill please say aye, opposed nay. . . A machine vote has been requested. All those in favor push your button. Record.

CLERK: 34 ayes, 4 nays Mr. President on the motion to readvance the bill.

SENATOR NICHOL: We will go on to 394, Senator Vard Johnson.

CLERK: Mr. President, Senator. . .first of all Mr. President, Senator Johnson moves to reconsider the action in failing to pass LB 394 on Final Reading.

SENATOR NICHOL: Senator Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I had to do a little court case in Omaha, I believe Tuesday, when this bill was heard on Final Reading and when I got down to the Legislature at noon, Senator Maresh who of course sits right behind me and who was one of the sponsors of the bill said that a terrible thing had happened, that this bill had failed to move on Final Reading. He couldn't understand it because it was a sound bill. I said, well I wasn't here Dick so I will file a motion to reconsider and we will see if we can get the thirty votes and get the bill readvanced. A couple of hours later Senator Maresh said, well Vard he said, I would like to have that bill reconsidered but when it is reconsidered and brought back I want to strip out a section of the bill. I said, well Senator Maresh, I said Senator Maresh, I happen to like the bill as it was. I don't want any section stripped out, so I am going to remove my....or withdraw my motion to reconsider. I said in the meantime you had better get your own motion up to reconsider, because you are still within time. I think Senator Maresh has done it, but, Senator Maresh isn't here this afternoon to carry his own motion to reconsider. I think Senator Hefner will carry it for him. In the meantime, I ask unanimous consent of this body, so I can withdraw my motion to reconsider.

SENATOR NICHOL: No objection, so ordered. Mr. Clerk I will wait until I say that. The motion is withdrawn. We will move on to LB 529.

May 22, 1981

LB 213, 234, 243, 16, 318,  
394, 472, 506, 506A

CLERK: Mr. President, Senator Maresh would move to reconsider the body's action in their failure to pass LB 394 on Final Reading. That will be laid over.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor at 2:10 p.m. the bills that we read on Final Reading this morning. (Re. LB 316, 506, 506A, 472.)

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 213 and find the same correctly engrossed; 234 correctly engrossed; 318 correctly engrossed, all signed, Senator Kilgarin.

SPEAKER MARVEL: Senator Schmit, for what purpose do you arise?

SENATOR SCHMIT: Mr. President, have we had the reading of the vote yet? Have you read those who have voted?

SPEAKER MARVEL: Sorry. Say it again.

SENATOR SCHMIT: Has the Clerk read the report of those who have voted yet?

SPEAKER MARVEL: Yes.

SENATOR SCHMIT: Did you read the names? I'm sorry if I missed it.

SPEAKER MARVEL: Which names are you talking about? You mean a roll call vote? I don't understand your question.

SENATOR SCHMIT: Well the usual procedure I believe is to read those who have voted aye and those who have voted nay. As I understand, Senator Warner indicated that he had voted aye and he is not recorded as having voted and I would like to have the record read as we usually do.

SPEAKER MARVEL: Mr. Clerk, do you have the record?

CLERK: Mr. President, the vote on the advancement of 243 was as follows: (Read record vote again as found on page 2224 of the Legislative Journal.)

SPEAKER MARVEL: Senator Warner, for what purpose do you arise?

SENATOR WARNER: Mr. President, is it in order for me to move to reconsider as shown as having not voted? Pat could