

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.

LB 253, 89A, 243, 262,
291, 295, 330, 333,
408, 422, 433, 496

February 26, 1981

CLERK: Mr. President, new A bill, LB 89A, offered by Senator Marsh. (Read.)

Senator Kremer would like to give notice of cancellation of public hearing scheduled for LB 408 next Thursday.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit reports 333 to General File; 243 to General File with amendments; 253 General File with amendments; 291 General File with amendments, (Signed) Senator Schmit. (See page 676 of the Journal.)

Your committee on Banking whose chairman is Senator DeCamp reports LB 330 to General File with amendments.

Your committee on Public Health whose chairman is Senator Cullan reports 262 indefinitely postponed; 295 indefinitely postponed; 422 indefinitely postponed; 433 indefinitely postponed and 496 indefinitely postponed, (Signed) Senator Cullan. (See page 676 of the Legislative Journal.)

Mr. President, Senator Lamb wants to have a meeting of the Executive Board tomorrow morning at eight o'clock in Room 2102, the Executive Board tomorrow morning at eight o'clock, in 2102.

Senator Koch asks to be excused, Friday, February 27th.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, we are ready for item #5, Select File. You will note that there is a designation of one hour and then we will move to item #6 which has to do with reconsideration of LB 143. Okay, Mr. Clerk.

February 5, 1982

LB 454, 408, 628, 353,
LR 216, 217, 218

SPEAKER MARVEL: Senator Carsten has closed, we will now vote on the advancement of the bill. All those in favor of advancing the bill vote aye, opposed vote no.

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

SPEAKER MARVEL: The bill is advanced. Clerk has some items on the desk before. . .and after that we will attempt to try to move some bills.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 408 in the Journal. (See pages 571-572).

Mr. President, Senator Howard Peterson would like to print amendments to 628, Senator Fowler to 267 and Senator Nichol to 353. (See pages 572-74).

I have a report of registered lobbyists for January 29th through February 4th. That will be inserted in the Journal. (Page 574).

Committee on Government, Military and Veterans Affairs give notice of cancellation and resetting of public hearings.

Mr. President, I have three new resolutions, LR 216 offered by Senator Cullan, (Read LR 216). That will be laid over. LR 217 by Senator Koch, (Read LR 217). LR 218 by Senator Peterson and Senator Hefner (Read LR 218). That too will be laid over Mr. President.

SPEAKER MARVEL: Okay, I would like to give you a list of bills and then we will proceed to attempt to implement. 402, 525, 255, 255A, 435, 589, 115, 115A, 440, 314, 131, 287, 649, 571, 598, 646. Senator Beutler, your light is on.

SENATOR BEUTLER: Mr. Speaker, I think I would like to make a comment on this procedure. I don't know if others operate the same way I do but, when I come in each day I normally look at the ones on the top of the list first on the assumption that we will be dealing with those and in that manner I can prepare for the day. When we skip around like this and we go down to the bottom of a list it seems like I am often caught unprepared and the result of that, I think, is that I end up occasionally on Final Reading suggesting amendments to bills and I'm sure that others are doing this. I'm not sure in the long run, Mr. Speaker, whether there is anything

February 22, 1982

LB 408, 646, 649, 685,
LB 590A, 694, 740

SENATOR NICHOL: We're looking for Senator Cullan, Schmit. Senator Chambers, will you check in please.

CLERK: Senator Marsh voting yes.

SENATOR NICHOL: Senator Kilgarin, we're missing Senator Marvel and Senator Schmit. Do you want to continue or do you want to wait until they are here? We are under Call so you should be in your seats, please. Senator Schmit, are you on your way?

CLERK: Senator Marvel voting yes.

SENATOR NICHOL: Record the vote, Mr. Clerk.

CLERK: 25 ayes, 15 nays, Mr. President, on the motion to advance the A bill.

SENATOR NICHOL: The Call is raised and the bill is advanced.

CLERK: Mr. President, while we're waiting I have some items to read in. Your committee on Public Works whose chairman is Senator Kremer instructs me to report LB 408 advance to General File with committee amendments attached. And LB 694 advance to General File with committee amendments attached, both signed by Senator Beutler as Vice Chair. (See pages 796-802 of the Legislative Journal.)

Mr. President, your committee on Revenue whose chairman is Senator Carsten instructs me to report LB 740 advance to General File with committee amendments attached.

Mr. President, your Enrolling Clerk has presented to the Governor LB 646 and 649. (See page 803 of the Journal.)

The Education Committee would like to have an executive session immediately following their public hearing this afternoon. That is the Education Committee after their public hearing.

LB 685 is reported to Select File, Mr. President. (Page 803.)

Mr. President, a new resolution, LR 228 offered by Senators Labeledz and Wiitala. (Read. See page 803-804 of the Legislative Journal.)

SENATOR NICHOL: Members of the Legislature, Senator Shirley Marsh has some very special guests. I've asked her to please introduce you to them and she will do that at this time.

February 25, 1982

LB 215, 304, 353, 408, 431,
608, 641, 653, 688, 702,
852, 873, 896, 938, 953, 969

if it readvances we will be done with the issue for the day. To reacquaint the members, this is where we allow... the District Court does not appeal the issue of whether or not it is the appropriate forum on child termination cases as described earlier in today's session.

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

CLERK: 39 ayes, 0 nays on the motion to adopt the amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Okay, the motion is to readvance the bill to E & R for Engrossment. All in favor of that motion say aye. Opposed no. The motion is carried. The bill is readvanced. Senator Nichol has a meeting underneath the south balcony, and the Clerk has several items to read in- to the record.

CLERK: Mr. President, Senator Newell would like to print amendments to 702 in the Journal. (See pages 879 and 880 of the Journal.) Sena'or Beutler to print amendments to LB 852. (See pages 878 and 879 of the Journal.) Notice of hearing from Public Works for LB 969 set for Thursday, March 4. Your committee on Education whose Chairman is Senator Koch reports 653 advanced to General File with committee amendments attached; 688 General File with committee amendments attached; 896 General File with committee amendments attached; 938 General File with committee amendments attached, and 641 indefinitely postponed. (See pages 873. (See pages 873 and 874 of the Legislative Journal.) Your Enrolling Clerk has presented the bills passed on Final Reading this morning to the Governor. LB 608 offered, by the Public Works Committee has been advanced to General File. Senator Chambers would like to print amendments to LB 408. (See pages 875 and 876 of the Journal.) The Ag and Environment Committee reports LB 953 advanced to General File with committee amendments attached. (See page 876 and 877 of the Journal.)

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 304, re-engrossed LB 353, re-engrossed LB 431. This announcement from the Nebraska Livestock Feeders Luncheon at the Airport Inn. Transportation for those who have made reservations will be at the west entrance. Senator Marsh, do you want to adjourn us to

March 5, 1982

LR 240
LB 890, 408

SENATOR HIGGINS: I probably would if I knew it was going to cost me \$20, but in other words if an elderly person files and they don't put in their school district to get their sales tax refund even though they are not going to pay an income tax, they will get notified, you have got to tell us what your school district is.

SENATOR KOCH: Right. They will notify them and they can do that by phone. They can give the number right there can't they?

SENATOR HIGGINS: If they know it. I would put mine down if I knew it.

SENATOR KOCH: In your case, just put OPS, we all know what that is. That is District #1.

SENATOR HIGGINS: Okay, Senator.

SENATOR CLARK: Senator Schmit. Senator Vickers, do you want to close on the advancement? All right, the question before the House is the advancement of 890. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

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

SENATOR CLARK: Have you got something to read in, Pat?

CLERK: Very quickly, Mr. President. Senator Kahle again would like to have a meeting of the Government, Military and Veterans Affairs Committee underneath the north balcony upon adjournment. That is the Government Committee underneath the north balcony. Mr. President, Senator Kremer would like to print amendments to LB 408 in the Journal. (See pages 1027 through 1032 of the Journal.) And Senators Koch and Vickers would like to withdraw their names as co-sponsors to LR 240.

SENATOR CLARK: No objection, so ordered.

CLERK: That is all that I have, Mr. President.

SENATOR CLARK: Senator Wagner, would you like to adjourn us until 9:30 on Monday.

SENATOR WAGNER: Mr. Speaker, I move that we adjourn Monday until 9:30.

SENATOR CLARK: You heard the motion, all those in favor say aye. Opposed. We are adjourned until 9:30 Monday morning.

Edited by: Marilyn Zank
Marilyn Zank

8393

March 16, 1982

LB 688, 408, 835, 896

SENATOR CLARK: The House is under Call. All senators will return to their seats. All unauthorized personnel will leave the floor. All senators will be in their seats, please. Sergeant at Arms, will you get all senators into their seats, please. Everyone record in. Senator DeCamp, Senator Peterson, Senator Johnson, all record in, please. We're looking for Senator Schmit. Is Senator Kremer excused? Do you want to go some place, Senator Newell? Not yet, we're going to get everyone in their seats first. Senator Hoagland. Senator Wesely, did you want to take call in votes?

SENATOR WESELY: Yes, please.

SENATOR CLARK: Alright, call in votes will be accepted now.

CLERK: Senator Dworak voting yes. Senator Goodrich voting yes. Senator Duda voting yes. Senator Lowell Johnson voting yes. Senator Newell voting yes. Senator Marsh voting yes. Senator VonMinden voting yes. Senator Hoagland voting yes.

SENATOR CLARK: Record the vote.

CLERK: 26 ayes, 9 nays, Mr. President, on motion to advance the bill.

SENATOR CLARK: The bill is advanced. We will now go to 896.

CLERK: Mr. President, right before that if I may, Senator Chambers would like to print amendments to LB 408 in the Journal; Senator Schmit to print amendments to LB 835. (See pages 1193-1196 of the Legislative Journal.)

Mr. President, LB 896 is a bill introduced by Senator Koch. (Read.) The bill was read on January 19, referred to the Education Committee. The bill was advanced to General File, Mr. President. There are Education Committee amendments pending.

SENATOR CLARK: On the committee amendment, Senator Koch.

SENATOR KOCH: Mr. Chairman, I move the adoption of the committee amendments.

SENATOR CLARK: Did you want to explain them?

SENATOR KOCH: I'll explain them when they are adopted.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Is there any reason why we can't have the committee amendments explained now?

March 16, 1982

LR 229
LB 591, 408, 694, 787

tion because the Legislature made this policy determination a year ago and I'm willing to accept this if, in fact, it is genuine. I ask this body, however, to give me a reading of that by the votes on this amendment. If you support this concept and intend to support the bill, I'll wait and I'll watch and if there are 24 of you that are willing to stand by this concept and to give this treatment across the board, I'll be your 25th vote but I won't do this if what you try to do is har this bill to death.

SENATOR CLARK: The agenda says that at three o'clock we go to the resolutions so we'll go to the resolutions now and after the resolutions if we have time we'll come back right where we left off. The first resolution is LR 229. Pardon? Yes, I am.

CLERK: Mr. President, if I may...(interruption.)

SENATOR CLARK: I've only got nine speakers on that.

CLERK: ...quickly, Senator Nichol would like to print amendments to LB 787, Senator Kremer to LB 408, Senator Kremer to LB 694 and Senator Kilgarin to LB 787. (See pages 1201-1203 of the Legislative Journal.)

Mr. President, LR 229 offered by Senators Beutler, Higgins, Kilgarin, Wesely, Wiitala, Fowler, Burrows, Rumery and Labeledz is found on page 822 of the Legislative Journal. (Read LR 229.)

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, I'd be glad to introduce the resolution. I know there is several cosponsors and I'd be glad to let one of them have the opportunity to close. LR 229 is introduced to express some concern of this Legislature with regards to the current decisions to be made with regards to the federal deficit in the tax program in Washington. Legislators may recall that last May towards the end of the session there was a resolution with twenty-eight sponsors dealing with support for what was named the Economic Recovery Program and that that resolution passed with few dissents although there were some voices questioning whether or not, in fact, that should be accepted as quickly as this Legislature adopted it. Now we've had time as a nation and as a Legislature to evaluate the impact of this Economic Recovery Program and I would say as one observer that, in fact, the impact has been very damaging, has not succeeded. I would indicate that there were those on this floor who raised questions last year that not all the information was in and that we should not be quick to endorse it. Among

March 29, 1982

LB 208, 408

SENATOR CLARK: Record the vote.

CLERK: 20 ayes, 20 nays, Mr. President, on the motion to reconsider and suspend the rules.

SENATOR CLARK: The motion lost. Senator Koch.

SENATOR KOCH: For what I have committed myself to it, at least it should be a matter of a record vote in the Journal. I think some people committed themselves other ways or my way.

CLERK: Mr. President, a record vote has been requested. (Read the record vote as found on page 1455 of the Legislative Journal.) 23 ayes, 19 nays, Mr. President.

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

SENATOR HABERMAN: Point of order, Mr. President.

SENATOR CLARK: Pardon?

SENATOR HABERMAN: A point of order.

SENATOR CLARK: What is the point of order?

SENATOR HABERMAN: Information, sir. Did the Governor return this bill?

SENATOR CLARK: We asked him to return it and he returned the bill.

SENATOR HABERMAN: And now what happens to the bill?

SENATOR CLARK: He is going to deliver it back to the Governor.

SENATOR HABERMAN: Okay, thank you.

SENATOR CLARK: We will now take up 408.

CLERK: Mr. President, LB 408 was a bill offered by Senator John DeCamp. (Read title.) The bill was read on January 20th of last year. At that time it was referred to the Public Works Committee. The bill was advanced to General File, Mr. President. There are Public Works Committee amendments pending.

SENATOR CLARK: Senator Kremer on the committee amendments.

March 29, 1982

LB 408

SENATOR KREMER: Mr. Chairman, when the Public Works Committee heard this bill we heard it in really a new draft and the new draft we heard it in this way. It does allow for testing under the jurisdiction of the Department of Roads with respect to overweight, overwidth and overlength vehicles. Many of the senators knew about this. Although the statement of intent was not changed it should have been. But what the bill that we are discussing now provides for a testing under the jurisdiction of the Department of Roads with respect to overweight and overlength vehicles. That is what the bill does. Now the amendment adopted by the committee was this. That language had to be put in to see that it would not jeopardize federal funds. That is the amendment. So I move now the adoption of the amendment. It merely provides that the federal funds would not be jeopardized because of overweight. I move the adoption of the amendment.

SENATOR CLARK: Senator Cullan on the adoption of the committee amendments.

SENATOR CULLAN: Mr. President and members of the Legislature, Senator Kremer, I read this bill, the green copy, and from reading the green copy I don't see what the bill is originally designed to do. I think I understand your committee amendments but the committee amendments appear to involve much more than a mere change as to results of a testing program. The committee amendments in effect are a rewrite of the entire bill and I don't understand at all what the bill in its original form was about or what it does, and before I know whether I want to change that I have to know what the green copy was about. I can't tell that from reading it.

SENATOR KREMER: Okay, Senator Cullan, I will take a shot at it. As originally drafted, LB 408 would eliminate the requirement for special oversized load permits from the Department of Roads, that the load be reduced and disassembled to the smallest size possible. Granting of such permits would remain completely discretionary with the Department. If the proposed amendment appearing in the 1982 Journal on page 571 is adopted, this restriction would be left exactly as it is and a whole new section outlining the new grounds for granting an oversized load permit would be added. This Department would be able to issue special permits to test. Now we are getting into the testing part of it. So we leave the law exactly as it was but it would allow a testing program under the jurisdiction again of the Department of Roads and that is

the difference in the two and I say there should have been a new statement of intent submitted and should have been in your books. It was not. It is unfortunate but I have explained exactly what the bill does in its present form.

SENATOR CULLAN: Thank you, Senator Kremer. I guess one more question. Then as I understand it in the original bill and, Senator Kremer, if you could correct me if I am wrong, in the original bill it had something to do with taking loads and eliminating the requirement that you had to take loads and break them down. Is that accurate? That is accurate. And the new bill has nothing to do with that. The new bill and the committee amendments have to do with the testing program. Is that accurate?

SENATOR KREMER: The new bill has to do with the testing program, that is right.

SENATOR CULLAN: But it has nothing to do with the bill as it was introduced?

SENATOR KREMER: It is a new section. It has a new section and the old part of the bill leaves the permit system under the Department of Roads exactly as it was.

SENATOR CULLAN: Okay, thank you, Senator Kremer. Mr. President and members of the Legislature, I think I understand now from Senator Kremer's explanation of what is going on and I would like to ask for a ruling from the Chair as to the germaneness of the committee amendments. The initial bill had to do with breaking down, as Senator Kremer indicated, had to do with breaking down loads and moving them and now the committee amendments have to do with the testing program that is not...as Senator Kremer indicated, already has nothing to do with the original bill. So I would ask the Chair for a ruling as to the germaneness of the committee amendments to original LB 408.

SENATOR CLARK: I would have to rule them germane because they are in the same section.

SENATOR CULLAN: Okay, thank you.

SENATOR CLARK: Senator Chambers. Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, the germaneness question is appropriate to ask and I do understand though that probably it is germane so I would support the ruling of the Chair. Nevertheless, there are a lot of questions that still need to be raised about these amendments but in the end you will find that I will support

March 29, 1982

LB 408

the amendments to the bill but let me go through those and then let me explain why I think we still need to amend the bill. The handout that I just sent around to you goes through the language of the amendments the committee is proposing at this time. Everybody on their desks should have a copy of this. It is just a one page handout and it has LB 408 at the top. It has there the language the committee has adopted and which is now before you on this vote. Now I would like to go through it point by point as it is in your handout and explain why there are some questions in this language that I think ought to be addressed. Number one, we talk about the Department of Roads at its discretion developing this testing program. It is quite clear as you read through the committee amendments that the Department of Roads has broad discretion in terms of establishing this program and you will find after you read this amendment to the bill that there really is very little restriction whatsoever or direction whatsoever to the Department as to how they should conduct this test program we are talking about and what exactly their authority is. The next item that I am concerned about is the question about what exactly we are applying this to, getting back to the discretion we are talking about. It doesn't say that it is just on the interstate highway system although it has been implied in conversations. In fact, this amendment to the bill just says on highways under the jurisdiction of the Roads Department. That could be the interstate, it could be our highways, it could be any roads in the State of Nebraska under my interpretation of that language. So again, no clear discretion as to what we are allowing the Roads Department to do or not to do. The next question I have with the amendments concerns exactly what sort of combination of vehicles we are talking about. It doesn't say that it is triple trailers although the implication from the discussion was that triple trailers are what we are trying to test for. It doesn't say that. All it says is a combination of vehicles. That could be triple trailers, it could be four, it could be five, it could be any number and it doesn't again specify whether it is interstate or two lane highways. The next item that I am concerned about concerns what exactly we are lifting in terms of restrictions on this testing program. It says that there really isn't any restriction. It doesn't refer to just length, size. It doesn't specify whether weight is lifted in terms of its restrictions. It is not clear at all that the eighty thousand pounds that we now limit trucks to in the State of Nebraska is necessarily intact or whether it could be adjusted by the Roads Department. I would think that they wouldn't do that because of the federal reaction but, nevertheless, it is not in the amendment or in the statute. Next again what we are talking about..... (interruption)

March 29, 1982

LB 408

SENATOR CLARK: For what purpose do you arise, Senator Kremer?

SENATOR KREMER: Mr. Chairman, a point of order.

SENATOR CLARK: Yes.

SENATOR KREMER: We are talking about a simple amendment that says we are just trying to provide an amendment that would not jeopardize federal funds. That is all we are talking about. We are not talking about the bill.

SENATOR CLARK: Well I think the bill is a rewrite of the ...or the committee amendments are a rewrite of the bill, aren't they, Senator Kremer?

SENATOR KREMER: We are talking about the amendment I proposed.

SENATOR CLARK: Aren't the amendments a rewrite of the bill?

SENATOR KREMER: Not as they came out of committee. The committee amendments were adopted in the committee. This is a new hearing this year, this is an old bill carried over from a year ago and we are talking about a new bill. All we are doing here in my amendment was to see that federal funds were not jeopardized. That is the point I am trying to make, Mr. Chairman.

SENATOR CLARK: All right, it is sustained.

SENATOR WESELY: Thank you. Mr. President, I understand the concern of Senator Kremer but, in fact, the committee amendments are the bill and I think we ought to talk about the committee amendments and I think they do more than just make this bill supposedly follow federal guidelines. I think that they deal with a broad range of discretions, authority that we provide to the Roads Department that we ought to ask ourselves some questions about it at the time that we adopt them. The last couple of items that I think are of concern, again, is the intent of the Legislature providing the Roads Department a very broad authority. The last line here reads, because of the impossibility of foreseeing all possible changes and conditions that will occur, it is the intent of the Legislature that the Department of Roads have the widest possible latitude in establishing programs consistent with the stated objectives of this paragraph, the widest possible latitude. Now I really question whether or not we have the authority under our Constitution to delegate legislative responsibility in this sort of broad fashion. I really question the constitutionality

of this amendment and this language and if this amendment is adopted and the bill is advanced I would ask for an Attorney General's opinion about it. But what I am trying to ...

SENATOR CLARK: You have one minute, Senator Wesely.

SENATOR WESELY: Thank you, Senator Clark. What I am trying to tell you is that there are a number of problems with this language and with this amendment but I ask you at this point to support it and the reason that I do that is because it is better than a bill which is even worse. The bill as it is presently constituted would jeopardize nearly \$20 million in federal funds. That is clear from the fiscal note that is on the original bill so we do need to amend that bill but the amendments are certainly no answer to some of the concerns that some of us have about this proposal and there are many concerns that you can see for yourself in reading the language that I think need to still be addressed. I will do that at a later point but I wanted to point this out at the time we amend the bill. The committee amendments cause a lot of problems but they are better than what the bill would have caused in terms of the extensive loss of federal funds.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, I rise to support the committee amendments. I sit on the Public Works Committee. Senator Wesely sits on the Public Works Committee and he was the only member voting against placing the bill on the floor. The federal funds are not jeopardized at all and due to an editorial in a Lincoln paper recently, obviously there has been inferences that this bill is sneaking along or whatever word you want to use with very little public attention. That is not accurate either. I remind you also it does not give that department the widest latitude in terms of what we are going to allow to be carried out in terms of testing. We are talking about the maximum load. I don't care how many axles you put it on it is still the maximum pounds. So I would suggest that what Senator Wesely is attempting to do is to merely confuse the body. I am familiar and I saw a movie of the western highways that has been carried on for over twenty-four years where they test vehicles of this type because it is part of interstate commerce and I suggest to you that with the economies of this nation as they are that possibly it is to our best advantage to start thinking about how we can help the industry to better accomplish the carrying of freight at the cheapest possible advantage to those of us who end up paying for it anyway. In addition to this you notice that the fees are going to be paid for by those who are going

to request the testing to be taking place. So I see no problem with this amendment. I think it is a clarifying amendment and I think it is appropriate. I think we should adopt this amendment and get down to the discussion of the issue whether or not we want to accept the amendment as a part of the bill and discuss other issues at a later time. I move for the adoption of the committee amendment, along with Senator Kremer.

SENATOR CLARK: Senator Cullan, on the committee amendments.

SENATOR CULLAN: Mr. President and members of the Legislature, I think the committee amendments are, in fact, quite substantive. I think they are dramatically different from the bill although to the truckers I suppose they have the same goal in mind and that is of allowing larger and bigger trucks on the roads of the State of Nebraska but a part of my concern about the committee amendments initially is that it gives a great deal of discretion to the Department of Roads in what to authorize and if you look specifically at the committee amendments and Senator Koch talked about weights, but if you read the committee amendments, and that is what we must do, Senator Koch. We can't simply rely on what people tell us. But it says the Department of Roads at its discretion may establish testing programs under special permit procedure, utilize highways under its jurisdiction to operate or move a vehicle or combination of vehicles or objects that exceeds the maximum specified by law. It doesn't say maximum length. It doesn't say maximum weight. It says maximum. And the way I would read that that means both, maximum weight and maximum length or any other maximums that are in state law. And so what this bill does, in my opinion, from a very simple reading of it is to allow trucks of any length, allow trucks of any weight, to be moved on any road in the State of Nebraska. Now the article that was mentioned this morning or that was mentioned earlier in the newspaper indicated that the trucking industry said, well this will only be on the interstate and this only applies to length. Well that may be what the lobbyist for the trucking industry says, ladies and gentlemen, but it is not what the bill says. The bill says maximum and that means weight and length and I don't think we need to allow heavier or longer vehicles on the roads in the State of Nebraska. But how can we delegate these decisions on the rules of the road to the Department of Roads? Aren't we going to control the roads of the State of Nebraska from the Legislature any more? Are we simply going to turn it over to the Department of Roads? That is the way the original bill was drafted and I think that is really the ultimate intent behind LB 408. I think that we should reject the committee amendments and we should indefinitely postpone the bill, but read those committee amendments. It says maximum. It doesn't say

March 29, 1982

LB 408, 755, 756, 933

restrict weights and it doesn't restrict length. It doesn't restrict three trailers or any number of trailers under the way this bill has been drawn. So I guess I think if the concern is a testing program for triple trailers and the concern is not to increase weights, well that is what the bill should do but that is not what the bill does do. The bill allows weights and lengths and it leaves all that discretion in the Department of Roads. I, for one, think our roads in the State of Nebraska are so bad today that we ought not do anything that would even potentially damage the roads in the state further and I will have some more information and some more comments about that later and what trucks in the state are costing us today and how much we are already subsidizing the trucking industry in the state by constructing roads and all the taxpayers, particularly those who drive cars and pickups and other vehicles are paying to already subsidize the trucking industry. I don't think we ought to give this kind of discretion to the Department of Roads. I urge you to vote against the committee amendment and to vote against the bill.

SENATOR CLARK: We are going to stop right here and take up the three bills that we have at four o'clock on Select File. Then if we have time after that before then at four-thirty we will come back to the bill. Senator Kilgarin, we are going to take up Select File, LB 755 first.

CLERK: No E & R, Senator.

SENATOR KILGARIN: I move we advance LB 755.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. 756.

SENATOR KILGARIN: I move we advance LB 756.

SENATOR CLARK: You have heard that motion. All those in favor say aye, opposed. The bill is advanced. LB 933.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 933.

SENATOR CLARK: The motion is to adopt the E & R amendments to 933. All those in favor say aye, opposed. The E & R amendments are adopted. Now the advancement.

SENATOR KILGARIN: I move we advance LB 933.

SENATOR CLARK: You heard that motion. All those in favor

say aye, opposed. The bill is advanced. Now we will go back to 408. Senator Schmit is the next speaker on that bill.

SENATOR SCHMIT: Mr. President and members of the Legislature, Senator Cullan says we should not do anything that would increase the load upon our highways at this time. Well I would suggest that if the Burlington Motor will go back to running between Bellwood and Lincoln I will hop on it every morning and ride it down and I will ride it back home at night but the simple facts of life, Senator Cullan, are that we do not have rail transportation in a great many portions of the state. We have no recourse except to depend upon the trucks. Trucks have provided access to markets for hundreds of thousands of persons and industries and businesses in the State of Nebraska and we have got to find some way to provide better access to those markets, better access to those businesses who are frankly going to suffer very much in those areas that do not happen to live upon the main lines of the railroad. Railroads have made a good business out of moving coal and to a certain extent, grain, but there are many, many areas of the state that cannot rely upon that. We need to find out if there is a better method for moving transportation by truck. If so, then we ought to use it. I guess Senator Wesely, who is deeply concerned about saving of energy, ought to be one of the persons most adamantly in favor of anything that would save energy. There is reason to believe that this kind of a combination, if it proves to be safe and proves to be reliable, could save 45% of the energy that is involved in moving trucks transportation. I recognize there are still some limitations. We all do. But I think that the Kremer amendments are reasonable amendments. In regards to whether or not they are germane I just want to say that the subject matter is what determines germaneness. There have been bills here which have not involved the same chapters but have nonetheless been declared germane. The subject matter is germane. We ought to consider it. We ought to look at it from the standpoint of what is best for the entire State of Nebraska, not just what is best for a small area or a small section or one particular industry. We recognize there is a matter of competition between various modes of transportation and that is good. We have talked about it a great deal, about the benefits of competition on this floor. I think that we ought to take a look at this. If it proves to be worthwhile we can go ahead and adopt something more definitive and I think that the Kremer amendments are worthwhile amendments. We ought to vote for them. We ought to adopt them and we ought to advance the bill.

March 29, 1982

LB 408

SENATOR CLARK: Senator Kremer, do you wish to close on the committee amendments? Oh, pardon me, Senator Beyer's is on. Do you want to talk, Senator Beyer? All right, go ahead on the committee amendments.

SENATOR KREMER: Mr. Chairman, very briefly, what we are trying to do here is a new section to LB 404 that provides for a testing program and it provides the federal funds that could have been involved if we would have overloaded the regulation provided by the federal government on our federal highways. The Department of Roads will not, in any way, provide for anything that would jeopardize federal funds. That is what we are trying to do in this amendment I am proposing so again, I move for the adoption of the committee amendments.

SENATOR CLARK: All those in favor of the committee amendments will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on the adoption of the committee amendments? We are adopting the committee amendments. Record the vote.

CLERK: 25 ayes, 5 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. Now on the bill. Senator Kremer.

SENATOR KREMER: Mr. Chairman, I think there is other amendments on the desk, are there not?

SENATOR CLARK: We have amendments to it here, about seventy-five of them or something.

CLERK: Mr. President, the first amendment I had was offered by Senator DeCamp but he has been excused for the balance of the day. Mr. President, Senator Chambers has an amendment on page 875, but I understand you wish to withdraw that one, Senator. Mr. President, the next amendment I have is from Senator Kremer. Senator, it is Request #2768. It is referenced in your Journal at page 1027.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Mr. Chairman, I am going to be real honest, not that that is a change, hopefully. What we are doing here is incorporating in LB 408, LB 874. Now there are those that feel it may not be germane and we are not addressing this

issue in the same chapter, I'll admit that. We are actually addressing the same subject matter and what we are trying to do in LB 874 will provide for the operation of a semitrailer truck under a farm license, but the cost of that license would depend upon the total weight of the truck and the cargo. When it gets to over fifteen tons the cost of the license goes up and I have an amendment later on that would provide that it shall not be for hire. That will have to be adopted a little bit later on so we are bringing into LB 408 the concept of operating a semitrailer under a farm license and the cost of course will be variable. It has been agreed upon by the commercial truckers. I think Senator Beyer may wish to speak to this and the reason we are offering this bill which actually is an amendment to LB 408 is that right now those that are taking products to market are using tractors with a goose-neck behind it and they are hauling loads that are much greater than a farm license so it is happening already. We do allow them under this, and they can purchase a semitrailer that is perhaps older in years not used by commercial trucker but we think it would take away some of the liabilities on the highway. We think it is a good bill and it has been supported very strongly at the committee hearing. So what we are doing here is incorporating into LB 408, LB 874 which does make this provision. Thank you.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, I would ask for a ruling from the Chair as to the germaneness of this issue. It is an entirely different section of statute. It relates specifically to farmers and farm tags on semitrailer trucks. It has nothing to do with the testing program or to do with triple trailers and I think it is clearly not germane to LB 408.

SENATOR CLARK: I would have to admit that he is in Chapter 60. The original bill is in Chapter 39 and you always take that chance when you put it in two different chapters, how are you ever going to find it in the first place. Let me ask Senator Kremer first for his opinion before I rule it.

SENATOR KREMER: I would say that it is germane. It is true it is in different chapters but we are talking about vehicles in both chapters and, therefore, it is germane, not just because they are in different chapters does not mean we are not talking about the same subject matter. We are talking about truck trailers and semitrailers in both cases.

SENATOR CLARK: Let me get together with my law partner here. I am going to rule it not germane, the reason being that we

are in two different chapters. We wouldn't know where to codify it in the first place or anyone would know how to look it up. Now if you want to try to overrule that, Senator Kremer, well that is fine. But if we don't we are just going to get into that problem all the time of ruling separate chapters together. Do you want to overrule the Chair?

SENATOR KREMER: I don't want to but I am going to.

SENATOR CLARK: All right.

SENATOR KREMER: I move the Chairman be overruled on this basis. The only reason offered against the germaneness of this bill is it happens to fall in different chapters of the statutes. However, both provisions, now get this point, both provisions deal with motor vehicles in both and both of them deal with laws that apply to semitrailer combinations. Both are of great interest to the motor carriers. I think we have common ground here, Mr. Chairman, and I do not like to do this so I respect your ruling but I think you are wrong so I am going to challenge the ruling of the Chair.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I would just like to call your attention to the fact that the accountability law which we have all talked about so much here is embodied in three separate chapters of the law, 32, 49 and 50. So, as Senator Kremer has indicated, it is the subject matter which determines germaneness, not necessarily the chapter. If you are going to hang your head on the chapter division then you've got the accountability law which is embodied in three separate chapters of statute.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I rise to support the Chair. The subject matters, even if you look...first of all, I think Senator Clark is absolutely consistent in the way that we have ruled that on the basis of chapter and I have had many amendments of my own or a couple amendments of my own die as a result of that ruling, but Senator Clark is consistent with what this Legislature has done in recent times. Secondly, if you look at it from the point of subject matter, Senator Clark is still correct. because the bill deals with the testing program on the behalf of the Department of Roads for trucks so far as weights and distances and lengths are concerned. The amendments deal specifically with a particular type of license and, in fact,

create a new class of vehicle that can be eligible for a farm plate, that allows semitrailer trucks to have farm plates. It sets up licensing fees. It also changes, as Senator Kremer indicated, it is going to change the exchange of services law and so it is in a different section. It is an entirely different subject matter and it is an entirely different bill. In fact, it was introduced as an entirely different bill and, in fact, that bill is still pending on General File. So all this is is an attempt as I suppose we've seen many, many times to take a bill that has nothing to do with another bill and throw it into a bill that is on General File late in the session and I think that is a dangerous thing for us to be doing. We ought not to be taking bills and taking unrelated concepts and unrelated bills and amending them into something. Now the truth of the matter is that this will strengthen LB 408. I support Senator Kremer's bill on semitrailer trucks. In fact, Senator Schmit, Senator Kremer and myself cosponsored that bill and I introduced it a couple of years ago and it got out here and Senator Schmit and Senator Lamb and some other people killed it then, but that is history. The fact of the matter is that it is not germane, that it is not the same subject matter, that it is an entirely different issue and it ought not to be attached to LB 408. I think the Chair should be sustained.

SENATOR CLARK: Senator Kahle. The question is, shall the Chair be sustained.

SENATOR KAHLE: Mr. President, in the time that I have been around and the time that many of you have been here longer, we have argued this issue before. I would have to agree with Senator Schmit that we do have laws that are in several different places in the statutes but I can't hardly see how you can say this is not germane when it deals with exactly the same thing that the bill does and that is the use of trucks and the way we use them on our highways and how we handle this. This is an important issue, too. Now I know that lawyers see things in different ways than I do but I certainly think that it is high time that we face up to the problem of how we license semi trucks that are used for agricultural purposes by farmers. We have a lot of them that are very illegal right now that are getting by with a dollar or two tag on a trailer as you would a farm trailer. So I think it is important. It is too bad that we weren't able to get to the bill that it should have been on and I agree with the Chair in that respect. But I think it is important enough that I would support overruling the Chair on this issue.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I think it is a two pronged issue that we deal with. In some instances you must look at the chapter to help resolve the issue, on others the subject matter. So I just was scanning through our Final Reading book and the reason I went to Final Reading is to show that objections were not made to different chapters in the same bill prior to reaching Final Reading. LB 127, parts of it are found in Chapters 23, 39, 81, 84. Then I'll go up to another bill, LB 404, Chapters 68 and 81. Then LB 651 is in Chapter 71, 43 and 79. So the idea is this. If a bill as originally introduced can have matter from more than one chapter, the issue of germaneness has been settled. If any material in a bill is not germane it makes no difference whether that material were in the bill when it was first introduced or added as an amendment. It is germane, not based on what stage of consideration it is put into a bill, but on the basis of whether it is closely enough allied to the rest of the material in the bill to be considered a member of the same family so to speak. And I think as Senator Kahle pointed out, you are dealing with trucks and perhaps some of the trucks used by farmers could fall within the considerations that we're making relative to the material found in 408 as amended now by the committee amendments. So, I think germaneness must go to more than just the chapter designation. Otherwise all you have to do is look at the number of chapter where a subject comes from and if the chapters are not the same it is not germane. But that is not the way legislation occurs. Matters are placed in different chapters even though the matter relates to that in another chapter so I think the issue of germaneness should be on the basis of the subject matter as well as a particular chapter. And in this particular instance the subject matter I think is...the two fit each other like hand and glove.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I would like to ask Senator Beutler a question since he is an attorney. If you have a situation like this where you are talking about two different sections of law and you do pass the amendments that we are talking about, does the law get into the wrong portion of the lawbooks or does it find its way eventually to the right section?

SENATOR BEUTLER: I think it would find its way to the right section.

SENATOR NICHOL: Then this is purely a matter of rules within this Legislature as to whether or not it is declared germane and if we pass it it would be in the right section of law?

SENATOR BEUTLER: Yes, sir.

March 29, 1982

LB 408

SENATOR NICHOL: Okay, thanks. With that being the case I wouldn't hesitate to support the amendments or to override the Speaker, not because I want to do it but because I think that does establish bad practice. But if the amendments can be adopted and put in the right section, I wouldn't object to it.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, it appears to me that we are putting a revenue raising bill into a bill which was not intended for a revenue raising bill. It does seem to me that the Chair is correct even on the substance of the matters and I would certainly support the Chair's ruling.

SENATOR CLARK: Senator Beyer. Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, I can understand why Senator Kremer and Senator Chambers would like to see this ruling overturned. However, I rise in support of the ruling of the Chair. I think it is clear that at this time with ten days left in the session you are going to see all kinds of attempts to take bills that are not coming through amended into other bills and what you could have is a strange configuration of legislation that could run the gamut, I think, even though it may be in the same section maybe you can have a strain of resemblance in terms of subject matter. You get into all kinds of problems when you have a bill that starts out to be a triple trailer bill, get involved in the changes in farm truck regulations and I think the amendment Senator Kremer would like to have, then you've got radar which Senator Chambers would like to have, and you've got all this in one bill. One of the concepts this Legislature has been very proud of is that each piece of legislation has basically one subject matter. Now if you construe that in a broad sense, that is not so bad as long as it is one general subject matter, but you are talking about very broad differences in approach and subject matter in these cases as to the amendments that are now pending on this bill. I don't think you want to see that happen. It causes all kinds of concerns, especially for those of us who are very concerned, for instance, with the original piece of legislation before us are now faced with an amendment that many of us can support. I supported the bill out of committee and I support it at this time. We're putting it now onto a bill that I very much dislike, then you add perhaps another piece...maybe you like both of them but you have the radar amendment that Senator Chambers is going to be proposing that may get added

March 29, 1982

LB 408

to this bill and you don't like that, for instance, and you like the other two sections and you have a situation when you get too many subjects you get all kinds of crosswinds involved and I don't think you want to try and have that at this point. We have got a bill. We have got a subject, let's stick with it and let's decide whether we want to go with it or not. Let's not talk about other amendments at this point, and it is going to be the same problem time after time the last few days of this session. Senator Clark has set a precedent. I think we should follow it.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I happen to support 408 and I happen to support the amendment that Senator Kremer is attempting to insert in 408. But I do think that we are about to set a precedent that might be rather dangerous later on. I believe the action that this body has taken in the past that two different chapters of the statutes were not germane should be a precedent that we should continue with. Now as Senator Chambers pointed out, we do have bills that do deal with both sections or in more than one section of the statutes. But I think those bills generally are introduced that way. We had an appropriations bill just last week that dealt in a whole number of sections of the statutes, as a matter of fact, and I wondered about that at the time you know under the one provision ruling of the bills that we deal with. But I think there is a difference. If a bill is introduced with more than one section of the statutes, has a public hearing on that same issue on those two difference sections, I think that is different than if we amend them on the floor. And as some other people have pointed out, if we open the door to this sort of thing, I think we could have a whole host of amendments that may or may not be germane and I will admit that there is a good argument to be made that there could be germaneness here even though there are different sections. But I believe the past rulings from the Chair have been right and I think that the Chair is right in this instance and that the Chair shouldn't be overridden.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I would like to also argue that the Chair should be sustained. Up until this point in the session I think we have been on solid ground in terms of the procedures we have used in the Legislature and in terms of following our procedures. We are getting to the point in the legislative process now that we are all getting a little panicky about

different bills and about getting things done. I think we need to sit back and relax and follow our rules and not get into the psychological situation where we are stuffing things into bills and passing some bad legislation because time is short. Up until this point in this session and in every session I participated in we have followed the rule that if something is not in the same chapter in the same article it is not germane. Now I have complained about that rule on a number of occasions because I think it is too broad a rule, that in fact a great many things that are in the same chapter in the same article are not really germane to the concept that is dealt with in many bills. So it is a rule that is not entirely logical but which puts an outside limitation on the concept of germaneness. It is a very broad rule inside the same chapter and article, there is really too much you can do. It is too broad a rule. But now today you are being asked to take a very broad rule and essentially wipe out all distinctions whatsoever that we have relied upon in the past. The two things deal with trucks so they are germane. Well, I submit to you that if you are going to follow that logic, we are in real trouble here. If something deals with schools, does that mean that anything dealing with schools is germane? It opens up about 300 pages of the statutes if you make that kind of a rule. Or anything dealing with cars. I don't think that what you are being asked to do today in overruling the Speaker is going to give you any kind of good precedent to follow. In fact, I think it destroys the one important precedent that we have had as far as germaneness is concerned. It has already been mentioned that we have a number of bills, a number of priority bills that may well not get heard this session because of our time constraints. And now we are eating up more time on nonpriority bills because people are attempting to put their nonpriority bills into priority bills. So it circumvents the whole intention of the priority bill system and it circumvents all our good intentions of allocating our time in a reasonable manner to those things that are most important. So it is a bad precedent in that regard in that it allows the circumvention of the priority bill system. So for those two reasons, to maintain at least some kind of order on the question of germaneness and not to allow the question of germaneness or the lack of a principle of germaneness inundate us with amendments towards the end of this session, I would ask you to sustain the Speaker so that we have at least one operating principle on the question of germaneness. It is a very important principle. Thank you.

SENATOR CLARK: Senator Goodrich.

March 29, 1982

LB 408

SENATOR GOODRICH: I move to call the question.

SENATOR CLARK: The question before the house is to cease debate. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: We will take a vote on, shall the Chair be overruled after this and then we will quit for the day. We have many more amendments to this bill. Record the vote.

CLERK: 28 ayes, 0 nays to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator Kremer, do you wish to close?

SENATOR KREMER: Yes, sir, Mr. Chairman, I will try to be very brief. Mr. Chairman, I want you to know that I dislike very much challenging the Chair and generally I have supported the Chair in times past and wish I could do it now. I think your law partner gave you bad counsel. I feel strongly and will admit we are dealing with different chapters in the statutes but we definitely are dealing with the same subject matter in that we are talking about semi-trailer trucks in both cases. We are talking about trucks and motor vehicles and when we are talking about germaneness, we are talking about subject matter and not chapters. Now that is the most I can say and it's the best I can say. Therefore, I again move that the Chair be overruled.

SENATOR CLARK: All right, the question before the House is, shall the Chair be overruled? It will take 23 votes to overrule the Chair. All those in favor vote aye, opposed vote nay. It only takes a majority of those here voting that are not excused to overrule the Chair. Have you all voted? Senator Kremer, I hate to call the vote too close.

SENATOR KREMER: Well, I am going to do something else that I hate to do and that is ask for a Call of the House. We never used to do that and that is one reason we are in trouble these last few years.

SENATOR CLARK: Fine.

SENATOR KREMER: We have been doing that. But as they say, everybody is doing it so here goes. I ask for a Call of the House and a roll call vote.

SENATOR CLARK: Call of the House has been requested. All

March 29, 1982

LB 408

those in favor of a Call of the House will vote aye, opposed vote nay.

CLERK: 15 ayes, 2 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will return to your seats and check in, please. All unauthorized personnel will leave the floor. Will everyone check in, please. Senator Duda, would you check in, please. Senator Wiitala, Senator Kilgarin, Senator Fowler, Senator Schmit, Senator Newell, Senator Hoagland. Senator Kremer, did you want a roll call vote? All right. Senator Carsten, for what purpose do you arise?

SENATOR CARSTEN: For a clarification of the question. How was the question put?

SENATOR CLARK: The question is, shall the Chair be overruled?

SENATOR CARSTEN: Okay, thank you.

SENATOR CLARK: We are short Newell and Kilgarin. Do you want to continue, or do you want to wait for them? Senator Cullan, for what purpose do you arise?

SENATOR CULLAN: Mr. President, could you tell us how many votes it will take to overrule the Chair?

SENATOR CLARK: Twenty-three. Senator Schmit, for what purpose do you arise?

SENATOR SCHMIT: Mr. President, half of 42 is 21 and 1 plus that would be 22 by my count. If there is.....

SENATOR CLARK: I am just taking the Clerk's word for it. He tells me 23.

SENATOR SCHMIT: Well, he has been wrong before also.

SENATOR CLARK: There is five excused. There are five people excused. That would be 44 people. The only one we are short is Kilgarin. Do you want to go ahead with the roll call? All right, the Clerk will call the roll. The question is, shall the Chair be overruled? Senator Schmit.

SENATOR SCHMIT: (Microphone not on)...the Rules Committee Chairman, Mr. President, as to the number of votes that are required to make this a valid overruling of the Chair. Senator Wesely, please.

March 29, 1982

LB 408

SENATOR CLARK: There are 44 here. It is Section 12 on page 4 of the rules, Rule 1. The majority of those present shall be required to overrule the Chair. The Clerk will call the roll if we can get Senator Haberman in his seat. Senator Cullan.

SENATOR CULLAN: Mr. President, Senator Burrows is no longer excused so that should increase it I would think.

SENATOR CLARK: It still takes 23. Let's call the roll. We might get out tonight.

CLERK: (Read the roll call vote as found on page 1457 of the Legislative Journal.) 15 ayes, 28 nays, Mr. President, on the motion to overrule the Chair.

SENATOR CLARK: The motion lost. Senator Higgins, for what purpose do you arise?

SENATOR HIGGINS: Mr. President, I would just like to get a point of clarification as a greenhorn.

SENATOR CLARK: All right.

SENATOR HIGGINS: When you have a vote to overrule the Chair, the Chair gets to vote on it too.

SENATOR CLARK: I would assume. I don't know.

SENATOR HIGGINS: I am asking.....

SENATOR CLARK: As long as you are not the Lieutenant Governor.

SENATOR HIGGINS: I am just asking...(interruption).

SENATOR CLARK: I am not the Lieutenant Governor nor do I aspire to be.

SENATOR HIGGINS: Well, can you tell me, I mean, if you are going to vote to overrule the Chair, do the rules say the Chair votes also? I mean, this is a moot question here when it was lost 28 to 23, but I am just thinking for future reference.

SENATOR CLARK: I suppose it depends on how the Chair would rule in the first place. I am not going to vote to overrule myself when they need 23 to overrule, so it isn't a matter of one way or the other.

SENATOR HIGGINS: Then it isn't in the rules?

March 29, 1982

LB 208, 408, 602A, 753,
760, 761, 953, 953A

SENATOR CLARK: No, not that I know of.

SENATOR HIGGINS: Thank you.

SENATOR CLARK: I think we will stop right here. I think Senator Wiitala...well, he already announced the vote though. He was excused. The Clerk has some things to read in.

CLERK: Mr. President, new A bill, 602A offered by Senator Cullan. (Read LB 602A title.) 953A by Senator Schmit. (Read 953A title.)

Senator Schmit would like to withdraw his name as co-introducer of an amendment to LB 760. That is Request 2842, Mr. President.

Mr. President, Senator Schmit would like to print amendments to LB 953; Senator Koch to 761; Senator Landis to 753. (See pages 1458 and 1459 of the Legislative Journal.)

Mr. President, there will be inserted in the Journal a communication to the Governor from the Clerk regarding the delivery of LB 208. (See pages 1457 and 1458 of the Journal.)

SENATOR CLARK: Senator Wiitala. Senator Wiitala. Senator Wiitala, would you like to adjourn us until tomorrow morning at nine o'clock.

SENATOR WIITALA: Yes, Mr. President. I move that we adjourn until nine o'clock, March 30th, with reluctance.

SENATOR CLARK: You heard the motion. All those in favor say aye. Opposed. We are adjourned. I had to check the date to be sure he hadn't set it up a day.

Edited by:

Marilyn Zank
Marilyn Zank

March 30, 1982

LB 408

RECESS

SENATOR CLARK PRESIDING

SENATOR CLARK: Could we get everyone registered in so we could get going please. Have you all checked in now? Record the attendance.

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

SENATOR CLARK: Do you have anything to read in?

CLERK: No, sir, I do not

SENATOR CLARK: All right, we are down to the Senators' priority bills. LB 408, Senator DeCamp.

CLERK: Mr. President, LB 408 was a bill that the Legislature considered yesterday. The committee amendments were adopted yesterday, Mr. President. We then got into a discussion on some amendments by Senator Kremer. The next amendment I have to the bill is offered by Senator Chambers.

SENATOR CLARK: Senator Chambers. Do you have another amendment after that?

CLERK: Well, Mr. President, I have a motion from Senator Wesely who hasn't arrived yet. I guess, Mr. President...

SENATOR CLARK: Here is Senator DeCamp and Senator Chambers. Senator Chambers, do you have a motion on 408? Pass over, you bet. Let's take Senator Kremer's amendment.

CLERK: Senator Kremer would move to amend the bill.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Mr. President and members, the amendment I am proposing today is virtually the same one I proposed yesterday that was ruled not to be germane by virtue of the fact it is not in the same chapter. I am doing the same thing and I will read the amendment. It would allow the issuance of a special permit, special permit, for testing...let me try it again. The amendment would allow for the issuance of a special permit for farmers wishing to operate a semitrailer. It did the same thing yesterday only you would have to get a permit from the Department to operate it on a yearly permit and it would be based on the same cost for the license each year that I spoke about yesterday. So it is the same thing that I explained yesterday. Only it takes a different route. It goes into the

March 30, 1982

LB 408

Chapter 39 which was what we talked about yesterday when it was ruled not germane. So I am trying it this route. I move the adoption of the amendment.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: First of all, Mr. Speaker, I would like to ask for a division of the question as between one and two on the proposed amendments.

SENATOR CLARK: One moment, I haven't seen it. I rule it divisible.

SENATOR BEUTLER: Then with regard...we are taking up part one then, Mr. Chairman?

SENATOR CLARK: We will take up part one first.

SENATOR BEUTLER: Then with regard to part one, I would ask for a ruling of the Chair on germaneness. I think this is a matter of subterfuge, that this was ruled not germane yesterday and so they changed the whole system to a permit system as opposed to a registration fee but in fact it is conceptually no more germane than the amendment which was rejected yesterday in which this body upheld the Speaker when there was a motion to overrule.

SENATOR CLARK: I would have to rule it germane today because it is in the same chapter. It is to the same subject matter. So I would rule it germane today. The reason I ruled it not germane yesterday is because it was in separate chapters. The subject matter yesterday was all right as far as I was concerned but the chapters weren't. Today I would rule it germane. We will take up the first one first. Are you done?

SENATOR BEUTLER: Yes, I am not done, Mr. Speaker.

SENATOR CLARK: All right. Senator Cullan, do you want part of his time?

SENATOR CULLAN: I would simply move to challenge the Chair on the issue of germaneness. If the same concept was not germane yesterday, I fail to see why it is germane today and I think that the subject, it is not germane on the basis of subject matter as well so I would challenge the Chair on the issue of germaneness.

SENATOR CLARK: All right, the question before the House is, shall the Chair be overruled? Does anyone want to speak

on that? Will you hold your hand up? If not, the reason I am ruling it is because the subject matter is the same and it is in the same chapter. So the question before the House is, shall the Chair be overruled? All those in favor vote aye, opposed vote nay. It takes 17 votes to overrule the Chair right now unless someone else comes in. Have you all voted? A Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed vote nay. Record the vote.

CLERK: 9 ayes, 3 nays to go under Cal., Mr. President. The House is under Call. All unauthorized personnel will leave the floor. All Senators will take their seats and we will wait until all the Senators get in here. We will have more votes now to overrule the Chair than we had before. Senator Carsten, will you check in please. Senator Von Minden. All Senators are supposed to be in their chairs please. We are looking for Senator Warner, Senator Schmit, Lamb, Hefner, Rumery, Kilgarin, Fowler, Newell, Senator Labeledz, Senator Higgins, Senator Marsh, Senator Goodrich. We are only looking for one. We have 11 excused right now. It takes 20 to overrule the Chair. The Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1486, Legislative Journal.) 14 ayes, 22 nays, Mr. President.

SENATOR CLARK: The Chair is not overruled. We will go to Section 1. Senator Cullan, on Section 1, please.

SENATOR CULLAN: Mr. President, I wonder what is Section 1 versus Section 2. I wonder if Senator Kremer could explain it please.

SENATOR KREMER: Senator Cullan, are you listening. I will be glad to explain the difference of the two. The first, Section 1, in the amendment provides for the permit. Section 2 provides for the assessment of the fee under which to operate under the permit.

SENATOR CULLAN: Mr. President, members of the Legislature, I think a number of people were gone and didn't quite know exactly what we were doing in the last vote. What we did is by failing to overrule the Chair in what the Chair ruled is amendments that were not germane to this bill yesterday are in fact germane to the bill today because Senator Kremer has placed those amendments into a different chapter than the bill drafter placed those amendments into yesterday. So we are making something germane today by changing a chapter which is I think a very strange way of doing things.

March 30, 1982

LB 408

But I guess it is a good way to get around the rules and I guess you learn something here everyday about how to use the rules. Nonetheless, I still think that we should reject these amendments to LB 408. I think we should consider LB 408 on its merit and we should not place an entirely separate piece of legislation into LB 408 at this point in time. I still think it is not germane. I still think it is a mistake. I respect very much the parliamentary maneuver which has been used here but I think it is a mistake and I urge you to reject these amendments.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I would also encourage you to reject the amendment. In the first place whether or not it is germane, we have gone into the process now of circumventing everybody who has a priority bill on the list, because as Senator Kremer forthrightly admitted to you yesterday, these amendments represent LB 874 which is a very small bill which is back on General File and which probably will never see the light of day. So we are using the amendment process to circumvent the priority bill process and get something heard that shouldn't be heard. Now what has happened in addition to that is that we have gone to rewriting amendments on the floor so that it fits the germaneness rule. This particular amendment did not have a special permit process in its original form. So now it has been rewritten to establish a whole special permit process, and if this amendment is attached, I am going to suggest that it be sent back to the Public Works Committee for another hearing. In addition to that, the committee amendments came out with a certain fee structure and now that fee structure is not the same thing that appears in this amendment. So I would like to have an explanation and maybe a public hearing on that also. There are a number of questions I have with the amendment in and of itself but I think first and foremost the thing to be said about it is that this is a circumvention of our rules, that it is putting small matters ahead of the important matters, and consuming more time on this legislative floor, and if we continue like this, we will not get to all the big matters that even individual Senators have identified as important matters much less the committee priority bills. So let's reject the amendment and establish our precedent and then move through the priority bills with an expedient and expeditious manner. Thank you.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature,

March 30, 1982

LB 408

of course, 408 is my bill and I have no objections to the amendment. I know Senator Kremer and I believe Senator Schmit and I believe my very good friend Senator Cullan all know the importance of this amendment and this is the vehicle to do it and just to accommodate Senator Cullan and the others I sure am willing to go along with it, and so I want Senator Cullan to know that he doesn't need to protect the bill against the amendment to help me, that I am willing to let him go ahead and put it on and get this particular problem solved and this bill is okay to do it with. Thank you, Senator Kremer, for going ahead and I hope you get the amendment on.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to support the amendment. Yesterday I opposed the motion to overrule the Chair because it was in two separate sections of the statutes at that point in time, and as Senator Cullan pointed out, perhaps Senator Kremer did a little bit of homework last night and came up with a way to attach this amendment to this bill. It does seem to be germane to the issue at hand and I agree with that. The issue before us it seems to me is very clear. Obviously those people who are opposed to LB 408 do not want to make the bill any more palatable to some people and it is without a doubt the amendment offered by Senator Kremer would make it perhaps more difficult to do away with the bill. But if the issue is safety, and I think that probably that is one of the issues that we have heard on the tripletrailer suggestion that perhaps they weren't as safe as they should be, then it seems to me that allowing the farmers of this state to have semis instead of the truck-four-wheel trailer pup type combinations that many of them are using now, then for the same reasons of safety that perhaps this amendment should be adopted because, obviously, semis are much more safer than the trailer combinations that are being used out there in rural Nebraska right now. So I certainly support Senator Kremer's amendment and would urge the body to adopt it.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I felt the amendment as offered yesterday was germane, and just to clear up some of the comments that Senator Beutler made, the purpose of bill drafting is to put a proposition in a desired form so that it can achieve your desired end. In this case it is to put an amendment in a form so that it can be considered as an amendment to this bill. That has been done and I don't see anything unsavory about that. There

March 30, 1982

LB 408

are issues which will have more substance than this particular amendment which may be attempted to be added to some of the appropriations and other bills. So the magnitude of the amendment I don't think should be an issue that should keep us from voting in the affirmative also. I am in favor of this amendment and I hope that it will be attached.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I certainly support Senator Kremer's move to try to get this issue passed this year. We have a problem, that Senator Beutler said this was not an important issue, it may be to him, but to us out there on the farm where we have an enormous amount of grain to move at some particular time, we don't know when it is going to be for sure, the storage bins are bursting. We have a lot of it in storage. Some of it is in reserve and will not be moved for awhile so that will mean that the new crop must be moved and many farmers in my area are buying old semitrailer trucks and tractors to pull them with and using them at the end of the fields to pick up the grain as it is harvested and hauled into the terminal market or to the elevator which makes a lot more sense than running a whole bunch of small trucks like we have in the past. As far as the wear on the road, a semi truck is much easier on the road than a farm truck overloaded which most of them are with only two and one axle, and if you talk to Dave Coolidge, he will tell you that. The hardest thing on the road is an overloaded truck with one single axle. So to help this out and it is important, we are going to have to move that grain sooner or later. It is going to have to be moved many times over a longer distance than it was before because of the terminal markets we have. I think it is very important that we pass this legislation and you all know that we have bent the rules, if you think we are bending the rules today, in order to get things done. It is an important bill. I support Senator Kremer in his effort. I have had a number of calls from people in my district, one gentleman in particular has called me two or three times. He wanted to know how the bill was coming. He wants to use it and it is very necessary out there where we have all this grain to move and perhaps very little time to do it when the market finally does give and we have to get next year's crop in. So I certainly support Senator Kremer.

SENATOR CLARK: Senator Beyer.

SENATOR BEYER: Mr. Speaker and colleagues, I also support the Kremer amendment. The trucking industry has long fought a lot of the farm trucks but the way the railroads are leaving the small towns and abandoning the branch lines, this will

March 30, 1932

LB 408

help alleviate a lot of the movement at specific times. It will stretch the grain movement over a period of time and put less trucks on the road. The farmers will be going to some of these bigger trucks and not using the smaller trucks that they now use and that will put less trucks on. As far as weight, there can be no more weight per axle on any of these trucks than there is on the small trucks. In fact it will be less weight. So I think that it is a good chance for us to show that we in Nebraska are wanting the farmers to prosper and grow and pick up the slack where the railroads are leaving us. Thank you.

SENATOR CLARK: There is an amendment on the desk.

CLERK: Mr. President, Senator Beutler would move to amend the first portion of the Kremer amendments by adding: (Read Beutler amendment found on pages 1486 and 1487, Legislative Journal.)

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, it has always seemed to me, and we have been through this discussion before in past years, but it has always seemed to me that an exemption that was appropriate for one business is probably appropriate for another and that if we are going to issue special permits to one sector of the economy, then it doesn't seem that it is very logical not to issue the same special permit to another sector of the economy, that is, in terms of the damage done to the road, one can do as much damage to the road as another. One's business is as legitimate as the other's business. So if the exemption applies to one, it seems to me that it should apply to all and the sum and substance of my amendment is simply to make this amendment applicable not only to farmers and ranchers but also to the industrial concerns of this state and that is the purpose of the amendment. I have a question that I would like to ask Senator Kremer if I may because I need to have my memory refreshed. Senator Kremer, what are the weight and axle limitations that would be applicable under part one of your amendment. In other words in order to get this special permit, do they have to make any showing whatsoever of what... what criteria are applicable?

SENATOR KREMER: Senator Beutler, I will read you the exact wordage in Section 1. "For a gross weight of less than fifteen tons, twenty-two dollars,".

SENATOR BEUTLER: No, I mean in order to get the special permit in the first place, there are no limitations?

SENATOR KREMER: On a farm license you go to the county treasurer and get your license. These special permits are issued through the same process but by the Department of Roads.

SENATOR BEUTLER: Okay, thank you.

SENATOR KREMER: A special permit from the Department, Senator Beutler.

SENATOR BEUTLER: Thank you. That is the explanation of my amendment, Mr. Speaker.

SENATOR CLARK: Senator Cullan, did you want to talk to the Beutler amendment? Senator Kremer, did you want to talk to the Beutler amendment?

SENATOR KREMER: Yes, Mr. Chairman, I am going to object. First of all, this is the first time when Senator Beutler, not when he offered the amendment, when he opposed my amendment, it is the first time I ever seen Senator Beutler looking for words to be in opposition and he objected on the basis that we are wasting time. We are wasting a lot more time in what we are doing right now than attaching this bill to LB 408. I object for the simple reason that this bill, that I am using as an amendment to introduce this bill on LB 408, it was heard. It got a fair hearing and it came out of the committee without a dissenting vote so there was no objection. The proposal that Senator Beutler is making has not had a hearing. We are talking about farm trucks here and farm trucks only. I object.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, I am sorry that Senator Beutler is using this kind of tactic because I don't believe he understands agriculture. Farm trucks, I have a truck that I bought eight years ago. It has been used every harvest since then and it has hauled quite a bit of grain to the market. It has 21,000 miles on it. Now there isn't any way that a farmer can own a truck and put as many miles on as somebody in commercial business. They would go broke for sure. But what a lot of farmers are doing, buying these older semis and using them to move their grain to market. We have had a bill before the Legislature that has been used the last few years where you could buy one-twelfth of a license and use your truck one month out of the year. That was the process that we had. So it only seemed natural that you can't just exactly pick the month you are going to haul that grain to town. It may happen during harvest and it may happen sometime later. The way I market my grain I market it about four times a year. It is still the same amount

March 30, 1982

LB 408

of miles to town and the same amount of miles on that truck but you just do not put that many miles on and you can't compare a farmer's truck with a commercial truck and we are not trying to do that, and they cannot use it commercially. If a farmer uses it commercially, he is going to get in a lot of trouble real fast with his friends who have a commercial license in the trucking business. They are going to police themselves. You don't need to worry about that. So I am really surprised that Senator Beutler is trying this when he apparently knows nothing about the way agriculture markets their grain. Thank you.

SENATOR CLARK: I guess this note I just received is for the edification of everyone. It says "Senator DeCamp is on a diet but he ate two pieces of strawberry shortcake this noon". The next speaker up is Senator DeCamp. That came from the multibank holding people but go ahead.

SENATOR DeCAMP: Mr. President, members of the Legislature, I have a question of Senator Beutler. Senator Beutler, you have offered an amendment to Senator Kremer's amendment. Question, if your amendment were adopted, would you support the overall amendment and then would you support the bill?

SENATOR BEUTLER: I think the overall amendment needs a public hearing, Senator DeCamp. I am not sure that I would but I know that I feel comfortable that it is more fair if my amendment is added than it is the way it is.

SENATOR DeCAMP: So you are not offering the amendment with the intent of getting it adopted and the bill passed and so on and so forth?

SENATOR BEUTLER: I offer amendments for a couple of reasons, Senator DeCamp, and one of them is in case the bill should pass it would be in better shape than it would be if I didn't offer the amendment. I think that is a legitimate reason to offer an amendment.

SENATOR DeCAMP: Yes, I understand. It is good to have you trying to save us all. Okay, Mr. President, members of the Legislature, I am going to oppose the amendment because I don't think it does anything. I think everything that is in that amendment from what I can learn is already controlled or regulated one way or another and the amendment could be adopted basically with impunity. In other words, it would cause no change and what Senator Beutler believes he is doing he is not actually accomplishing because of other federal and state rules, laws, regulations in trucking. So I see the amendment more just as k'nd of one more little monkey wrench there in

the machine and for that reason I would oppose it, not that I think it damages the bill quite frankly. I repeat, I have talked to some people here that know a lot more about trucking than I ever will. They assure me that it is really quite meaningless, because they are controlled in other ways particularly on weight, for example, and so this pretty much would have no bearing. I might also say it is the agricultural people that came in asking for the Kremer amendment which has had a full public hearing which is sponsored by Senator Cullan himself and Senator Schmit and, at least if they are interested in that portion, I would think we would get that portion adopted, and then if they are opposed to the whole bill, they could, of course, vote against that but I think that rather than throw additional obstructions here we ought to get this part dealt with rather quickly and I oppose that amendment of Senator Beutler.

SENATOR CLARK: Senator Beutler, do you wish to close?

SENATOR BEUTLER: Yes, Mr. Speaker, my objective is not to waste time. My objective is to pick up on a concern that I have had with these types of bills from the very first year I was in the Public Works Committee. We exempt this, we exempt that. We make part year exemptions for this and that. Now I don't think we do it in a very fair manner. I don't think it makes sense to come in and nit pick at the general law with one exemption after another until the law doesn't make sense any more. Now my amendment with regard to industrialists doesn't apply to people in the commercial field, Senator Kahle. It applies to industrialists who own their own trucks who use them part time for this or for that or who like the farmer don't get that much use out of a truck all year long but they do have trucks because they need them now and then. So I don't think that my amendment shows any misunderstanding of agriculture whatsoever. I understand how you use those trucks but there are other people that use trucks on a part time basis and I don't see why they shouldn't be treated equally. You know, I think that everybody has a right to amend a bill and that if a bill comes up on the floor for discussion that we ought not to be intimidated from offering the amendments that we might want to offer simply because we oppose the bill coming up in the first place. One of the reasons that I oppose the bill coming up is that I do have questions with it and I do want to take some time with it and I don't think that we ought to get in the frame of mind on the floor of the Legislature that we are just going to steamroll this or that. We should be concerned with everybody's concerns on whatever comes up on the floor of the Legislature. So I offer the amendment in good faith and ask for its adoption.

March 30, 1982

LB 408

SENATOR CLARK: The question before the House is the adoption of the Beutler amendment to the Kremer amendment. It takes a simple majority. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: It takes a simple majority. Have you all voted? Record the vote.

CLERK: 4 ayes, 19 nays, Mr. President, on adoption of Senator Beutler's amendment to Senator Kremer's amendment.

SENATOR CLARK: The amendment lost. Now we are back on the amendment, the Kremer amendment. We have another amendment to it.

CLERK: Mr. President, Senator Cullan would move to amend the Kremer amendment to LB 408 by striking the committee amendments previously adopted and inserting the Kremer amendments.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, if the purpose of this bill now is not what the original intent of the bill was but the purpose is to allow us to take a bill that was on General File at a lower stage of debate and substitute it at this stage of debate, namely the semi-trailer bill for farmers, then I think that ought to be the only issue that we consider in this particular bill. So what I am doing is allowing Senator Kremer's amendments to be considered but his amendments would also eliminate the bill as it was introduced and as it was amended previously. So all, after these amendments are adopted, the only thing that the bill would do would be the farm semitrailer amendments which Senator Kremer is proposing. So it strikes all the sections in the current bill and simply inserts what Senator Kremer is proposing. I would urge you to adopt them. I think that is a rational point of view. I think if we are going to deal with this issue, I think it should be just the farm issue and we shouldn't tie the two together. What is happening, of course, is that we are trying to make a farm bill out of this bill which really has nothing to do with agriculture, and if that is the case, then I think we ought to consider just these special permits only. We ought not to consider the original provisions of LB 408. So I would ask you to adopt this amendment to the Kremer amendment.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I do oppose this amendment. It does truly gut the bill which Senator Cullan, I am sure, would acknowledge and would only leave the Kremer amendment. Now I am sure anxious for Senator Kremer to get his amendment on but I am not too keen on getting all of my proposals off then at the same time. So I would oppose the amendment and I think it is pretty clear the purpose isn't to enhance the legislation and I don't think you have to be real adept to figure that out when you are wiping out all the bill except the part that he was saying wasn't germane a little while ago. So I would urge you to reject the amendment and hopefully get on to some other bill.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, I rise in support of the Cullan motion to amend the Kremer amendment. If this is not adopted, you will be faced with a kill motion on the entire bill after the Kremer amendment is adopted or dealt with. I think it is appropriate that if there is support for what Senator Kremer is trying to accomplish that it not come in the form of being attached to a bill that is as onerous as this one is. There are many problems with this legislation. I think it is probably fair to start talking a little bit about the substance of the bill. The amendment that Senator Cullan offers does go to the heart of that by striking the contents of the legislation that are now there and inserting the Kremer amendment. I can live with that amendment since I did support that legislation in committee. This is a triple trailer bill that we are talking about, LB 408. All the different things that you are hearing, the other amendments that are being proposed, Senator Chambers has a radar amendment, Senator Kremer has this amendment concerning farm truck, that is all peripheral. Don't forget the fact that what we are talking about is a triple trailer bill, a bill that was introduced last year, that was held over, the hearing was held then this year, and a lot of confusion as to exactly what was going on. The bottom line is this, this bill would open up the door to triple trailers in the State of Nebraska, open up a door with very little guidance to the Department of Roads to try and regulate the activity in this area. It doesn't talk about how long a test program would take place. It doesn't talk about what guidelines are to be followed, what exactly the purpose of the testing is supposed to be, what are we going to accomplish by this effort, what are we going to gain in the State of Nebraska. What we basically are doing here is opening up the door and allowing in triple trailers with very little oversight whatsoever by the State Roads Department or by this Legislature which delegates the authority that it does under LB 408. The

bill ought to be killed. The bill should not be considered by this Legislature or passed this year. There are all kinds of different reasons for that. One of the big things that is talked about that LB 408 provides is all this fuel economy and efficiency in transportation. Well, that is a sham as far as I am concerned. The different savings that were estimated, the 45% that you will get with a triple trailer over a double trailer, well, how do they estimate that. Are they considering that all three of those trailers are going to be fully loaded? Are they talking about partial loading up to 80,000 pound limit? What are the figures that they are using on that? I think you will find there is no way presently that they can go above 80,000 per load so that means that you are carrying the same amount, whether it is a double or a triple, and you are just spreading it out to an extra trailer. Where is the efficiency in that? I doubt that there is any efficiency whatsoever. If you are carrying the same amount of a load and you are carrying it over three instead of two trailers, why you are just increasing what you have to carry, not making it any more efficient. The only way you are going to get greater fuel efficiency, which everybody should be concerned about, is if you up that 80,000 pound limit, and when you up the 80,000 pound limit, then you start talking about damage to the roads. Now they can't really go through that upping that 80,000 pound limit other than...I am not sure exactly how they might do it. There may be an option under a permit system that might allow for it. I know that there are some discretions that are now allowed in the State of Nebraska that could be used. So what I am saying is all this talk about efficiency is only going to be there I believe if you allow for more than 80,000 pound on a load that this triple trailer is talking about. Then you go back to the argument that triple trailers with 80,000 pounds spread over more wheels does less road damage and you totally subvert that whole concept right there because you are going to talk about more weight, more weight on the roads, larger loads that we are going to be carrying over our highways and I think you are again getting back to the base problem I have and that is that heavy trucks do tremendous damage to our roads and we have to be very concerned anytime we talk about extending the length and talk about increasing the weight limit on them. All those factors have got to be looked at in the context of what they are doing to our road system. That is my bottom line. We have all got to be looking after the taxpayers of this state. At the time that we are talking right now, one of the largest and most severe budget crisis in the State of Nebraska, we are talking about an effort that may ultimately cost the taxpayer a great deal of money. I have a report here from the comptroller general in a report to Congress. It says...

SENATOR CLARK: You have one minute.

SENATOR WESELY: Thank you. It talks about excessive truck weight, an expensive burden we can no longer support. I am going to be reading to you some of the different conclusions that we reach in this item that I think are very important. Once you have a chance to look at the situation, you are going to find that this sort of proposal runs absolutely counter to what is in the best interest of the state. And as I said before, the 80,000 pound limit that they are talking about is backed up by a statement from Dave Coolidge back in 1980 when he says, "It would further appear that much of the economics and advantage of any of three types of units", triple trailer we are talking about, "is lost if the total gross load is limited to 80,000 pounds which presently exists." The Department of Roads recognizes what I just told you, that unless you up the 80,000 pound limit you are not going to get the efficiencies and economies that are claimed under this proposal and after I get a chance to come back and talk to you again about those impacts on the road I think you should clearly see this legislation is not in the best interest of the state.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Cullan has always impressed me as somebody who is a very rapid learner, and now that I see what his amendment is attempting to do in terms of what he just criticized before, I see he has learned another thing very quickly and is applying it with a vengeance. I have to correct him despite the fact that I am from the city and he is from the country and the farm. He said something in this bill does not have to do with agriculture. Senator Cullan, in Nebraska everything has something to do with agriculture. I want you to keep that in mind. You are welcome. Senator Wesely, this bill is very straightforward in what it does. You said it is really a triple trailer truck. I think there is not a person in the State of Nebraska aware of this bill's existence does not know now what this bill does. But let's look at the symbolism involved in the amendments. The first trailer was a committee amendment. The amendment we are considering now is the second trailer. My amendment which would regulate radar is the third trailer so it is still a triple trailer truck bill no matter how you view it. But in all seriousness, I will have to oppose what Senator Cullan is attempting to do because we all are aware that he is not really interested in the adoption of the amendment that he is offering. He does want to kill the bill. The rules do allow many means and methods of accomplishing this end. At this particular point I hope you will defeat Senator Cullan's attempt, and when Senator Wesely makes his, I hope we will kill Senator Wesely's motion.

March 30, 1982

LB 408

SENATOR CLARK: Senator Wiitala.

SENATOR WIITALA: Thank you, Mr. Chairman. Mr. Chairman, colleagues, I rise in support of Senator Cullan's amendment to LB 408 for a whole host of reasons that I just wish to get in on the record. My basic problem with a triple trailer truck is the difficulties that passengers, especially passengers that are flying along the interstate in their vehicles are going to be confronted when we allow three, in essence, three vehicles joined together in transport. I am thinking really of all the conditions that can exist along the interstate dealing with rain, sleet, snow, wind problems, the difficulties that motorists are going to have in passing those large extended semi vehicles. This is especially true, not only in the weather conditions I have mentioned but also when one lane, say, of the interstate is closed or partially closed along the interstate. How on earth is a motorist ever going to understand what lays before him when he is traveling the second lane attempting to pass such a large vehicle as a triple trailer? I would also like to remind this body the tremendous amount of force and weight that is behind the tractor that is carrying a triple trailer, and then if they encounter icy conditions, sleet, wind conditions, what can happen on the interstate. Presently when a semi runs into difficulty, it usually jackknives and goes off into the side of the interstate or into the median. But when you have got three trailers behind the truck and they jackknife with that type of weight, it would be scattered all across the interstate. I think we need to think about those details. Last year there was an attempt to introduce before this Legislature a bill that would address the problems of emergency conditions on our interstates and having the State Patrol declare an emergency condition where semis would be stopped from their forward progress along their routes if it was dangerous to those drivers and to the public at large. I think that by adopting this idea of another trailer in addition to the two that we already allow, we are asking for some more of the same difficulties. I think that what is really happening here is that with the demise of the railroads in our nation we are in effect making railroads out of our interstates. We have got triple trailers here today. We are going to have quadruple trailers somewhere along the line. And I will tell you, maybe somewhat in seriousness and maybe somewhat being facetious, I could accept that if they would put a caboose behind that triple trailer but I guess that is not the issue. So I would hope that this body would recognize the dangers not only to those truck drivers but also to the public at large, not only on ordinary conditions on those roads, but when they are beyond ordinary, and ask ourselves quite seriously, have we put into place the safety mechanisms that will address these emergency situations

March 30, 1982

LB 408

and the accidents that could come out of it as a consequence. Thank you, members.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to oppose the Cullan amendment. I believe this issue is much more than the amendment that Senator Cullan has offered and we all recognize that. I think Senator Wesely pointed that out. I think that Senator Wiltala just got through pointing it out. The issue is, and I quite frankly can't understand it, the issue seems to boil down between whether you are in support of the railroads or whether you are in support of the trucking industry. Well, I guess that I would like to think that I am in support of the public of the State of Nebraska and I don't particularly care about this fight between two industries as to which one gets to haul the freight. But the fact of the matter is that if it is safety we are talking about, I don't think there is any real safety hazards with triple trailers. One of the reasons I guess that I say that is perhaps some of the people that are making these comments I doubt very seriously if they have ever driven a large truck or a semi but the more rubber you have on the road the better you stop. It is that simple. And Senator Wesely pointed out, we are not increasing the load limits so the weight is going to be distributed over less number or a larger number of axles which would in fact mean less damage to the roads. With more axles you have more rubber on the road which means you can stop sooner which means you have better control. So if safety is an issue, it seems to me that triple trailers there is nothing wrong with them. You know I spend a lot of time out there on the interstate and the difference of another thirty feet when you are passing a vehicle on a four lane highway is not that bad it doesn't seem to me. If you were talking about two lane highways, yes, I could see where it could be a problem. So, you know, the bottom line it seems to me is that damage to the highways done by trucks, if that is the case, if heavy trucks cause damage to the highways, or are the sole culprit in damage to the highways, it would seem to me that some of those small feeder highways out there in rural Nebraska where the overweight permits are granted to people hauling their produce to town, of up to 25% on practically a yearly basis, that that is where the real damage would be done, where these small or these highways are not very well constructed anyhow. It seems to me that there are a lot of other factors that enter into the destruction of our highways and I think probably weather has as much to do with it as anything in the State of Nebraska, weather and the types of soil that some of our highways were built over, and when you look at the interstate system and where it goes, why it is pretty obvious that some

9728

of that soil was pretty apt to be affected by weather changes. So the issue seems to me to not be one of safety, to not be one of whether agriculture needs this or whether the public needs this, the issue seems to be a battle between the trucking industry and the railroads, and quite frankly I don't quite understand that because I think there is enough freight for both of them to keep busy. Senator Wesely also mentioned that how he didn't see how there would be any advantages or savings as far as fuel usage is concerned and I assume that he is considering that all of these trailers would always be full, always have a load on. Obviously they have to move a lot of trailers around that are empty. I wonder what the reaction would be if we told the railroads of this state that you had to have...you couldn't have over a fifty car length on your train or a twenty-five or something of that nature. They have to move a lot of empty cars there, too. And if you are operating one of these trucks, it takes about so much fuel just to run the motor whether you are pulling a large load or whether you are not so I think that Senator Wesely, some of his arguments are a little bit hard for me, at least, to understand having a little bit of knowledge at least about how these machines operate. So it seems to me that we need to back off and look at this from the perspective of the public and I really can't see that there is an awful lot of danger to anybody in this whole issue. Thank you, Mr. President.

SENATOR CLARK: Senator Labeledz. The question has been called for, do I see five hands? I do. All those in favor of ceasing debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 26 ayes, 8 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Cullan, do you wish to close?

SENATOR CULLAN: Yes, Mr. President, members of the Legislature, I do. Just to reaffirm to the members of the Legislature what this amendment does is that it strikes the standing committee amendments to LB 408 which have been adopted last week or yesterday and it allows the Legislature to consider only the issue of the semitrailer trucks for farm licenses. The language that we are eliminating is significant and I think the language that we are eliminating should not be a part of the statutes of the State of Nebraska and I urge you to pay careful attention to the language that is in these

amendments and the language that we are eliminating. We are eliminating language that says "The Department of Roads, at its discretion, may establish a testing program under a special permit procedure to utilize highways under its jurisdictions to operate or move a vehicle or combination of vehicles or objects that exceed the maximum specified by law, so on and so forth", and at the end it says, "the Department of Roads will have the widest possible latitude in establishing programs consistent with the stated objectives of this paragraph." So what we are telling the Department of Roads with the amendments that I am trying...language I am trying to strike is this, that under a special permit system, and you can call it a test or whatever you want to call it, but the fact of the matter is that it is a special permit system. It is not a test really because it is not designed for...there is no life to the test. It can run until the Legislature repeals it so it is not a test. Call it a test if you will to make it popular but it is not a test. It is a special permit system. What does a special permit system do? A special permit system allows the Department of Roads to waive the maximum requirements that we have in statute. Maximum what? Maximum weight, maximum length, maximum width or any other maximum that we have in state law. A few years ago or not long ago in this session we considered a bill that related to how we move grain combines in the State of Nebraska. Why did that bill come before the Legislature? The bill came before the Legislature because several years ago there was a personnel change in the Department of Roads, someone new came, someone came to the State of Nebraska that wasn't familiar with the way combines operate in the State of Nebraska, wasn't familiar with the history of how we move combines in the State of Nebraska. He read the statute and said, "Ah! You can't move combines during wheat harvest anymore." So we had to enact a special statute to make it clear that the Department of Roads...make it clear that you could continue to move combines from one field to the other. My point is this, what we are doing in this bill is eroding all the restrictions on weight, width, and length of vehicles in one swoop under the special permit system. Now it doesn't say "test". It just gives all the authority to the Department of Roads. Now that may be fine if we have good people out there. That may be fine if we have people that know what they are doing out there. But if we have a personnel change, if something happens, who knows what is going to happen. I think it is our prerogative to say how wide vehicles are going to be. I think it is our prerogative to decide what kind of weight is going to be on the highways of the State of Nebraska. I think it is our prerogative to decide whether we are going to have triple trailers or quadruple trailers or anything else. So I think this language should be eliminated. Ladies and gentlemen, if the trucking industry wants

triple trailers, then they should introduce a bill that provides for triple trailers but this bill is more, much much more than a triple trailer bill. It is to give the rules of the road to the...

SENATOR CLARK: You have one minute, Senator Cullan.

SENATOR CULLAN: ...Department of Roads bill. I think that is very unwise. I will speak more if this amendment is not successful but I urge you to adopt this amendment, consider Senator Kremer's bill if you would like to but let's eliminate this dangerous gift of authority to the Department of Roads.

SENATOR CLARK: The question before the House is the adoption of the Cullan amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote.

CLERK: 12 ayes, 22 nays, Mr. President, on the adoption of Senator Cullan's amendment.

SENATOR CLARK: The motion lost. The amendment is not adopted. Do we have another amendment?

CLERK: I have nothing further to Senator Kremer's first amendment, Mr. President.

SENATOR CLARK: Senator Kremer on the amendment.

SENATOR KREMER: Mr. Chairman, there is really nothing more to be said. I have explained exactly what my amendment does. It does incorporate into LB 408, I am trying to be honest with you, LB 874 which provides the operation under a farm license a truck tractor or a semitrailer provision with a certain fee arrangement, and when you get over the capacity of 15 ton, the fee goes up to about 30% of what a commercial operator would operate under and it is a little bit different than the legislation we now have that provides for the operation of a farm truck, a semitrailer farm truck for one-twelfth of a year. This allows them to operate not for 30 days but generally, I am sure I am right about this that these trucks are not used more than one-twelfth of the year, and it does provide for a fee, for a permit with a fee that has been agreed upon by the commercial truck operators. They are now under rules and regulations. This only addresses the farm trucks. They are not for hire. They cannot be used

for hire, I want to make that very, very clear, just to haul their own products and a fee that has been agreed upon by the commercial truckers. So I move for the adoption of the amendment.

SENATOR CLARK: Senator Cullan, on the first part of the amendment. That is what we are on right now.

SENATOR CULLAN: Mr. President, and members of the Legislature, first of all, Senator Kremer is correct. This is a bill which Senator Kremer and Senator Schmit and I introduced in this session of the Legislature. This is a bill that the three of us, none of the three of us designated a priority bill. It is a bill that none of the three of us asked the Speaker to designate as a priority bill. It is a bill that is low on General File and will not be considered in this session of the Legislature. It is also a bill that was considered earlier in the history of this Legislature, in fact, a bill that was almost exactly the same to this, LB 49 was killed in the 1979 session of the Legislature and that bill was one which I sponsored and which Senator Kremer supported and sent to the floor of the Legislature. The bill was killed on a vote of 23 to 15 with 8 not voting and 3 present and not voting and I have some interesting comments about that bill and I think it is interesting to see what has happened in the year since my bill was defeated. My bill was defeated on a motion by Senator Lamb to indefinitely postpone the bill. The motion was supported by Senator Haberman, by Senator Maresh, by Senator Kahle, by Senator Schmit, and by Senator Cope. They all thought that that was a bad idea in 1979. It is interesting to see what Senator Kahle said at that point in time. Senator Kahle said, "We are going to have to move a lot more grain by truck to terminals where they are loading grain in unit trains. Whether the commercial people should do this or whether the farmer should be doing this is certainly a question. Most farmers will make their straight trucks large enough to get the job done especially if they are allowed to pull a trailer so I don't believe this is going to solve our problem", and then Senator Kahle joined others in voting to indefinitely postpone the bill. Senator Schmit said, "Many farmers exchange the use of equipment and we would probably have to make some provision for allowing the exchange of trucks between one farmer and another. This would cause further complications and make it more difficult to enforce", and note what Senator Schmit said, "One bushel of wheat or one bushel of corn looks a great deal like another and it makes it very difficult for our law enforcement people to enforce that provision of the law. Secondly, there are already provisions in the law to give farmers some of the advantages when moving grain from

the field to their own bin site. I think that in all honesty and fairness that this should perhaps be expanded under this kind of an operation to where the damage to the roads could be far more serious than a modest fee which we would collect for the registration fee. I think also that when you look at the value of a truck, a 30 or 40 thousand dollar truck, in all realism is not going to remain idle ten, eleven months out of the year for lack of the payment of a few hundred dollars more in fee. I think most farmers are going to try to utilize that equipment more fully than that." Now that is what Senator Schmit told us in 1979 and that is why he voted to kill the bill at that time. The Senator Haberman's objections to the bill were based upon lost revenue. Senator Haberman indicated in his comments that if farmers would purchase commercial licenses and use their vehicles throughout the year, then those fees would go into the tax coffers of the State of Nebraska and we wouldn't have lost revenues. So all those agricultural Senators voted against this bill last time, and incidentally, the bill which caused the lost revenues at that time had a 30% fee, a 30% fee, not one-twelfth. The fee was 30% of what the commercial trucker would pay, not one-twelfth of what a commercial trucker would pay. So ladies and gentlemen, I think that we should reject these amendments at this time. I still think that there ought to be a provision for farmers to use semitrailer trucks. I don't think it should be at one-twelfth of the cost of the commercial trucker because realistically a lot of farmers are going to use these trucks much more than that. They are going to use it through the winter months. They are going to haul a lot of their own grain to terminals and there is going to be much more grain moved on the roads than is the case...

SENATOR CLARK: You have one minute, Senator.

SENATOR CULLAN: ...without farmers having those trucks. So if you are going to adopt this bill, I think you should move more in the direction that my bill was which was a 30% fee and some other things. So at this point in time even though I think this concept is a good one, I think it needs to be reworked. I think that it needs to be introduced as a bill in the next session of the Legislature, or if we get to it, we can debate it then but it should not be an amendment to a bill that allows this broad utilization of permits by the Department of Roads. I urge you to reject the amendments to LB 408 and then I will ask you and join Senator Wesely in asking you to indefinitely postpone this bill. Thank you.

SENATOR CLARK: I would like to announce 13 students from Norris High School and the student counsel from Firth, Nebraska. Wayne Johnson is their teacher. Would you stand and be recognized please in the North balcony. We also

March 30, 1982

LB 408

have 22 students from the eighth grade from Kenesaw, Nebraska. Alice Throckmorton is their teacher. Will you stand and be recognized please. Welcome, all of you, to the Legislature. Senator Schmit.

SENATOR SCHMIT: Well, I guess I would just like to say I do appreciate Senator Cullan and his ability to go back and read history. As I said yesterday, if you don't learn from history, you are condemned to repeat it, and I hope that Senator Cullan will listen, that sometimes there are issues that need to be addressed in one way and sometimes in another. He quotes me when he chooses to quote me, and when he chooses to disassociate himself from me, of course, he disassociates and that is the prerogative of all of us. Now, Senator Cullan, you are a very wise young man but I don't think you have had quite as much experience delivering grain as perhaps Senator Kahle has and I can tell you very frankly that if I placed my 16 year old son in a truck and sent him down to the elevator with Senator Kahle's corn on it, he would hop out and he wouldn't go because he would know that about the time he pulled in there, Al Hanus or any of those guys would jerk him up by the neck and say, "Listen, kid, we are going to call the sheriff or the Patrol and you are going to be doing time in the slammer. If nothing else, you are going to be paying a walloping fine", and if you know the fines that are associated with that sort of use of the truck, I think you could find out what would happen pretty soon. You had better walk off and leave the truck. No one is going to use that truck to move grain into a commercial facility because the elevator operators themselves are going to ask the questions, and believe you me, they are not police officers but no one is going to take that chance. The little publication that was sent around I believe by Senator Wesely which tried to point out a contrast between the damage done to highways by automobiles with that done by trucks, he says 9,600 automobiles equivalent to the damage of an 80,000 pound truck. I think it has been well explained before, Senator Wesely, and you recognize this but there is no harm I guess in running the same old horse through the hoop twice if you can get him to do it, a well constructed highway does not suffer damage when an automobile drives over it, does not suffer damage. You can drive them over there till eternity if it is properly constructed. The same is true with a truck. If the thing is properly constructed, you are not going to have the physical damage. There are things that happen to a highway. But to try to determine the damage to a highway by virtue of the weight of a vehicle, you can probably run a million bicycles over the thing also only they are not built for bicycles and they are not going to pay for any concrete. They won't pay for the white line that goes down the edge or the yellow line that goes down the center. You

9734

have to have some method of paying for the blooming things. Now if you have an improperly constructed highway, and I can point some of those out to you, I have done it over the years for the past six, seven years. They are indelibly etched upon my mind. I drive over one of them every morning and I can tell you very frankly it was poorly constructed and it ought to have been torn up when they started back in 1974 and redone. That highway will break up under any conditions. The concrete will break up under its own weight. It does not even need to have a vehicle driven over it. It broke up before they got off of it with the construction equipment. Now it makes a difference, you see, as to what you want to prove with the facts you use. I think that Senator Wesely can drive his Volkswagon up and down Highway 30 forever and it is not going to make any difference. Highway 30 was built back in the '30s, was built at the time we had Model T Fords and Model A trucks. Do you know what? It is in better condition today than Highway 15 which was built in 1974 because in 1930 they built them thick and they put re-bars in them. In 1974 they tried a new system, built them thin, built them light, no re-bars, no reenforcement.

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: Well, you built them cheap. They look good if you look at them from the air, not worth a darn if you have to drive over them. Senator Wesely, Senator Cullan, I just want to point out, if the only highways we have in the State of Nebraska are going to be those built by automobile traffic, then you are going to drive between Lincoln and Omaha, Scottsbluff and that is it. There will be many, many secondary roads that will never be built. Number two, as the railroads abandon right of way, someone is going to have to move the grain. Number three, because we have a lack of available commercial transportation, farmers have to purchase more of their own transportation. Senator Cullan, you know very well that in the past three years conditions have changed dramatically. Fuel costs have risen. The cost of equipment has risen. Labor costs have risen. It is extremely important that today...

SENATOR CLARK: Your time is up, Senator Schmit.

SENATOR SCHMIT: ...we utilize the equipment we can use. I am in favor of the Kremer amendments.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I call for the question.

SENATOR CLARK: The question has been called for, do I see five

March 30, 1982

LB 408

hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 5 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Kremer, do you want to move for the adoption of the first part of the amendment? Do you have any closing remarks?

SENATOR KREMER: Mr. Chairman, I have no closing. I do move for section one, the first part of the amendment, I move for the adoption of the amendment.

SENATOR CLARK: The question before the House is the adoption of the first half, number one, of the Kremer amendment. All those in favor vote aye, opposed vote nay. Voting aye.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 7 nays, Mr. President, on adoption of Senator Kremer's first amendment.

SENATOR CLARK: Number one of the Kremer amendment is adopted. Now we go to number two. Senator Kremer on the second part of your amendment.

SENATOR KREMER: Again, Mr. Chairman, I have already explained it. It has to do with the assessment of the permits or the fees that shall be assessed to getting a permit.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I would like once again now to raise the germaneness question on the second part of the amendment. The bill drafter indicated to me that that part of the amendment would go into the same section of statutes, 60-300 series, which is the statute that yesterday's amendment would have gone into which is a different section, entirely different section of the statutes, and on the basis of yesterday's ruling, I would request that it be ruled not germane.

SENATOR CLARK: Did you talk to the bill drafter?

March 30, 1982

LB 408

SENATOR BEUTLER: Yes, I did, sir.

SENATOR CLARK: And what did she say?

SENATOR BEUTLER: And he indicated that it would go into Section 60-300 series.

SENATOR CLARK: Well, I was under the impression it was all under Chapter 39.

SENATOR BEUTLER: That is not correct, sir.

SENATOR CLARK: If the second half is not under that chapter, it would not be germane in my ruling. Senator Kremer, Senator Beutler says he talked with the bill drafter and she is going to put it in Chapter 20 or Chapter 60 and I was under the impression it was all under Chapter 39. The first half is under 39.

SENATOR KREMER: Mr. Chairman, as I understand it, it does not designate any section. It does not address that. It could probably fall into that if the bill passes, into Chapter 60.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Yes, that is my understanding, too, it can be assigned anywhere. It is not under a specific chapter, this portion. It doesn't need to be assigned anywhere.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Previous to this time, Mr. Speaker, we have in cases where it is not indicated on the bill itself where it would be assigned, we have gone to the bill drafter, the revisor of statutes, and inquired as to where he intended to assign it and that is what I did and he said he would assign it where it logically belongs, where we all know it logically belongs, for the registration of fees on vehicles which is 60-300 series. I mean we are shutting our eyes and accepting a farce, not to accept that that is where the amendment will go in the statutes.

SENATOR CLARK: We don't we stand at ease and I will contact the revisor of statutes. The Legislature will come back to order. The revisor of statutes tells me that the registration of fees are all in Chapter 60, consequently I will have to rule it not germane in order to be consistent with the way I ruled yesterday. It is a different chapter. Is there anyone who wants to challenge that? Everyone else does, I don't know

March 30, 1982

LR 277, 278
LB 408, 753, 755, 756, 761,
816, 933

why you shouldn't. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I think what Senator Beutler is trying to get the Legislature to do is what a group of philosophers known as the School Men used to do. They were renowned for being able to split a philosophical hair between the North and the Northwest Side. Now when you find a subject which is related to another subject but you say they are different because they are found in different portions of the statute books, I think that is straining at a gnat while maybe at another point swallowing a camel. From my experience with traffic citations, I had to do research in the statutes and there is legislation dealing with citations found in Chapters 39 as well as Chapter 29. They overlap. They supplement each other. And if one provision were amended, then I am certain that the amendment could be made to apply to the other part also despite the fact that they are in different chapters. So I want that statement into the record and I will not make a formal challenge of the Chair because the Chair has ruled consistently on this point despite the fact that I disagree. I also learn, and I saw what happened yesterday, Mr. Chairman, so I will not make a formal challenge.

SENATOR CLARK: Senator Beutler. All right, we will go to the next amendment. The Clerk wants to read some things in first.

CLERK: Mr. President, if I may very quickly, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 755 and find the same correctly engrossed; 756, 933, all correctly engrossed.

Senator Koch would like to print amendments to LB 761; and Senator Chambers to 761.

Mr. President, new resolutions, LR 277 (read). That will be laid over. LR 278 (read). (See pages 1489-1491, Legislative Journal.)

Mr. President, Senator Cullan would like to print amendments to LB 753.

And I have an Attorney General's opinion addressed to Senator Vickers regarding LB 816.

Mr. President, the next motion I have on LB 408 is a motion to indefinitely postpone the bill. That is offered by Senator Wesely.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, as I mentioned before, I am very interested at this point to go ahead and kill the bill. You have adopted at least part of the Kremer amendment which evidently has some problems according to Senator Cullan's comments at the time that was adopted. The bill itself ought to be killed for a lot of different reasons. I talked about them earlier. I had passed out to you a number of different handouts. I am going to go through those again and hope that you still have them and then I will go on to some other information. I think if you research the issue you will find so many concerns about this proposal the conclusion has to be that it should not be passed by this Legislature. I did pass out a summary sheet that looked at the amendments that we adopted to the bill from the committee. The summary shows that there is hardly any sort of direction whatsoever given to the Department of Roads in terms of what they are going to test for, how they are going to test, what they are going to accomplish with the test, how long they are going to test and a number of other questions that are raised by the handout that I sent to you. You know I think Senator Cullan mentioned...I know that there has been some talk about this, that there is no designation that we are even talking about trucks. We are talking about vehicles. It could be mobile homes. It could be anything. It could be trucks. It could be something else. There is no discretion whatsoever that isn't allowed for under this to the Department of Roads. They could test anything they want to. I think the first thing we need to do is understand that it is probably an unconstitutional delegation of authority from this Legislature to the Department of Roads. The second handout that you got from me concerned a picture. It is a picture that I think is devastating. It has been in the Journal. It has been in the World Herald. It has been in the Star. You can see from this picture how incredible the concept is of triple trailers. I think once you start getting these vehicles on the road you are going to have a public reaction which is going to be very negative. I know for a fact that I was in Nevada and I had to deal with a few of these, the awesome impact that they have on you. There was one night that I was traveling in Nevada last year that we were trying to pass a truck, didn't realize it was a triple trailer, and trying to get around that darn thing not knowing where we were at night, it was just a scary experience because it is a much longer vehicle and a much more difficult vehicle to deal with and I think that the pictures that have been expressed in the different papers indicate just what we are talking about here. These are very, very long vehicles, vehicles that I think pose a safety hazard to motorists whether they are on the interstate or some other highway. And again the amendment doesn't specify it is only limited to the interstate.

March 30, 1981

LB 408

Also in the handout is the Triple A's position which is against the proposal that is embodied in LB 408 because of safety to car drivers and their concern for that safety question. I passed out an editorial from the Lincoln Star talking about the fact that other states are already testing this question and why should we test when we can wait and see the reaction in other states. What is so different about Nebraska that we need to pursue our own tests, when in fact, I should mention again, we are not talking about a test program. We are talking about basically a permit system to allow longer trucks, triple trailers, and other vehicles on our roads. It is not a test program from the way you read the amendment that is now the bill. The last handout I sent around shows, it is from the AAA again, the Research Report, it shows that a five axle tractor trailer weighing 80,000 pounds has as much damage to the road as 9,600 autos. That is the diagram that I just passed out. 9,600 cars would do the same damage as an 80,000 pound tractor trailer with five axles. Incredible, truly incredible, and yet that is what we are talking about here. In addition we are talking about an extra trailer, a triple trailer. I talked before about a report from the comptroller general and I think I should go back, Senator Vickers was talking about he is for the public and everybody else is for the railroads or trucks, well, I think those that are opposing this legislation are the ones really concerned about the public and you can talk all you want to about railroads versus trucks. When you look at the facts, we are talking about road damage, we are talking about road safety, I think it is quite clear that the strongest argument is in favor of killing this legislation no matter what the highest claim you have as to what side you are trying to represent. One of the questions that Senator Vickers talked about is, well, you know, there is a lot of different factors on road damage and this is just one of them so why are we so worried. Well, according to the CAO there was a study and it was requested of the State of Nebraska to respond, what really is causing the damage to our roads in this state, they were asked about a number of different possible impacts, and the State Roads Department responded. Now these are the different impacts and this is the response by the Roads Department as to what effect they have on road damage in Nebraska: Number one, lack of funds; state response, a moderate extent to impact on road damage. Deferred maintenance, what impact does that have; some extent, road damage. Age of the road; again the response, moderate extent, road damage. Design of roads; some extent has an impact on road damage. Automobiles, what impact do they have; little or no extent of damage to the roads. Heavy trucks; very great extent is the impact that they have on road damage. Trucks under permit; a moderate extent impact on roads. And finally, illegal overweight

9740

trucks; their impact is a substantial extent. The two items that were identified by the Road Department of having the greatest impact on road damage were heavy trucks and illegal overweight trucks. Those are the conclusions by the Roads Department. It is the same conclusion that was reached by the Comptroller General in the GAO study, and I know maybe facts don't mean a whole lot to some of you who are already committed on this issue but please for a minute listen to some of the conclusions that they reached and I am going to read directly from this report, the summary. "The nation's highways are deteriorating at an accelerated rate and sufficient funds are not available to meet current needs or future requirements. Excessive truck weight is a major cause of highway damage. The rate of highway deterioration will slow down if excessively heavy trucks are kept off of the highways. Federal weight limits and monitoring of state weight enforcement programs are inadequate to protect the \$96 billion federal highway investment made since 1956. The Congress should amend highway legislation to apply federal weight limits to all federal aid highways and to prohibit issuance of overweight permits and exemptions when loads can be reduced to meet normal state weight limits." It goes on to talk about the fact that national statistics show that about 22% of the loaded tractor trailers exceed state weight limits. "The Department of Transportation must work with the states to develop effective weight enforcement program to apprehend overweight trucks. Severe penalties that will deter overweight operations should be imposed. The conclusion is this quite simply overweight trucks are a major cause of road damage." It has got to the point where we cannot afford to meet the costs of keeping up our road system. We have to look to ways to save money on our roads. One of the things that we can look to as being a primary savings is to keep overweight trucks off of our roads and what you have been told is that the 80,000 pound limit has been applied, you are going to spread it out over more wheels so you are going to have less impact. But I am telling to you today that LB 408 is a camel's nose under the tent and once you get that interjected into the operation you have other options and this talks about them in terms of allowing special exemptions and permits to go above the weight limits. It talks about the fact that perhaps after a number of states have this sort of permit system, they could go to the federal government and say it doesn't make any sense to have triple trailers that can handle a hundred or more thousand pounds a load and have only 80,000 allowed for under our present weight limits on the federal level and I can see an effect that can go step-by-step leading to more weight on our roads and more road damage at a time when we should be looking just the opposite way trying to deal with the fact that we

have excessive road damage from excessively overweight trucks. Now this conclusion goes on and on but I think that it is about the safety factors, the splash that is occurring, the conclusions are there from Utah, from the State of Nebraska. I will read from a report that was done two years ago from the State Roads Department. "It is a problem, a truck-train passing cars could be a major safety problem when considering splash and spray. No studies have addressed the conditions when these combinations are passing a slower moving automobile which appears that it could be a much greater time element and present an unsafe condition for the auto driver a considerable period of time." It goes on to talk about the safety hazard when these triple trailers may be trying to negotiate our interchanges and concludes with the fact that they don't see where the advantages on economics and other factors are going to be there unless they up the 80,000 pound weight limit. This is our Roads Department which has come out publicly in support of this legislation. However, two years ago they certainly didn't seem very supportive of the concept. I don't what has changed them. Obviously they have changed. I think that there hasn't been a change in the impacts and the impacts are these; safety is going to be reduced, road damage is going to be increased. Now this legislation was considered in 1980. Senator Merz had a bill, LB 634. It was killed by the committee. It was killed in committee. It was then looked at over the interim period and that is the report that I was talking about here, I can't remember the resolution number, LR 309, and again the conclusions were there that triple trailers and the concept that we are talking about today were not worth pursuing. I believe that is the conclusion we should reach. So I think that here we are back with LB 408 introduced in '81, held over to '82, and time and again we have seen the conclusion reached on the federal level, on the state level that this sort of legislation...

SENATOR CLARK: You have one minute left.

SENATOR WESELY: ...is not wise, yet we are considering now advancing the bill. If you are going to talk about allowing triple trailers and allowing for the road damage, I think the minimum we can talk about is covering the cost of that road damage, and yet in talking to some of those who sponsor this legislation, they have nothing that they want to do with the idea of trying to cover the cost in the road damage that we are now sustaining and would further sustain from increasing to a triple trailer authorization. So I guess that it is quite clear that if they are not willing to pay the price, that we shouldn't allow them the opportunity and the privilege of riding on our roads in triple trailer combinations. I think that we should kill this legislation and proceed with

March 30, 1982

LB 408

other matters important to the state.

SENATOR CLARK: All right, I would like to tell you what I have. I have nine speakers on the kill motion only. You have nine days left. You have 14 Senators with priority bills after that. We are going until five o'clock tonight. We are going to do everything we can to try to facilitate what you are going to get done here but it is up to you to do it. It is not up to me. I have no bills on there so I am not worried about myself. Senator Schmit is the next speaker.

SENATOR SCHMIT: Thank you, Mr. President. I am sorry I missed some of Senator Wesely's conversation but I would just like to suggest that perhaps when we talk about construction of highways, the cost of the highway, damage done to highways by various vehicles, come back to what I said earlier, we would all be driving our automobiles down a gravel road if we had to build them without the revenue that we derive from the commercial vehicles. Another point I would like to make, I may be wrong, but I am sure if I am there will be someone here who will correct me, I do not believe that when the federal government enforced upon the states the 55 mile an hour speed limit that there was any adjustment made in the fees that are charged to truckers, not any of the commercial fees. If there was not, then that in effect was an increase in the fee for all commercial vehicles because, of course, you had to increase the number of vehicles to do the same amount of work you were doing previously. Now if there was a reduction in the fees, I was not aware of it. But I want to point out that while you talk about in the GAO and all the rest of these, you talk about all of the various damages 'hat are done, I would just like to suggest that most of that damage, most of that damage that we have documented evidence of could very likely be traced back to the inadequate construction of those highways. We have heard a lot of conversation about how the salt damage and the various other damages have ruined the interstate. Now we use the same amount of salt, and we use all the other equipment on old Highway 30 and it is still a better road than most of those interstates and most of those new highways we built in recent years. I don't know whether they mixed the concrete better or poured it deeper or reenforced it better or whatever it was but I can tell you very frankly that the millions of miles I have driven over I would just as soon tell you that we have a better base in many of those areas of those old roads than we have today. So it is easy to blame the truck, and I am not discounting the fact that the truck is heavy and that there is some wear there, but what I am saying is that if a highway is properly

March 30, 1982

LB 408

constructed and a vehicle is properly operated that the damage which Senator Wesely refers to does not occur. You are going to have damage but that damage occurs when the highway is not properly constructed. Now why in the world would you build a highway today and not build it for commercial type construction. I don't think you would have one. You couldn't support it. You could not afford it. I think we need to vote against the kill motion and advance the bill.

SENATOR LAMB PRESIDING

9744

SENATOR LAKE: Senator Cullan on the kill motion.

SENATOR CULLAN: Mr. President, members of the Legislature, I think it is interesting that Senator Schmit raises the issue of revenue that are paid by the trucking industry and by commercial vehicles. I think he probably gets a lot of information from this booklet which is the Nebraska Bus and Trucks Facts which is published by the Nebraska Motor Carriers Association. I had an opportunity to review some of the information there and I think that it is important that it should be shared with you in conjunction with some other information that I have. According to the maintenance and construction standards of the Nebraska Department of Roads the design life of a road is based upon the amount of heavy truck traffic that uses that particular stretch of road. According to a study, a 1981 study by the State of Oregon, up to 80%, 80% of all highway deterioration is directly attributable to heavy trucks. The average weight of trucks has increased from 50,000 pounds to 80,000 pounds since most of our roads were designed and constructed. This is based upon the information submitted in this booklet published by the Nebraska Motor Carriers Association. A typical vehicle carrying this additional 30,000 pounds of load spread over the same number of axles causes a 500% increase in damages per mile. That is from the 1981 study in Oregon. I also think that many of these triples to be fully loaded are going to have to use a hundred thousand pounds of gross combination weight in order to utilize the space that is available to them. So, I think the potential for increased damage to the roads is significant. Senator Schmit brings up the issue of revenue. Revenue for the construction of roads. As we all know there are four main sources of revenue for roads in the State of Nebraska. The gasoline tax, the special fuels tax and the motor vehicle registration fees and sales tax on motor vehicles, trailers and semitrailers. Nationwide heavy trucks, over 50,000 pounds pay only 13% of all the highway user fee charges. 86.4% of all user fees in Nebraska are paid by non-commercial vehicles. Farm trucks or personal use trucks account for 62 million dollars in state user fees in 1980 and that was about 40.7%. 45.7% of state user fees were paid by passenger cars and other small vehicles. Large commercial vehicles contributed a little over 20 million dollars in 1980, but that is only 13.6% of all of the state user fees. Of the 406,709 trucks registered in Nebraska 308,000 are farm or personal use trucks or 75.9% of them. Now what is the conclusion? The conclusion for looking at the Oregon study and from the information put out by the Nebraska Motor Carriers Association is that heavy trucks are paying only 13.6% of all state highway user fees but up to 80% of the road damages are directly attributable to

those heavy trucks. Why then I think do we want to allow for bigger, longer trucks? At this point I would also have a question of Senator DeCamp if he would yield for a second. Senator DeCamp, could you tell me what LB 408 in its current form has to do with

SENATOR LAMB: One minute, Senator.

SENATOR CULLAN: . . .mobile homes?

SENATOR LAMB: Will you respond, Senator DeCamp?

SENATOR DeCAMP: Yes. Mr. President, the bill deals with the road and uses thereof. Whether it is Senator Kremer's type of amendment, whether it is something that Senator Chambers has to try to regulate how we utilize our roads, that is what the whole issue is. The use of transportation and the transportation systems on the roads of Nebraska. I understand that mobile homes are frequently on the roads.

SENATOR CULLAN: Thank you, Senator DeCamp. Ladies and gentlemen, I think it is interesting to note that this bill isn't just a triple trailer bill, the mobile home industry is out there in the rotunda lobbying for this bill. Why are there? Because under this "triple trailer bill" they can come in and get special permits to take wider and bigger mobile and modular homes down the roads of the State of Nebraska. Did you know that is in this bill? Well it is. The bill gives all of the . . .

SENATOR LAMB: Your time is up, Senator.

SENATOR CULLAN:..authority to the Department of Roads. I urge you to kill this bill.

SENATOR LAMB: Senator DeCamp on the kill motion.

SENATOR DeCAMP: Question.

SENATOR LAMB: The question has been called. Do I see five seconds? I do. Are, all those who support ceasing debate vote aye, opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you voted on the motion to cease debate? Have you voted on the motion to cease debate? Record.

CLERK: 25 ayes, 11 nays to cease debate, Mr. President.

SENATOR LAMB: Debate is ceased. Senator Wesely, you may close on the kill motion.

March 30, 1982

LB 408

SENATOR WESELY: Thank you, Mr. Speaker. I guess I am going to eventually ask for a Call of the House and a roll call vote. Would it be in order to ask for that now before I start my closing? Is that proper? I would like to do that.

SENATOR LAMB: A Call of the House has been requested. Those in support vote yes, those opposed vote no. Record.

CLERK: 16 ayes, 2 nays to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All Senators record your presence. Senators are to be in their seats. Would you care to continue on your closing while we are finding the Senators, Senator Wesely? Would you want to start your closing while we are finding the legislators?

SENATOR WESELY: That is fine. Senator Kremer would like me to proceed rather rapidly so I will do it as quickly as I can. Okay, I will just go right ahead, Mr. Speaker. The proposal before you is a kill motion on LB 408. I ask you to please kill this legislation for a number of different reasons. First I talked about the safety factor to the public. I think it is quite clear triple trailers do pose a safety factor. The legislation before you doesn't talk about where they are going to be used. It could be the interstate. It could be highways. It could be anywhere. It doesn't really specify only interstate although they have talked about that. It is a safety hazard even on the interstate. I talked about the problem of triple trailers passing and it may be a wet day and the splash that would result from that. And the same problem when you are following a triple trailer on the interstate. Even if you do limit them to interstates, I have real questions about the safety. You all know what factors you have when you have double trailers and you try to pass them or they pass you or you try to follow them on a rainy day. I think it is quite clear that there are serious questions about safety, about their braking ability and what have you. They can't back up very far. All those questions lead to one conclusion, safety problems. The AAA has already noted that. Secondly, I talked about the impact on the roads. Overweight trucks, heavy trucks have been found to have a severe impact on our roads, having a great deal to do with our road damage. Senator Cullan gave you some statistics. Again I repeat, Oregon found that 80% of all highway deterioration is directly attributable to heavy trucks yet they found nationwide heavy trucks paid essentially 13% of the highway user charges when they are over 50,000 pounds. I don't exactly know where that information came from but it is probably as accurate as the information that came from Senator DeCamp about 56 out

9747

of a hundred miles of Nebraska highways are built by bus and truck taxes. Even if that is the case and 80% of our road damage is from truck and buses, then that shows that they aren't quite covering their cost of operation. When you start talking about triple trailers, you have to talk about the efficiency question that they say is the reason for voting for the bill but you don't get the efficiencies until you raise the weight limits and that causes the road damage I am talking about. I think it is a problem we have to be aware of and a problem that I think we should be concerned with. Another point I think is very important is the question about what restrictions we do place on the testing. This is not a testing program and I just wish everybody would cross that phrase out on LB 408. It is not testing, it is a new special permit system to allow bigger trucks on our highways. Simple, clear, that is what we are talking about and not even trucks as Senator Cullan talked about, mobile homes, other vehicles may be included. We delegate authority that we are not sure how it is going to be used by the Roads Department and it is clear in my mind that we have to be very concerned about the impacts of this legislation on the future. What control will the Legislature have on weight and length of trucks in this state if we start this program and start down this direction of delegating all that authority to our Roads Department. When we talk about the trucks and the energy savings that are involved in it, I think one of the biggest energy savings we might have is if they would start observing the speed limit. We found time and again that we have a serious problem with trucks going too fast and not observing the speed limit and that causes greater consumption of gasoline, and so if you really want to talk about energy consumption, that is one way to do that. And we do know about the serious problem the number of times that trucks are found to be overweight and I think that that has its impact on the roads. There is a wealth of information on the issue. There is a wealth of information that comes to the conclusion that this bill should be killed. I think that we can proceed with other legislation. It has already taken a lot of time. I will tell you this, that if the legislation is not killed at this point, I have already talked to Senator Cullan, we have drafted an amendment to deal with the weight-distance issue. If you are going to insist on allowing triple trailers in the State of Nebraska, then they should carry their own weight as far as the tax question goes, the road damage that they cause. And if nothing else you are going to see further amendments on this bill to try and make it at least fair and equitable, some tightening of the different restrictions.

SENATOR LAMB: One minute, Senator.

March 30, 1982

LB 408

SENATOR WESELY: All those things are going to take some time in this Legislature and in the end I am not sure they are even still going to produce a bill that is going to be a positive bill for the State of Nebraska. So I ask you at this time to recognize the problems of this legislation, recognize the problems that will result from its passage, kill the bill. Let's proceed with other items and I think serve the state well at this point. I move to kill LB 408.

SENATOR LAMB: The motion is to indefinitely postpone LB 408. It takes a simple majority. Those in support to vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Record, Mr. Clerk.

CLERK: 12 ayes, 30 nays, Mr. President, on the motion to indefinitely postpone. A record vote. Senator Wesely requests a record vote, Mr. President.

SENATOR LAMB: A record vote.

CLERK: (Record vote read. See page 1495, Legislative Journal.) 12 ayes, 30 nays, Mr. President.

SENATOR LAMB: The motion failed. The Call is raised, Senator Rumery. Do you have anything else on the bill, Mr. Clerk?

CLERK: Yes, sir, I do. Mr. President, the next amendment I have is from Senator Kremer. It is found on page 1201 of the Legislative Journal.

SENATOR LAMB: Senator Kremer.

SENATOR KREMER: Mr. Chairman, we will not need that amendment because it was related to Section 2 that we lost because of the ruling of the Chair so I ask the amendment be not adopted.

SENATOR LAMB: The amendment is withdrawn.

CLERK: Mr. President, the next amendment I have is from Senator Chambers. Senator Chambers' amendment is on page 1193 of the Journal.

SENATOR LAMB: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this amendment deals with Section 39-6 something so it is in the same chapter as this bill. It relates to the rules of the road which the bill itself relates to and I don't think

there is an issue of germaneness. What it does is to offer some minimal regulations of the use of radar, and perhaps rather than using the term "regulation", it should have to do with direction. I gave you a handout which contains some material lifted from an article about a judge in North Platte. He tells about his requirements where a radar citation would be involved in his court. He wants to know that the officers are trained in the use of the radar, where it was pointed at the time the reading was taken and things of that nature, but even more important than that was the copy of an article that came from a magazine called Crossroads. It is put out by a large magazine, Montgomery Wards, and it points up the types of errors that occur in the use of radar. With proper training some of these errors can be detected by a competent operator. The bill that I would seek to amend would be such a vehicle for offering that type of guidance. Already the State Patrol is incorporating the types of items that my amendment would contain into their training. One of the considerations that was not emphasized in the past when radar requirements were discussed is the need to give direction to local police agencies and sheriffs departments. Even if the State Patrol had all of the training that was necessary, had the best type of radar equipment which in fact they don't have, but assume they had all of those things, you have hundreds of local police officers, hundreds of sheriffs' deputies out there not knowing the proper way to operate radar. The requirements that would be contained in the amendment that you will find that I am offering would give guidance and direction. It would tell them the types of things that a judge is going to look for when one of these citations is presented. I have been asked by some people whether or not these types of requirements will only teach an unscrupulous officer what things to say in court to buttress an invalid ticket. The experience has been in states where they do have training, where courts have imposed requirements such as these is not what was suggested, namely, that officers who were unscrupulous would be better able to defend bad tickets in court. They found out that with knowledge of the radar device, how to properly operate it came a certain type of professional pride. There were fewer bad tickets written and those that were written could result in more convictions because the officer knew what he was doing, he knew the conditions under which he had operated the device, and all of his procedures withstood judicial scrutiny. What I would like to do this afternoon is have this amendment adopted, but before that would occur, any questions you ask me I am prepared to answer them. In the past there had been some concern expressed over two provisions by Colonel Kohmetscher. One dealt with the specific requirement that there be visual observation prior to the taking of a clocking for the purpose of writing a ticket. Despite his opposition to that proposal, he subsequently wrote a letter, a copy of which I have given you in

March 30, 1982

LB 408

this handout, where he states that the Patrol's training requires the visual observation, and if you check with any of those who are conversant with Patrol practices, all of the procedures contained in my amendment would be the things that are being taught by the Patrol. We all know that the local police agencies and some sheriff departments do not teach the things that are required. This provision would make the regulations or guidelines for operating radar anywhere in the State of Nebraska statewide. So I am asking that you adopt this amendment and move the bill.

SENATOR LAMB: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I sure have no objection to the amendment. It has got a bunch of major corrections from Senator Chambers' original radar bill and I do think we need some laws clarifying the situation and that is what the amendment does so I have no objections to it, and as I say, the things that I think caused it the difficulties before have been eliminated. So I am going to vote for the amendment.

SENATOR LAMB: Senator Labeledz. The question has been called for, do I see five hands? Do I see five hands? Yes, I do see five hands. Those in support of ceasing debate vote aye, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SENATOR LAMB: Debate is ceased. Senator Chambers to close. Waive closing. The motion is Senator Chambers' amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Have you all voted? Senator Chambers. A Call of the House has been requested. Those in favor will vote aye, those opposed vote no. Record.

CLERK: 12 ayes, 0 nays to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All Senators please check in and take your seats. All unauthorized personnel leave the floor. Do you wish to take call in votes, Senator Chambers? Call in votes are authorized.

CLERK: Senator Cullan changing from no to yes.

March 30, 1982

LB 408

SENATOR LAMB: Senator Kremer, Senator Hefner, Senator Wiltala, Senator Howard Peterson, Senator Wesely, Senator Kilgarin.

CLERK: Senator Koch voting no.

SENATOR LAMB: Senator Marsh. Senator Pirsch, would you record your presence please. We are missing Senator Goll, Senator Koch, Senator Vickers. Yes, we are taking call ins. Senator Cullan, would you record your presence please.

CLERK: Senator Pirsch voting yes. Senator Barrett voting yes. Senator Higgins voting yes.

SENATOR LAMB: Record.

CLERK: 25 ayes, 14 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SENATOR LAMB: The Chambers amendment is adopted.

CLERK: Mr. President, Senator DeCamp had an amendment that I understand he wishes to withdraw. Mr. President, Senator DeCamp would move to suspend Rule 6, Section 3 and Rule 7, Section 3 and vote without further debate and without further amendment on the advancement of LB 408.

SENATOR LAMB: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I am not particularly doing this for my benefit. I was trying to do it for yours. There is a whole bunch of people got bills here, and let everybody that wanted to try any amendment at all throw up something, like Don threw up a kill, threw up all kinds of things yesterday. I guess you have been on this, I wasn't here yesterday but I think you were on it most of yesterday. It just seems to me whether you are for or against it, you ought to be ready to vote it up or down and I wouldn't have done it but I see there is three more amendments coming up behind it and that is the only reason. Mode of vehicle inspection, studded tires, I just think it makes sense to vote it up or down and I think the only way you are going to do it is if you bring her to a head. As I say, you know, I can go home and campaign. In fact I guess I had better or I am going to be in deep trouble but it seems to me we have made it into kind of a convoy the way it is. We have hooked on the radar which I think is good so we can regulate the truckers and the cars. We have taken care of the farmers. Just don't know who else wants to climb on but it seems we ought to kind of bring her to a head here pretty soon. That is the only reason I put it up because of more amendments flowing

March 30, 1982

LB 408

in by the minute.

SENATOR LAMB: The Call is raised. Senator Wiitala, on the motion to suspend the rules.

SENATOR WIITALA: Mr. Speaker, colleagues, I guess since I have been trying to talk here, I would have to rise at this moment in opposition to Senator DeCamp's movement to suspend all debate on this issue. I still think there is a lot of things that need to be addressed and there is probably a lot more things that should be placed on this bill to make everybody comfortable with it. So I don't think we really need to get into a hurry, but for my own part I would just like to reiterate some of the views I mentioned earlier and respond to some of the opinions of others. First of all, I don't look at this issue as a contest between the railroads and the trucking industry. I have not been lobbied by either party on this issue, and when I take a look at the correspondence I received, it is little or nothing. But there is a difference though, railroads own the tracks and they can do what they want. You don't have to worry about putting limitations on the number of cars they carry across the tracks because they own both the railroads and the tracks. The railroads so effectively have put into force safety precautions and they look after those railroads that are traveling those lines and make sure that there aren't collisions and we certainly do not have to worry about autos and trucks and RVs and so forth being destroyed on railroad tracks but such is not the case with our state's highways and interstate. The public owns them and we are deserving of a voice in how vehicles travel upon them. I speak a little bit from experience. I have not driven a semi truck but I do drive daily during session between Omaha and Lincoln and believe me it is a lot different along that stretch than the highways, the interstate systems, in Wyoming, Montana, Utah and Nevada. Take a count the next time that you are traveling those roads. Members, the question I am going to raise is what is going to happen when these triple trailers teem up in convoy fashion which trucks seem to have the inclination to do at times. Along with the triple truck you have got two or three of these triple trucks running simultaneously. Again I want to raise the question that when there are hazardous conditions, how can a passenger, a driver in a vehicle, safely pass that type of a combination. I am reminded in Omaha when I was trying to gain access on the interstate and a truck was following...I was on the interstate and was in my blind spot from my little car and I didn't see it. I didn't see that truck until I took a better look and I was between the two axles. I was looking right through it and it was on me and

March 30, 1982

LB 408

almost pressed my car out with myself included but I am going to maintain that when you put a triple truck or a triple trailer on the interstate it is going to be much like the motorcycles. Drivers are not going to expect them. They are going to be entering the interstate, trucks traveling at 55, 65 plus miles an hour, and they are not going to expect that second trailer and they are not going to expect that third trailer and someone is going to lose their life. All this because of the pressure of declining railroads and the pressure of creating railroads out of our highways. And I think just in closing, Mr. Speaker, I would just like to say that I think that this whole issue needs further debate not here in the halls of our Legislature in the declining days of this session. It needs more closer scrutiny. It needs an interim study, certainly when it comes to the safety precautions that will guide the conduct if we should make such a move. Thank you.

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would like to argue very strenuously against the motion to suspend the rules at this point in time for the purpose of cloture, for the purpose of ending debate. Let me review for you basically what we have done on this bill. Basically we have argued one kill motion on the bill and that has been it. Now yesterday we argued 874 for quite a while and earlier today we argued LB 874 for another hour, and then for awhile after that we argued LB 413. But now we did all that arguing because John DeCamp wanted us to do that arguing, because the sponsor of this bill wanted us to do that arguing. If he had said "nothing doing, this is one bill for one purpose and I don't want any riders", there wouldn't have been all that discussion. So on LB 408 itself we have essentially argued it for about a half hour and I suggest to you that there are a number of amendments and a number of things that really need to be seriously looked at on the bill and that we would be irresponsible not to take a look at some different kinds of amendments to the bill. As Senator Cullan has indicated to you on a number of occasions, the bill is extremely broad and in fact I think from a public policy point of view each and every one of you would want to take a look at a couple of these amendments that are coming up. Again I want to state that I think that it would be an abuse of our process to suspend the rules to close off debate at this point in time when all we have done is argue one kill motion. Thank you.

SENATOR LAMB: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I

March 30, 1982

LB 408

object to the motion to suspend the rules at this time, not because I want to delay the bill any further although I obviously want to kill the bill. I still think that we should clarify a very serious problem that was created with Senator Kremer's amendment and that is that we have trucks and there are no registration fees paid on those trucks and there is no criminal sanction, no penalty associated with improperly using those trucks. So the sections of the Kremer amendment that were not germane are the penalty sections which I think are very important, and also the sections on fees. Now I guess if we are going to allow farm trucks to move these products, the very least we ought to do is require that they pay those registration fees and I think it is incredible that we would allow that to become state law without the penalty fee section. That is what is not contained in the bill and I think that is a tremendously important section. So I have an amendment up there that I put up, not to delay the bill, but to strike the Kremer amendments because a very substantive portion of them are not germane, that being the penalty section, and I just can't believe that we would allow the bill to go in that form. So I would hope that you would reject Senator DeCamp's motion to suspend the rules and that you would allow us at least to take up that motion to strike the rest of the Kremer amendments so that we don't have that provision to allow farm trucks but have no penalty section which I think it is just nonsensical.

SENATOR LAMB: Senator Marsh. Senator Marsh passes...oh, call the question. Do we see five hands? Yes, we do. Those in support of ceasing debate vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Record.

CLERK: 29 ayes, 2 nays, Mr. President, to cease debate.

SENATOR LAMB: Debate is ceased. Senator DeCamp, to close on suspension of the rules.

SENATOR DeCAMP: Mr. President, members of the Legislature, so you understand, I am not asking you to support the bill. I am not asking you to oppose the bill. I am asking you to have a chance to do one or the other. Now I deliberately waited on this bill to put this motion up until the time we would normally adjourn. That is right. Normally we would be adjourning now and all the various amendments and everything would have accomplished whatever the purpose is to delay but you decided this morning to add an extra hour

March 30, 1982

LB 408

on to the Legislature. I went along with it. Now you are whistling in the wind if you are adding another hour on so you can have another half a dozen amendments. It is just a matter of trying to run out the clock. If that is the intention, that is what you will see happen if the motion to suspend the rules is defeated. Senator Beutler and Senator Cullan say they have very sincere amendments and Senator Wesely, and maybe they do, but let's pull back the covers, let's open up and talk truth. Okay, here it comes. Now this is a bill that affects the trucking industry. I mean it affects them big. They want to have some testing and, Senator, it is testing, and they want to prove that this isn't the big bugaboo everybody claims and a bill that was previously opposed by the Highway Department is now supporting. Okay, who is on the other side? The people that should be on the other side, the representatives of the railroads, Senator Wesely, Senator Cullan, and more power to them, by golly, more power to them. They should represent the railroads. That is where they live. That is who their constituency is. That is who is in their territory. But for goodness sake let's not pretend that somehow Senator Wesely and Senator Cullan have developed overnight this incredible concern about the safety of truckers and the highways and that the railroads, who they are getting all their information from, and quite properly so, I don't contest that, that the railroads have been born again as truckers because that is what it is all about, the railroads versus the trucking industry. Now you see I don't have railroads in my district. I have to rely upon trucks. I have counties where there has never been a railroad and I have railroads that couldn't pass in any other state or country as railroads and so I want to look to the future, two, and five, and seven, and ten years, and start developing some things that develop our road industry. I wanted to build roads. I wanted to build a north-south interstate. I wanted to repair our existing roads with a bond program. Well, that was like throwing a...you know what. Anyway, it didn't go anywhere. But at least I want to take the first step in getting some testing. We know we can save about 30% on energy to haul the same quantity, and all this stuff about weight, that is controlled by the feds, so let's not throw that one out but let's get down to the core of it, it is the railroad versus the truckers, and I guess it depends on which side you are going to settle down on, and I admire, and I applaud, and I encourage Senator Cullan and Senator Wesely to do everything they can on behalf of the people they are representing very strongly on this which is the railroads. I don't think anybody in here would deny that including them but that is what it is. It is a railroad versus the trucking industry fight. So I say we know what the fight is. You know what the issue

9756

March 30, 1982

LR 279
LB 408, 761, 942, 966, 757, 928

is. It isn't that complex. The question only is do you want to vote on it or do you want to spend another day on it and never get to nursing homes and studded tires and ADC bills of Von Minden and everybody else. All I am suggesting is in one minute we will be to the time we normally adjourn and I thought that is about all this bill should take today.

SENATOR LAMB: One minute, Senator.

SENATOR DeCAMP: So I put a motion up that when we got to the last minute we would have a vote or attempt it and that is all the motion is to suspend the rules and vote on it one way or the other.

SENATOR LAMB: The motion is to suspend the rules. Those in favor vote yes, those opposed vote no. It takes 30 votes.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted?
Record. Senator DeCamp.

SENATOR DeCAMP: Beings we are here and this close I would like to have a Call of the House and take some call ins if anybody wants to call in.

SENATOR LAMB: The request is for a Call of the House. Those in support vote yes, those opposed vote no. Record.

CLERK: 22 ayes, 0 nays to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All Senators record your presence. We are looking for Senator Warner, Senator Goodrich, Vickers, Senator Marsh, Senator Hoagland, Senator Beutler, Senator Higgins Begin the roll call on the motion to suspend the rules.

CLERK: (Roll call vote taken. See page 1496, Legislative Journal.) 27 ayes, 17 nays, Mr. President.

SENATOR LAMB: The rules are not suspended. The Call is raised. Please read in the material, Mr. Clerk.

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 966; Senator Koch and Nichol to LB 761; Senator Kahle to LB 942.

Mr. President, a new resolution by Senator Wesely, LR 279, (read). That will be laid over, Mr. President.

Mr. President, Senator Warner would like to print amendments to LB 966, LB 757, LB 928.

March 30, 1982

LB 408

Mr. President, Senator Cullan would move to amend the bill and Senator Cullan would move to strike the Kremer amendment.

SENATOR LAME: Senator Cullan.

SENATOR CULLAN: Members of the Legislature, I know the hour is late and I don't want to spend a lot of time on it. I would just ask...I would just point out that we failed to adopt the second half of the Kremer amendment and that creates major problems in the operation that what Senator Kremer is attempting to do. There is no enforcement penalty provisions. There is no penalty and there is no registration fee. There is only small part of the fee and I don't think it is proper for us to enact this law to allow the semitrailer trucks to operate and have absolutely no penalty violation of the provisions of that semitrailer truck amendment. I think it is simply ludicrous of us to accept half of it and not the entire thing. Half of it is clearly not germane so I think it was only good common sense and good legislating to remove the portions of it which are still remaining in the bill. So I will say no more than that, just ask you to adopt this amendment and remove what we did earlier in the day and I will have no further amendments today and I will not discuss the bill further.

SENATOR LAMB: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I just want to wake you up as to what you have done with radar. If you haven't looked at it, look at it. I'll have a motion up there later to attempt to do away with the Chambers' amendment that we adopted a little while ago. I don't think you know what you have done in that regard and you've lost my support of the bill on it. Maybe that is the way you want to kill it, I don't know, but I want to just alert you to it now. Thank you.

March 30, 1982

LB 408

SENATOR LAMB: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, a question of Senator Cullan, please. Senator Cullan, why should there be penalties and for what? Would you explain that?

SENATOR CULLAN: Well, they are Senator Kremer's amendments, but as I understand it now there are farm trucks and the farm trucks can be used to haul the grain. Presumably the grain is supposed to be that farmer's grain and if the farmer hauls someone else's grain or does some other different things, there is absolutely no penalty. So you can get a farm plate for a truck and you can drive the truck anywhere you want to drive the truck. You can drive it all year long. You can do anything you want to with that farm plate and there is no penalty for violating the law. So if we pass this bill, as I understand it, in the version it is in, there is absolutely no reason for every commercial trucker in the State of Nebraska not to come in and get a farm plate for almost nothing in cost and then haul anything they want to for hire or whatever and there are no penalties. So I think what we have done is we have just created a system where there is no reason for truckers to get commercial licenses, they can all get farm licenses and do as they please.

SENATOR HABERMAN: One more question, Senator Cullan. Then you feel it is necessary to have a penalty to enforce the law? Is this correct?

SENATOR CULLAN: I think any law, almost any law, needs some kind of penalty, otherwise the law is simply meaningless and you just invite disrespect for it. So I think there has to be a penalty for this law and other laws.

SENATOR HABERMAN: Thank you, Senator Cullan.

SENATOR LAMB: Senator Beutler. Senator Kremer.

SENATOR KREMER: There will be penalties on the fees just like it was and if we're not sure about that I'll accommodate those that are concerned on Select File and see that there is a penalty for sure, so that defeats that argument.

SENATOR LAMB: Senator Cullan, to close on your amendment.

SENATOR CULLAN: Mr. President, members of the Legislature, all I would say is that the penalty provision in this bill has already been ruled nongermane and if Senator Kremer wants to establish a system where farmers can use semitrailer trucks

then there has got to be a penalty provision. The penalty provision has already been ruled nongermane by the Chair. We have already discussed and debated that issue. The only logical thing to do is to strike the Kremer amendment from the bill. I urge you to do that.

SENATOR LAMB: The motion is the adoption of the Cullan amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Record.

CLERK: Mr. President, Senator Cullan requests a record vote. (Read record vote as found on pages 1501-1502 of the Legislative Journal.) 9 ayes, 23 nays, Mr. President.

SENATOR LAMB: The motion fails. What else do you have on the bill, Mr. Clerk?

CLERK: Mr. President, the next motion I have is from Senator Beutler. (Read Beutler amendment as found on page 1503 of the Legislative Journal.)

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I'll be very brief. The amendment is very important but I think can be explained very simply. It would limit the special testing programs that we're talking about to the interstate highways of the state and it would be my intent that then the Highway Department would make rules and regulations that would allow the vehicle's access to the interstate highway system but the testing program would basically be on the interstate system. My thought is simply this. If what we are really talking about is a testing program, then we ought to be able to do that and we ought to start on our safest highways which are clearly our interstate highways, double lane highways, where we can test, do our preliminary testing on the safety of these kinds of vehicles and that would keep them temporarily off the two lane highways where in my opinion they would potentially be the greatest safety hazard. So that is pretty much the concept. We've talked a little bit about the pros and cons of the program before and I don't want to go back into that. I think you have fairly well fixed in your minds now what you want to do but I suggest to you that if you are being honest about it being a testing program and if we're not talking about simply another way of getting into these type of vehicles without going the proper route, then it makes sense to start off on a

March 30, 1982

LB 408

small scale in a limited situation and see how we do and expand from there and let the public get used to the idea too. I think that is important. Thank you.

SENATOR LAMB: Senator Wesely. Senator Schmit. Senator Beutler, there are no other speakers that wish to speak. The motion is the Beutler amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Have you all voted? Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I guess we're probably going to need a Call of the House and a roll call vote, please.

SENATOR LAMB: Those who support having a Call of the House vote yes, those opposed vote no. Record.

CLERK: 9 ayes, 5 nays to go under Call.

SENATOR LAMB: The House is under Call. All legislators please record your presence. All unauthorized personnel please leave the floor. Please record your presence. Senator Wiitala, Senator Koch, Senator Warner, Senator Cope, Senator Wesely, Senator Newell, Senator Chambers. We're missing Senator Warner and Senator Chambers and Senator Clark. Senator Beutler, everyone is here except Senator Warner and Senator Chambers. Shall we begin the roll call? Please call the roll, Mr. Clerk.

CLERK: (Read roll call vote as found on page 1502-1503 of the Legislative Journal.) 23 ayes, 17 nays, Mr. President.

SENATOR LAMB: The motion failed. What else do you have on the bill, Mr. Clerk?

CLERK: The next motion I have is from Senator Beutler. Senator Beutler would move to amend the bill by adding the following language. (Read Beutler amendment as found on page 1503 of the Legislative Journal.)

SENATOR LAMB: Senator Beutler, I guess.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, as I understand the testing program and what it was to be all about, it is a program that is designed to see how these longer vehicles work on the roads and it is not a program or a mechanism designed to put new weights on the highways that destroy the highways or to put more weight per axle on the

highways which also has the tendency to destroy the highways. That is not the intention as has been stated on the floor or before the committee in getting this program in place. But the language of the bill itself does not explicitly say that they could not change weight and axle and weight per axle requirements. So the purpose of this amendment is simply to put that limitation into the amendment and to provide that the program shall not fool around with the weight of the vehicle or the weight per axle of the vehicles. That is simply it and it is to allow the program to exist, allow them to proceed with it but to limit them to exactly what they said they wanted to do. Thank you.

SENATOR LAMB: Senator Haberman. The question has been called for. Do I see five hands? I do. Those in support vote yes, those opposed vote no, cease debate. Senator Vickers, for what purpose do you rise?

SENATOR VICKERS: Mr. President, Senator Beutler briefly explained his amendment and I don't know whether the opponents or the other people involved in this bill accept that amendment or not. It seems to me we should have a little more debate than simply the introducer explaining an amendment and then shutting off debate.

SENATOR LAMB: Thank you, Senator Vickers. We will let the body decide. The motion is to cease debate. Voting yes.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted to cease debate? Record.

CLERK: 14 ayes, 10 nays to cease debate, Mr. President.

SENATOR LAMB: Debate is not ceased. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'd like to ask Senator Beutler a question so that I understand what his amendment is suggesting. Are you saying that your amendment deals with how much weight is allowed per axle regardless of the number of axles?

SENATOR BEUTLER: Right.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I think there might be something to what has been said about trucks causing damage to the highways but I think there is something to be said for what Senator Schmit mentioned about poor construction. I think while they are talking about bid rigging and setting prices they ought to look at the quality of material and workmanship that has gone into the shabby

highways that exist in Nebraska. If you want to get an idea of what I am talking about, drive the portion of the interstate marked off between the Exits 42nd Street and 60th Street in Omaha. You'll see pitching and patching which I think is a crime in and of itself. Only inferior materials and workmanship could result in something like that. I believe these matters are proper for discussion at this time because even a trucker should be concerned about whether or not a road is strong enough, the bed under it is strong enough to support the weight of the truck. If you want to get seasick, if you want to get an idea of what Disneyland could be like, drive on the east side of the Platte River going toward Omaha. It is not just bumpy, it is wavy. It will put you to sleep and if it is icy when your car goes over it and up in the air off one bump coming down into the valley of the next, you could lose a little bit of your control but thank goodness, Senator Labeledz, I didn't say thank you know who, thank goodness that our Department of Roads is on the case. Senator Wesely, do you know what they did as far as handling that situation? They have taken care of repairing that problem almost immediately. They have a sign that says, "Uneven Pavement." That is beautiful. But they have a staging area before you get to the sign that is also uneven but not quite as uneven. So you kind of get into the swing and the flow and the rythm of the bumps, then you get to the sign that says it is really uneven. I don't know if the State Department of Roads has any plans for repairing that stretch of road and anybody who drives from here to Omaha and from Omaha to here knows exactly what I am talking about. If what Senator Beutler is suggesting is what those who offered the bill had in mind meaning not using this bill as an opportunity to put weights in excess of what is now allowed, I don't see what would be wrong with his amendment so I am going to listen to those who would oppose the amendment to see if Senator Beutler is misunderstood and as a result incorrectly stated their original intentions. But right now the amendment doesn't seem that obnoxious to me.

SENATOR LAMB: Senator DeCamp.

SENATOR DeCAMP: Senator Chambers and Senator Beutler said that if the sponsors of this bill were serious and really did want testing, then they would show their sincerity by such a thing as accepting this amendment. I accept the amendment.

SENATOR LAMB: Senator Beutler, to close on your amendment. Closing on your amendment, Senator Beutler.

SENATOR BEUTLER: I would have no closing, Mr. Speaker, other than to remind the body that the effect of the amendment is

March 30, 1982

LB 408

basically to prohibit any fooling around with weight and weight per axle requirements. Thank you.

SENATOR LAMB: The motion is to adopt the Beutler amendment. Those in support vote yes, those opposed vote no. Have you all voted?

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Record.

CLERK: 27 ayes, 8 nays, Mr. President, on adoption of the amendment.

SENATOR LAMB: The amendment is adopted. Do you have another amendment?

CLERK: Mr. President, Senator Beutler would move to amend the bill by adding the following language. (Read Beutler amendment as found on page 1503 of the Legislative Journal.)

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this is the third and last of my amendments and basically this third limitation would say that there are only going to be a certain number of vehicles that we are going to use for testing purposes at the beginning of this testing program and basically I picked out the number 30 and I'm not totally inflexible on that. If there is some more reasonable number, that is fine, but I would like to know that the number of units that we're talking about that are going to be on our highways are limited to a certain number, whatever number is reasonable for purposes of testing these new longer units and let it go at that. The way the bill is drafted right now they could authorize every trucking company in the nation who has this type of a vehicle to use all of their vehicles. It doesn't say that the testing has to be one or two vehicles for each company or limited in any manner. The Department of Roads has complete and absolute latitude to let all companies operate these types of vehicles without restraint. So again, the purpose of the amendment is to say that we're going to start out by allowing a certain number of these kinds of vehicles and see how they do and if after a period of time they do all right, we can increase the number of vehicles or we can take the restraint off completely. But I think it makes sense in line with the testing concept to begin with a modest proposal. Thank you.

SENATOR LAMB: Senator Schmit, on the Beutler amendment.

SENATOR SCHMIT: Mr. President and members of the Legislature, I chose not to oppose a previous Beutler amendment because I thought it was so obvious when he suggested that we not use those testing vehicles on anything other than the interstate highways that everyone would recognize that you would not be able to get to the interstate highway by a secondary road if you have adopted that amendment and so you would have had to call upon me with my helicopter service to lift you from the docking point to the highway but I almost got the amendment adopted. So I am going to say it right now, I don't think you need this amendment. We've talked many, many times about superfluous language in the law. It is a testing program the Department of Roads is going to carry out what they see fit to find out what they need, to add this information. It's just like putting in the FARs that you can't land a 747 on the David City Airport. It is a matter of common sense. I don't think you need it. I think it is time that we stopped this foolishness and either move the bill or kill it but certainly we don't need the Beutler amendment.

SENATOR LAMB: Senator Beutler to close.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I've never heard such a nonargument in my whole life. The bill is quite clear. There is absolutely no limitation in it whatsoever with regard to the number of vehicles that you can use. Now if that is the way you want the bill, fine, but if you want some reasonable limitation on the testing program, if you don't want to see these kinds of vehicles all over your highways immediately, then I think it makes sense to limit them to a certain number to begin with. These are not amendments designed to kill the bill. They are amendments designed to make sense out of the bill and I resent the indication that they are other than that. Again, the amendment would limit the number of vehicles, number of these types of vehicles involved in the testing program at any one time to 30 vehicles. Thank you.

SENATOR LAMB: The motion is the Beutler amendment. Those in support vote yes, those opposed vote no.

CJ. ERK: Senator Beutler voting no.

SENATOR LAMB: Have you all voted? Have you all voted? Record. A record vote has been requested.

CJ. ERK: Mr. President, Senator Beutler requests a record vote. (Read record vote as found on pages 1503-1504 of the Legislative Journal.) 14 ayes, 24 nays, Mr. President.

March 30, 1982

LB 408, 675, 743, 761, 942

SENATOR LAMB: The motion fails. Anything else on the bill?

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

SENATOR LAMB: Is there any further debate on LB 408?
Senator Nichol, on the bill.

SENATOR NICHOL: Are we about ready to close on the bill?
Good. Mr. Chairman, members of the Legislature, I just
draw your attention to Senator Chambers' amendment again,
not intending to do anything about it now. I think it
weakens the bill but if that is the intention of it, that
is fine with me. So with that, thank you.

SENATOR LAMB: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I call the question.

SENATOR LAMB: That will be not necessary. We have no more
lights on. Senator DeCamp, do you care to close on the bill.

SENATOR DeCAMP: I close.

SENATOR LAMB: The motion is the advancement of LB 408.
Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted?
Record.

CLERK: 25 ayes, 17 nays, Mr. President, on the motion to
advance the bill. I'm sorry, Senator. Senator Wesely re-
quests a record vote. (Read record vote as found on page
1504 of the Legislative Journal.) 26 ayes, 17 nays on the
motion to advance the bill, Mr. President.

SENATOR LAMB: The bill is advanced. Do you have something
to read in, Mr. Clerk?

CLERK: Mr. President, very quickly, your committee on Busi-
ness and Labor, notice of scheduled hearing for next Wednesday
regarding the state labor contracts. That is signed by Sena-
tor Barrett as Chair.

Senator Peterson would like to print amendments to LB 761;
Senator Hoagland to LB 675; Senator Newell to LB 743; Senator
Fenger to LB 942. (See pages 1505-1506 of the Legislative
Journal.)

Mr. President, a study resolution offered by Senator Beyer

April 1, 1982

LB 408, 602A, 611, 761, 952

CLERK: Yes, very quickly, Mr. President, I have a motion from Senator Newell regarding LB 952 to be printed in the Journal, Mr. President.

Your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 408 and recommend that same be placed on Select File; 611 Select File and 602A Select File.

Mr. President, a new A bill, 768A, offered by Senators Higgins, Labedz, DeCamp and Rumery. (Read. See page 1570 of the Journal.)

Mr. President, the next motion I have on LB 761 is a motion by Senator Koch and Nichol but I understand you want to withdraw that. Alright, Mr. President, the next motion is the one by Senator Richard Peterson and that is on page 1505 of the Legislative Journal.

SENATOR NICHOL: Senator Richard Peterson.

SENATOR R. PETERSON: Mr. Speaker and colleagues, I guess why I am offering these three amendments is because of the last month when I went home, I have discussed many issues and some of them have been these agencies and the figures, how they have grown over the last number of years. And the story I get, about 100%, is, "My God, eliminate them or cut them down." So out of some of the agencies I am going to ask your consideration of the first amendment which I have to cut the Mexican-American Commission. All three of these amendments are directed to the economic situation in the State of Nebraska in 1982. There is no doubt in anyone's mind that there is a slumping economy in Nebraska which for agriculture may be comparable to the 1930s. We are looking at a shortfall for the state of fifty, who knows, maybe sixty million dollars. We are faced with a sharply reduced state budget. This is reality and none of us can live in a dream world at budget time. There was a public demand in the last election for less spending and less taxes and our economic situation in Nebraska reinforces that public demand. My amendments do not take money from the poor, the suffering, the senior citizens. They do not reduce the level of essential government services. My amendments are a part of a reappraisal of the need for some of our state's commissions and boards and their increasing budget requests. These amendments take into consideration the record unemployment in Nebraska and the real hardships faced by many, many Nebraska citizens and taxpayers. If we are going to have to raise the state individual income tax rate, the corporate tax, the cigarette tax in an effort to meet the state economic crisis then some of these other functions will have to be reduced.

April 1, 1982

LB 761, 378, 408, 953

of the building. So I would hope you reject it.

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President and members, Senator Warner explained it very well. I think that Senator Newell explained it very well when he said that A. O. Thomas was desperately...desperately in need of repair. He is absolutely right. No one has any more interest in 309 than I do. I have told you that before. But of the two, the renovation of A. O. Thomas is much more important. I would ask that you oppose Senator Newell's recommendation or amendment.

SENATOR CLARK: Senator Newell, do you wish to close?

SENATOR NEWELL: Very simply. I can appreciate points that A. O. Thomas is necessary. It absolutely is. But I think we can delay it for one year and do a few more projects and most of those projects average a smaller amount, so we can do a few more projects this next year with 309 and A. O. Thomas can be done next year and it needs to be done. I won't feel terrible bad if I lose this but I think it is the more appropriate place to spend those hard dollars that we can't afford to spend.

SENATOR CLARK: The question before the House is the adoption of the Newell amendment. All those in favor vote aye, opposed vote nay. Did you want a roll call vote, Senator Newell?

SENATOR NEWELL: (Microphone not on)...about that amendment anyway.

SENATOR CLARK: Record the vote.

CLERK: Zero to 30, Mr. President.

SENATOR CLARK: I don't think I have ever seen an amendment go zero to 30. The next amendment, please.

CLERK: Mr. President, the next....may I read a couple things in. Mr. President, Senator Wesely would like to print some amendments to LB 378. (See pages 1577 through 1582 of the Legislative Journal.) Senator Higgins (sic) to LB 953. (See page 1582 of the Journal.) Senator Cullan to LB 408. (See pages 1582 through 1584 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined LB 953 and recommend

April 5, 1982

LB 408, 760, 816, 967

SENATOR CLARK: The bill is advanced. We will now go to item five, Select File.

CLERK: Mr. President, if I may right before that, Senator Haberman would like to print amendments to 408 and 816.

Mr. President with respect to Select File, LB 967, I have no amendments to the bill.

SENATOR CLARK: Senator Kilgarin. The advancement of 967.

SENATOR KILGARIN: Are there E & R amendments?

SENATOR CLARK: No.

SENATOR KILGARIN: I move we advance LB 967.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 760.

CLERK: Mr. President, I have no E & R amendments, I...

SENATOR CLARK: The Call is raised.

CLERK: I do have an amendment from Senator DeCamp. On page 677 of the Journal.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I'll withdraw that. They have settled on the committee amendments, this would cut a little more, I'll just withdraw it.

SENATOR CLARK: That amendment is withdrawn. The next amendment.

CLERK: Mr. President, I now have an amendment offered by Senators Wesely and Clark. It is referred to on page 1264 of the Journal. You will find it in your Bill Books, it is Request #2842.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: This is an amendment that was originally carried by Senator Schmit and there were some concerns that Senator Schmit had with the amendment that were brought to Senator Clark and myself. We have since revised the proposal to try and deal with some of those concerns. What the amendment would do is an attempt to try to provide an incentive

April 7, 1982

LB 127, 127A, 408, 602A,
605, 753, 755, 756, 816

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend Eddy Hallock, Southview Baptist Church here in Lincoln.

REVEREND HALLOCK: Prayer offered.

PRESIDENT: Roll call. Senator Goodrich, would you push the button and then we can get going. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: I have an Attorney General's Opinion addressed to Senator DeCamp. (See pages 1755 and 1756 regarding LB 816 in the Legislative Journal.) Senator Labeledz would like to print amendments to 602A; Senator Beyer to 408. (See pages 1757 through 1760 of the Journal.)

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

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LBs 127, 127A, 605, 755, and 756. Anything further, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: We are ready then for agenda item #4, motions, commencing with LB 942.

CLERK: Mr. President, I don't have any motions on LB 942 this morning.

PRESIDENT: Senator Warner....no motions, all right, so 942 is out. What about 753?

CLERK: Mr. President, Senator Warner would move to return LB 753 to Select File for a specific amendment. That amendment is found on page 1727 of the Legislative Journal.

PRESIDENT: The Chair recognizes Senator Warner.

April 8, 1982

LB 816, 408

we are under Call, so if anybody talks about having a Call of the House why we will just have to check everybody in again because technically we are still under Call. Everybody should be at your desks. Have you all voted? Senator Newell, we have waited quite a while, what do you want to do? You can have yourself...about all you can do is have a roll call vote or if you want to check everybody in as you did the other day, I will even let you do that. Senator Newell.

SENATOR NEWELL: Mr. President, I would like to....

PRESIDENT: Record the vote. Record vote has been requested. Who requested the record vote? I heard it back here.

CLERK: Senator Fenger.

PRESIDENT: Senator Fenger. All right, record vote has been requested. Proceed.

CLERK: (Read the record vote as found on page 1841 of the Legislative Journal.) 30 ayes, 11 nays, Mr. President.

PRESIDENT: All right, motion carries and the Speaker's order has now been changed to that effect. Now, do you have any matters to read in? Anything else to read in? Just a minute.

CLERK: Mr. President, Senator Beyer would like to print amendments to LB 408. (See pages 1842 and 1843 of the Legislative Journal.)

PRESIDENT: Senator Lamb, I guess we just as well go ahead and we now...it is in order to move to adjourn again. All right, Senator Lamb.

SENATOR LAMB: Mr. President, I would move to adjourn until eight o'clock Tuesday morning.

PRESIDENT: Motion now is to adjourn until eight o'clock Tuesday morning. All those in favor signify by saying aye. Opposed...all right, okay. I will do it one more time but I will tell you this, I am getting exasperated by this. Next time I am going to warn you I am going to call the vote viva voce. Next time I am going to call it by voice and then we are going to adjourn. So all those in favor vote aye, opposed nay. Have you all voted? Record the vote.