

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.

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LB 5, 24, 38, 54, 72, 73,
LB 154, 144A, 198, 245A,
LB 273, 275, 288, 417, 459A

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed no. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 856, Legislative Journal.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. We will now go to #5, General File, priority bill, Senator Cullan's LB 56.

CLERK: Mr. President, may I read some things in.

SENATOR CLARK: Read some things in if you have to.

CLERK: Mr. President, first of all, your Enrolling Clerk respectfully reports that she has on this day at 10:40 a.m. presented to the Governor for his approval LBs 24, 38, 54, 275, and 288.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 5 and find the same correctly engrossed; LB 459A correctly engrossed; LB 144A correctly engrossed; LB 72 correctly engrossed. (Signed) Senator Kilgarin, Chair. LB 73 correctly engrossed.

Mr. President, Senator DeCamp would like to print amendments to LB 273 in the Legislative Journal.

Senator Koch offers explanation of vote.

Mr. President, your committee on Public Works whose Chairman is Senator Kremer reports LB 417 to General File with amendments.

I have an announcement of priority bills designation by the Government Committee.

Senator Warner would like to print amendments to LB 198.

Senator Carsten would like to be excused Thursday, March 12 all day.

A new A bill, LB 245A by Senator Schmit. (Title read.)

Your committee on Banking, Commerce and Insurance reports on certain gubernatorial appointments.

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LB 361, 417

SPEAKER MARVEL: The motion is the adoption of the Wesely amendment to LB 361. All those in favor of that motion vote aye, all those opposed vote no. Record the vote.

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

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

CLERK: Mr. President, Senator Wesely moves to add the Emergency Clause to the bill.

SPEAKER MARVEL: All in favor of that motion vote aye, opposed vote no. Record.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to adopt the Wesely amendment.

SPEAKER MARVEL: Motion is carried, the amendment is adopted. Move the advancement of the bill. The motion before the House is the advancement of 361 to E & R for Review. All those in favor vote aye, opposed vote no. Record.

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

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is LB 417.

CLERK: Mr. President, LB 417 introduced by Senator Cullan. (Read title.)

SPEAKER MARVEL: Senator Cullan is not here today. Are you going to handle this bill? Okay.

CLERK: This bill was read on January 20, Mr. President, referred to Public Works. It was advanced to General File. There are committee amendments pending.

SPEAKER MARVEL: Are you going to handle it?

SENATOR WESELY: Okay. Mr. Speaker and members of the Legislature, the committee amendments to LB 417 do a number of things. They expand the concept behind LB 417 and allow for some problems that were brought to the committee's attention at the hearing. First off, we have a problem in Western Nebraska in the Panhandle on sugar beets being hauled to the market, and the problem is one that they are not really being able to use their trucks to get these stockpiles out in the field to the market. I guess there

is some sort of a restriction that is in the law now. So what we say is, trucks moving stockpiled harvested products to exceed the....are going to be allowed to exceed the normal weight limit in the same fashion as trucks hauling harvested products are allowed to exceed the limit which is 25 percent overweight. So this recognizes the fact that in sugarbeet production they stockpile the sugar beets and then they transport them and we try and allow for the fact that that is a different situation but the same authority should be allowed for in the law. Secondly, we change the limitation now on combines which are 15 feet wide to daytime trips of 25 miles or less. So there is a 25 mile limit on when combines 15 feet wide can travel in the daytime. And thirdly, we extend the current exemption for mobile homes which are 16 feet wide so that any load 16 feet wide may be moved on the Interstate. That is to say that right now we allow mobile homes 16 feet wide, and I think we had very few other exemptions like that, but we say if it is good enough for them it is good enough for everybody and we allow any load 16 feet wide to be moved on the Interstate, and we do require a pilot vehicle to accompany the load, which is in the present statute. Those are the committee amendments.

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

SENATOR DWORAK: Mr. President and colleagues, I am strongly opposed to this. This is how we get ourselves into these circumstances where now we are allowing 25 percent overweight on agricultural commodities and that was originally passed, no one had the intention that we were going to authorize 25 percent overweight. It was an accommodation for people under unique circumstances of getting agriculture commodities out of the field, and now it's a common accepted practice. The Department of Roads tell me that our roads are absolutely not designed for this overweight, that this is probably one of the most expensive damaging things that can happen to the roads. We raised the gas tax significantly and we are still in problems....still have problems as far as maintenance of our road system. Here we are adding onto the major culprit, the major problem causer. Senator Cope is up on this floor time and time again about safety and here now we are making exceptions, more exceptions to widths which are safe, they are designed in there for public safety. I think this is a terrible mistake. If anything, we should go the other direction which I know is politically impossible and eliminate what exceptions we have made. But to continue to perpetuate and expand the list of exceptions is wrong, it's expensive, it's nonsafe. It is a legislative mistake and we pay for it. Here is a little old bill on

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consent calendar, we spent I don't know how many hours debating the gasoline tax last year and come back with Senator Haberman this year challenging our action last year, and here we are creating...here we are continuing to perpetuate the problem that exists in the first place. And I know politically in this state it is unpopular to curtail any kind of load...put on any kind of load limitations, but it is a mistake, it's wrong, it's expensive, it's unsafe, and I would urge you to put a red vote on this one right here and now.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President and members, a quick question of Senator Wesely. Senator Wesely, I presume that the overload regulation that we have now that we passed doesn't take care of sugar beets? Is that what you are telling me?

SENATOR WESELY: Right. Well, it doesn't deal with their particular problem.

SENATOR COPE: What is the problem then? I mean what...why doesn't it?

SENATOR WESELY: Well, as I tried to explain, if they took sugar beets, put them in the truck and took them directly to wherever they were going to be shipped or processed, or whatever, that I think is covered. But the problem is, they take them and they stockpile them and then they go from the stockpile to the market, and I guess because of that extra step that they add in there that they are not allowed to under the law that extra privilege that everybody else has. I think Senator Nichol can answer that question as well, but I think that is the circumstances.

SENATOR COPE: What I would....then I will ask you, what is the difference then between that and storing corn, drying it in the bin and then hauling it, what's the difference?

SENATOR NICHOL: Senator Cope, that is a good question, because this is the process which is used. When a farmer harvests sugar beets, the sugar beet company has areas where they have the farmers haul the beets from the farm to these stockpiles. These are usually 8, 10, 20 miles from the sugar factories. The reason they have them do this is because the factories can't receive all the beets at the time they are harvested. Then, in a month or so they start hauling these piles into the sugar factory. Now what the situation is now is this, when those who haul the beets from the piles to the factory are caught with an overload, they are

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allowed 25 percent grace weight. But when a farmer hauls his beets from the farm to the stockpile he is not allowed any overage in weight. The reason I think the amendment is good is that it is fair both ways because some of the farmers hauling the beets from the farm to the stockpile also hire out to the sugar company with the same truck to haul the beets from the pile to the sugar factory. So you have a situation where a farmer can be fined because he is hauling it from the stockpile to the factory where he could be hauling from the farm to the pile. So with the amendment the way it is, it allows the same trucker perhaps the same grace weight in hauling from the farm to the pile as from the pile to the sugar factory.

SENATOR COPE: I won't ask you more questions until next time then.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I am surprised at Senator Dworak. He talks about safety and how it's convenient, but the other day on 35 I think his button was generally in favor to repeal the safety inspection law. We are talking about an economic factor here that I think is very important. We are also talking about I think the use of energy wisely, and the people who raise sugar beets cannot always be certain that their weight is correct. We have made some exceptions. I see nothing unusual about this. And also in relation to the implements of husbandry, as you know, the technology becomes more efficient, the headers get wider and as long as they are preceded by flagged persons and so forth, and move at only 25 miles, the greatest distance, there is nothing wrong with this. And I think it is good legislation to adapt to some unique conditions in certain parts of the State of Nebraska, and I support the amendment and the total bill.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker, I would like this question divided to zero in on the different areas of this...I think Senator Koch and Senator Cope are missing my point. We really have two areas. We have the overweight problem which is an economic problem on roads, not a safety problem, I concur with that, Senator Koch. But we also have the width problem where we are authorizing broader widths for combines and broader widths for some other types of vehicles, and that is specifically uniquely a safety issue. I think both issues, the economical issue and the safety issue are important and I think it is the wrong way to go. But I think this body

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ought to be well aware that the bean problem is different than the...or the sugar beet problem is different than the width problem, and so we specifically have part of this issue dealing with safety and part of this issue dealing with economy. And I think the question should be divided, and I would like to vote...and Senator Wesely is up talking to Pat on the division of the question, and however they decide to divide it, that's fine, technically.

SPEAKER MARVEL: Senator Lamb, do you have a point of order?

SENATOR LAMB: Well, Mr. Chairman, I would make the point that Senator Dworak is correct. There is more than one issue in this bill. However, parts of this bill are important to the economy and I would suggest that Senator Dworak prepare amendments to present on Select File which will deal with the issues with which he has objection. We are soon going to run the thing out of time. There are parts of this bill that are necessary. If there are some parts that are not all that great, then I would ask that Senator Dworak prepare amendments, put them on Select File and we will deal with them in that manner.

SPEAKER MARVEL: Okay, Senator Dworak. Senator Dworak, you made a request. Your request is in order, but due to the fact that we are limited on time as far as the bills are concerned, the Chair recommends that we pass over this bill. When Senator Culllan comes back we can take it up again. Your point is well taken. If we pursue the point, it is the same as letting the bill go by the board, so all we do now is....

SENATOR DWORAK: I am prepared to do that, Mr. Speaker.

SPEAKER MARVEL: Sir?

SENATOR DWORAK: I am prepared to do that.

SPEAKER MARVEL: You mean talk the bill to death?

SENATOR DWORAK: Oh, you...you're going to leave it on General File?

SPEAKER MARVEL: Yes.

SENATOR DWORAK: I would not object to that. But I don't want the bill advanced. I would not object to passing over and waiting.....

SPEAKER MARVEL: No, I am not proposing it advance, that we just pass over it and go to the next item.

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LB 228, 417

SENATOR DWORAK: I would have no problem with that. I would compromise on that.

SPEAKER MARVEL: If there is no objection, why we will proceed that way. Senator Koch, do you object? Your objection can be met but it still doesn't solve any problem. Go ahead.

SENATOR KOCH: Mr. Speaker, if Senator Dworak wants to place an amendment on Select File as Senator Lamb indicated, I would hope that in fairness and the interest of that area we are talking about that he withdraw his objection and let us advance the bill, let him have an amendment placed on Select File where it can be discussed. With the interest of time if we leave this sitting on General File, our chances of getting back to it are virtually nil, and I think it is important to the industry out there of both wheat and beets and others. And I would ask Senator Dworak to withdraw it and allow us to advance the bill and then let him prepare his amendments on Select File and let us discuss it there.

SPEAKER MARVEL: All right, since there is an objection, we will just proceed with the business. What is the next item on the bill?

CLERK: Senator Dworak, you then have requested division. Is that correct, Senator?

SENATOR DWORAK: Unless Senator Koch withdraws his objection, then I request a division of the question.

SPEAKER MARVEL: Okay, we have solved the problem. Time is up. Okay, we are ready for LB 228.

CLERK: Mr. President, LB 228 was introduced by Senator Landis. (Read title.) The bill was read on January 15, referred to Judiciary. The bill was advanced to General File. There are committee amendments by the Judiciary Committee, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Speaker and members of the Legislature, the committee adopted four amendments to LB 228. Three of these amendments are technical in nature, striking the term "magistrate" which is not presently used in the statutes and replacing the word "magistrate" with the term, "court". The one amendment which is substantive in nature is found on page 3, line 6 of the green copy of the bill. This is the 10 percent bonding procedure which is available

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LR 204

LB 375, 417, 772-774

CLERK: Mr. President, a new resolution, LR 204, offered by Senators Vickers and Barrett. (Read. See page 232, Legislative Journal.) That will be laid over, Mr. President, pursuant to our rules.

Mr. President, Senator Schmit would like to print amendments to LB 375 in the Legislative Journal.

Mr. President, new bills, LB 772 (read title); LB 773 (read title); and finally, Mr. President, LB 774 (read title). (See pages 232 and 233, Legislative Journal.)

PRESIDENT: Ready then for agenda item #7, General File, commencing with LB 75, Mr. Clerk.

CLERK: Mr. President, I have a request from Senator Labeledz to pass over LB 75 and 75A.

PRESIDENT: Any objection, so ordered to be passed over. Then we will be ready for LB 417.

CLERK: Mr. President, LB 417, (read title). The bill was first read on January 20 of last year, referred to the Public Works Committee for public hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Public Works Committee.

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

SENATOR KREMER: Mr. Chairman, members, the committee report is in your book. I will read it verbatim because it is exactly what the committee amendments amount to. Would allow the transportation of any object up to sixteen feet in width if proceeded by a pilot vehicle or a flag person. It treats storage and the stockpiling of grain in the same way as from the field directly to the market. It goes on and limits the movement of combines in excess of fifteen feet to trips of twenty-five miles on our public highways. I move the adoption of the committee amendments.

PRESIDENT: Senator Cullan, do you wish to speak to the committee amendments? Senator Cullan.

SENATOR CULLAN: Yes, Mr. President, Senator Kremer, thank you very much for speaking to the committee amendments. I would like to request of the Chair that two of the committee amendments be...that the issue be divided or perhaps two of the committee amendments can be withdrawn. They are

actually divided into three different parts. Two of the committee amendments have already been enacted into statute. One was offered by Senator Lamb on another bill in the last session of the Legislature. The other I think Senator Nichol and I attached to a different bill. So the only part of the committee amendment that hasn't already been enacted on a previous bill late in the last legislative session is the portion dealing with combines and so I would respectfully request that we deal only with that particular amendment.

CLERK: Senator, if I may, just so I can identify what you are...if you look at your committee amendments, that would be committee amendment #2, "page 2" and then it talks about combines in excess of fifteen feet, is that right?

SENATOR CULLAN: That is correct. That would be the only portion of the committee amendments which I still believe would be applicable.

PRESIDENT: Senator Kremer, do you feel the same way? We could vote on the other two, as I understand two amendments.

SENATOR KREMER: Mr. Chairman, would that take an amendment to the committee amendments?

PRESIDENT: Well, we could just vote down...I think the quickest way would be just to vote...if the first one already has been adopted, just vote down that committee amendment and adopt the other one if that is your pleasure.

SENATOR KREMER: What Senator Cullan said is true so I have no objections. It is fine.

PRESIDENT: All right, now as I understand it Senator Kremer and Senator Cullan, there are six parts in the amendment. 1, 3, 4, 5, and 6 have already been adopted and you are proposing to adopt #2. So we will divide the question in that manner and we will start with the division on taking up 1, 3, 4, 5, and 6 which Senator Cullan and you have agreed have already been adopted. So the question is, shall the amendments 1, 3, 4, 5, and 6...is there any further discussion on this? Yes, this is one where you go Big Red if you want to follow the advice that has been given so far. All right. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 0 ayes, 26 nays on the adoption of the committee amendments 1, 3, 4, 5, and 6, Mr. President.

PRESIDENT: So the amendments 1, 3, 4, 5, and 6 are defeated and now the question before the House is the adoption of committee amendment 2. Any further discussion? All those in favor of adopting committee amendment 2 vote aye, opposed nay. Record the vote.

CLERK: 25 ayes, 0 nays on the adoption of committee amendment #2, Mr. President.

PRESIDENT: Motion carries. Committee amendment #2 is adopted. Does that complete the committee amendments, then, Senator Kremer. I guess we are ready then, Senator Cullan, if you will address yourself to the bill as amended.

SENATOR CULLAN: Mr. President, members of the Legislature, the purpose of this bill is to clarify what is some confusion in current rules of the road so far as the movement of grain combines are concerned. In the summer of 1980 I received a phone call during wheat harvest in western Nebraska and an individual was driving a combine with a twenty foot header, twenty-two foot header, down the highway. He was stopped and given a warning ticket for having a vehicle of excess width. One section of state law says that implements of husbandry may be moved from one field to another with absolutely no width restrictions. Another specific section of the statute specifically restricts the movement of combines from one part of the state to another unless they fall within I believe an eight foot width restriction. What this bill attempts to do and does I think very satisfactorily, after looking at the statutes in other states, allows individuals to move combines from one field to another in the normal course of farm operations up to twenty-five miles with some kind of a flag vehicle in front. Most of the grain states require some kind of flag vehicle in front of grain combines. Combines now have headers, some of them up to thirty feet in width and that can be much more dangerous than the old combines that had eight and ten and twelve and fourteen foot platforms. So it is simply a change in the rules of the road relating to the movement of grain combines. I think it clarifies the ambiguity that formerly existed in state law. I think it is one that most grain farmers would find realistic and acceptable. Most farmers I know today do move their combines with a flag vehicle or some kind of a vehicle in front. If they don't, they probably should and I think that this is a reasonable proposal. I would urge you to adopt it.

PRESIDENT: An amendment on the desk. Read the amendment Mr. Clerk.

CLERK: Mr. President, Senator Remmers would move to amend the bill. "Page 2, line 25, after the word 'equipment' insert 'including portable livestock buildings'."

PRESIDENT: The Chair recognizes Senator Remmers. The amendment is withdrawn then, Senator Remmers, is that correct? The amendment is withdrawn. Proceed to the next amendment then, Mr. Clerk.

CLERK: Mr. President, Senator Marsh had an amendment to add the emergency clause to the bill.

PRESIDENT: Senator Marsh. Does anyone know where Senator Marsh? Does somebody else want to handle this emergency clause? Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, just to get things going, I don't think there is going to be any controversy on this. I would also move the amendment and ask the body to adopt the emergency clause.

PRESIDENT: Senator Carsten.

SENATOR CARSTEN: Mr. President, I would like to ask Senator Cullan a question. I think, Senator Cullan, the emergency clause would be probably necessary, would it not, in order to be sure that for the next harvest season they would be in compliance?

SENATOR CULLAN: The emergency clause would be beneficial.

SENATOR CARSTEN: Yes, certainly I agree.

PRESIDENT: Senator Dworak, did you wish to speak to...the motion before us is the adding of the emergency clause now?

SENATOR DWORAK: Have we adopted the committee amendments?

PRESIDENT: Yes, we have taken care of the committee amendment.

SENATOR DWORAK: Have we adopted the committee amendment that provides for the overload provision, the twenty-five percent? I have a question of Senator Cullan. Have we adopted the committee amendment that provides the twenty-five percent overload provision?

SENATOR CULLAN: The only committee amendment that we are concerned with now is the one on combines. The other amendments that were committee amendments that we just

voted down a couple of minutes ago have been enacted into state law in the last session of the Legislature.

SENATOR DWORAK: That includes the overload provision?

SENATOR CULLAN: That includes the overload provision and that was adopted (interruption).

SENATOR DWORAK: But that is not a part of this bill now at all?

SENATOR CULLAN: That is not a part of this bill.

SENATOR DWORAK: Thank you, Mr. Lieutenant Governor.

PRESIDENT: Senator Kremer.

SENATOR KREMER: Mr. Chairman, members, I am not speaking for or against the bill. Before proceeding further I would like to ask Senator Cullan a question. Senator Cullan, you are aware that I have introduced LB 694 that takes an entire look at what we have done in the past with respect to overloads, overwidths and whatnot because year by year we have added on, we have added on until we have got kind of...in fact in some cases it is rather unclear what we are trying to do, and we tried to go back and have a look at all of these bills that we passed year by year and tried to streamline legislation having to do with this overweight and overwidth. So that bill will be heard. I don't know exactly what date now but you think it is necessary to pass this bill in view of the fact that a bill is being introduced that will have a hearing where we will discuss all of these issues, and I think Senator Dworak perhaps alluded to the fact that maybe we have got some things in the law today that ought not be there and I think, Senator Nichol, you are introducing a bill that has to do with livestock overweight, and again these are things that need to be discussed and I guess my question, Senator Cullan, is, do you think this bill is necessary in view of the fact that we are going to look at the whole picture in LB 694?

SENATOR CULLAN: Senator Kremer, I am not sure that LB 694 is going to pass. I haven't read it. I don't know what the chances of enacting that piece of legislation are. All I know is that we have a specific problem where there is an apparent conflict of statute today as far as moving grain combines is concerned and I simply think that that conflict ought to be resolved so that we know that we can move combines in harvest season from one field to another and that

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we have adequate safety precautions so that we know that we are not endangering the public when we do that and I think that this bill accomplishes that goal. If your bill accomplishes that goal and it looks like it is going to pass, I would be happy to bracket this on Final Reading and wait for your bill to move because I don't want to duplicate your efforts but at this stage I would like to move it along, and if your bill is moving, we can bracket it later.

PRESIDENT: We are on the Marsh amendment to add the emergency clause. I would like to maybe stick to that particular point. Senator Marsh, did you wish to add anything at this point.

SENATOR MARSH: Mr. President, I simply would add that if it is to be usable for this growing season it needs to have the emergency clause added.

PRESIDENT: Senator Marvel.

SENATOR MARVEL: I think I heard the word "bracket", and with all due respect to Senator Cullan, I think we are talking about "passover bills", not "bracketing bills". Now this may sound picayunish but it isn't. Is that all right, Senator Cullan?

PRESIDENT: All right. Senator Marsh, I guess that was your closing. I don't think there is anyone else wants to speak so the question is the adoption of the Marsh amendment to LB 417. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 30 ayes, 0 nays on adoption of Senator Marsh's amendment, Mr. President.

PRESIDENT: The motion carries. The Marsh amendment is adopted. Any further amendments, Mr. Clerk.

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

PRESIDENT: Senator Kremer, did you wish to speak further on the bill? Senator Cullan, you may then close on the bill.

SENATOR CULLAN: Just to eliminate any confusion, the bill has nothing to do with weights or anything on it. All the bill does is adopt the following language, "Combines in excess of fifteen feet in width moving between sunrise and sunset but not to exceed twenty-five miles travel on a

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highway, and proceeded by a well-lighted pilot vehicle or flagperson in the normal course of farm operations." It allows those combines under very specific conditions to move down the highways and clarifies an ambiguity in state law. I would urge you to adopt LB 417 or to advance it.

PRESIDENT: Motion then is the advance of LB 417 to E & R for review, initial review. All those in favor vote aye, opposed nay.

SENATOR CLARK PRESIDING

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

CLERK: 33 ayes, 1 nay on the motion to advance the bill, Mr. President.

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LB 229, 309, 403, 417, 418, 490,
492, 542, 563, 564, 565, 566, 421

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend Gerald Lundby, Paster of the American Lutheran Church here in Lincoln.

REVEREND LUNDBY: Prayer offered.

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

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

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

CLERK: Mr. President, page 322, line 32, strike "960" and insert "860". On page 309, line 5, strike "7 nays" and insert "9 nays".

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

CLERK: Mr. President, your committee on Public Health gives notice of hearing for January 25, 26, February 1, 2 and 9, and that is signed by Senator Cullan.

Your committee on Administrative Rules gives notice of hearing for Monday, January 25.

Your committee on Urban Affairs whose Chairman is Senator Landis gives notice of hearing for January 27 and February 3.

Mr. President, I have an appointment from the Secretary of State to the Political Accountability and Disclosure Commission. That will be referred to the Reference Committee. (See page 331 of the Legislative Journal).

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 492 and recommend that same be placed on Select File with amendments; 403 Select File with amendments; 229 Select File; 563 Select File; 564 Select File; 565 Select File; 566 Select File; 309 Select File; 417 Select File with amendments; 421 Select File with amendments; 418 Select File; 490 Select File; 542 Select File with amendments. Those are all signed by Senator Kilgarin as Chairman. (See pages 333 through 339 of the Legislative Journal).

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LB 431, 417

have attended and been in a group at the lodge and know that it is perfectly an enjoyment to many, many of the senior citizens and groups and clubs that come through Omaha, not just from the Omaha people, we get them from all over the state and it is essential that we get into the statutes something that will perfectly legalize and not have any question later on that the lodge should not be in operation. Thank you.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 29 ayes, 0 nays on the motion to adopt Senator Labeledz' amendment.

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

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

SENATOR CLARK: Senator Kilgarin, are you in the House? Do you wish to move the bill?

SENATOR KILGARIN: I move we advance LB 431.

SENATOR CLARK: You heard the motion, all those in favor say aye, opposed. The bill is advanced. What is your problem. The bill is advanced. Do you have a problem with that. Do you want a machine vote? We will have a machine vote. All those in favor of advancing the bill vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Once more, have you all voted please? Voting on the advancement of 431. Record the vote.

CLERK: 25 ayes, 9 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. We will go to 417. We will take up LB 592 first. We will go to 517. 592 has an amendment on it by Senator Hoagland. He is excused for the day. So we will take 417.

CLERK: Mr. President, 417, there are E & R amendments attached to the bill.

SENATOR CLARK: Senator Goodrich.

SENATOR GOODRICH: I will move the adoption of the E & R amendments.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. The amendments are adopted.

CLERK: Mr. President, Senator Warner would move to amend the E & R amendment to LB 417 by striking "fifteen" on line one on page 2 and insert "eighteen". That is offered by Senator Warner.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, the bill is one that dealt with the width of a combine that could be driven on a highway and as it currently would stand you would have to have somebody, a flagman in front or someone behind also I believe if it was in excess of fifteen feet and that historically was probably okay but today that is unrealistic because a six row corn head is going to be in excess of fifteen feet and frequently be driven back and forth and I can think of one implement dealer in my district who is located on a highway. There is no access to that place without driving on a quarter of a mile of road and I don't think it is logical that there would have to be a flagman out there every time one of those combines went down that quarter of a mile. So the amendment is to make it eighteen feet to accommodate what is a pretty standard piece of equipment. I think Senator Cullan's concern which I certainly concur with is when you get to twenty and twenty-four feet or thirty foot heads but eighteen foot would be more realistic to reflect the kind of equipment we have. So I would move the adoption of the amendment.

SENATOR CLARK: I would like to introduce to the Legislature some guests of Senator Lowell Johnson. They are county commissioners from Dodge County Board, Walter Mruz, Herbert Haywood and Clarence Mayhew. Would you stand and be recognized please. Thank you for coming to the Legislature. Senator Cullan is next.

SENATOR CULLAN: Mr. President, members of the Legislature, I have looked over Senator Warner's amendment. I think it is quite a reasonable proposal to allow six row corn heads to be moved without pilot vehicles. Generally corn heads

wouldn't move the same distances that grain combines would with the grain platform on so I think it is a reasonable proposal. I would ask you to support it.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, I would like to ask Senator Warner or Senator Cullan a question. Is there now in statutes a requirement that flashing lights or the lights that we see on this equipment be used or is that not a requirement? We see it all the time. I think all newer equipment already has this on it. I guess I'm a little bit concerned about that width if there is no warning lights on the machine. Can either one of you enlighten me?

SENATOR CULLAN: Sorry, Senator. I cannot answer your question but I will try to find out.

SENATOR KAHLE: What I would like to do and I see Senator Warner is looking at it, I'm not against perhaps moving the bill although I hate to bring it back from Final Reading but I think we should have that requirement in there.

SENATOR WARNER: Senator Kahle, there is in that same section but it refers to another section I would have to look up. But farm equipment exceeding fourteen feet in width during daylight hours and then it has to have... there is reference to clearance lights but it relates to another section and I would have to look that up.
.....39-6127. (Interruption.)

SENATOR KAHLE: My concern is...

SENATOR WARNER: Must be fully complied with and I don't know what is in that section.

SENATOR KAHLE: From my own concern and for the record I think that that should be in a specification for the over-width vehicle so with that I will not object to the bill.

SENATOR WARNER: I would certainly agree that flashing lights ought to be functional and there.

SENATOR CLARK: Senator Warner, did you want to hold the bill over until tomorrow?

SENATOR WARNER: No, I don't.

SENATOR CLARK: Alright. The question before the House

then... Senator Schmit.

SENATOR SCHMIT: Mr. President, I would like to ask someone a question about the matter of the twenty-five mile width or twenty-five mile distance, pardon me. There is a little difference. Is that going to...Senator Warner?

SENATOR CLARK: I think Senator Cullan put that in. Do you want to address your question to him?

SENATOR SCHMIT: Yes. Senator Cullan, does that mean that if I were to move a combine more than twenty-five miles, there would be restrictions upon it?

SENATOR CULLAN: Yes, it certainly does. If you are going to move a combine with a platform more than, after the Warner amendment, with more than eighteen feet you have to take the platform off. You have to make it compliant under the eighteen feet.

SENATOR SCHMIT: There are a great many farmers, Senator, who move combines a greater distance than that to go from one piece of land they operate to another. It is rather common I'm sure and I think that is a very serious impediment and it is very simple to go by the back roads. You don't need to go down the highway with it but does it keep you off the back roads also?

SENATOR CULLAN: No, it doesn't. It keeps them off of...

SENATOR SCHMIT: You can't go down the highway.

SENATOR CULLAN: ...major highways and the intent of the bill is so that you do not move a combine more than eighteen feet wide more than twenty-five without a pilot...it has to have a pilot vehicle on it but if you are going to move it more than twenty-five miles under any set of circumstances on the highway then you must, in fact, take off the header and move it that way. And I don't think that is unreasonable. I think in western Nebraska we have a lot of ... well it is your time, Senator Schmit. I don't mean to...

SENATOR SCHMIT: Okay, if I pull off onto a side road for a mile, then back on the highway, am I clear? Do I get a second twenty-five miles?

SENATOR CULLAN: I think it is intended to be from the point that you first entered the highway.

SENATOR SCHMIT: Well then can you move it as long as you

are within your own farming operation, is it legal?

SENATOR CULLAN: Yes, it is legal. Under any set of circumstances if you move it more than twenty-five miles it cannot exceed eighteen feet in width.

SENATOR SCHMIT: Then using an example, from Valparaiso to O'Neill is about a hundred and sixty miles you know and what am I going to do? How am I going to get my combine around, pull the header off of it?

SENATOR CULLAN: Senator Schmit, I think it would be grossly negligent of you to drive a combine with a twenty-four foot header all the way on the highway a hundred and sixty miles and, yes, that is the intent of this statute, to make you take your header off.

SENATOR SCHMIT: Well that may be your impression but it is not mine. Thank you, Senator Cullan. I am opposed to the amendment and opposed to the bill.

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

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

SENATOR CLARK: The amendment is adopted. Do you have any further amendments?

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

SENATOR CLARK: Senator Cullan, do you want to move the bill?

SENATOR CULLAN: Mr. President, members of the Legislature, I would move the bill and I would make an additional comment at this point in time. I know Senator Schmit disagrees with the bill but the agriculture community I think has to recognize that we simply cannot move large pieces of equipment, combines some of them now with thirty foot grain headers, grain platforms, down the highways with absolutely no restrictions. I think it is not too much to require that those, when you move it more than twenty-five miles, it is not in the normal course of farm operations. When you move it from one end of the state to the other or great significant distances then, in fact, you do take those headers off and put them on trailers and move them like custom combiners and other people do. I just think that if we allow, and I'm a farmer myself and we have combines that this will apply to

but I think it is just a dangerous situation to take a grain combine and drive it great distances down a highway with a thirty foot platform. That takes up the whole road and I know Senator Schmit disagrees with this but we simply are going to have to take those platforms off when we move them great distances. I think that is a very legitimate concern. Now, Senator Schmit, the reason I brought this bill in, and I would ask you to listen to this carefully. The reason I brought this bill in is because the state patrol during wheat harvest in the summer of 1980 came into Box Butte County and told people that they couldn't move combines with twenty-four foot headers down the highway at all because they interpreted it, the current statute, the current law, as saying that we could not move those combines at all and that construction was one that I disagreed with but it is one which the state patrol believed at that time and there is a legitimate conflict in the statutes which this bill resolves. Now at the time we decided to resolve that conflict we took a look at how other states handle this particular situation. If you look at Kansas, if you look at Texas, Oklahoma or Montana you will find very similar provisions to the twenty-five mile limit that we have here. All those states require a lighted vehicle or some kind of a flag vehicle in front of a combine above a certain width, with a platform above a certain width and all of them place distance restrictions at that rate. I just think it is a dangerous situation to have a combine that takes up the whole road driving long distances and if you are going to go more than twenty-five miles I don't think it is too great an inconvenience to have you take the header off, put it on a trailer and have it pulled to the next location. I would urge you to advance LB 417.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Senator Cullan, I recognize your farming interests and your background but I would just like to call attention to this body also to the fact there is a distinct difference between agricultural operations in eastern Nebraska and western Nebraska and the distances of course are great out there but the problems that you have from transporting machinery are considerably less because of the less density of the population. I guess I would have to disagree because I don't believe that farmers are going to blatantly endanger their own lives or the lives of anyone else moving or transporting equipment. You are not going to take a valuable piece of equipment down the road and endanger someone else's life. I think the concern for life certainly transcends any concern for the equipment or the inconvenience and many of us have moved equipment great distances and there are times

when it has to be done in a certain manner and you have to recognize also, Senator, that almost all equipment today is getting larger and wider and heavier and higher and more difficult to load. It is impossible to load some of this equipment on a normal truck anymore. My combine has a fourteen foot wheel base and I think you recognize you can't put that on an eight foot truck bed. There are many of these problems that I think you are going to extenuate. Once again, I think the farmer and local people, local law enforcement can work those things out. I have gone down the highway many, many times. I've discussed it with the patrol, I've discussed it with the local law enforcement people. They expect you to use good judgment. They expect you to use a vehicle ahead of it and behind it. We've done that. I don't think you need to put these things in the statute. You are going to find times when it is going to seriously handicap the moving of equipment and I recognize that there is a difference of opinion here but I certainly do not believe and I will not agree that farmers will deliberately go out and endanger someone's life on the highway with a piece of equipment. I think you have many other instances if you want to be specific where the life and limb of people are endangered far more seriously than by the occasional movement of a piece of equipment. As I said earlier, if at all possible we use the back roads. All farmers would. But there are times when you are not going to be able to do it and so, therefore, I am opposed to the bill. You say there was a discrepancy in the statute earlier. I think that could have been cleaned up without further handicapping the situation. Senator Warner has improved the amendment by going to eighteen feet. I suppose if I went to twenty-four feet I would have a little less objection to it but I just think it is unnecessary and I know I am going to be outvoted on it and be subject to some tremendous haranguing perhaps by the press because of my abysmal lack of concern for the public but I will take that because I think that it is one more example of an indication by the Legislature that we want to stick our nose in somebody else's business where it is not necessary and I oppose the bill.

SENATOR CLARK: Senator Goll.

SENATOR GOLL: I have a question for Senator Cullan even though I realize he is within six or seven inches of me. Senator Cullan, for the body, would you define please what is meant by a well lighted pilot vehicle or flag person and in particular are you talking about flag persons similar to those that flag for mobile home transfers?

SENATOR CULLAN: Senator Goll, I appreciate your asking that

question on the record because it is something that deserves some clarification. No, I'm not. I think any vehicle, a car with its lights on or something like that. It just indicates that there is a possible obstruction or wide vehicle coming. Gives people, there is an indication that there is reason to slow down. No, I do not believe that they're necessary to have fancy lighting or anything like that, just a farm pickup or a car whatever that's in front and indicates there is a reason to slow down.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I rise to support Senator Cullan in this bill. I think he is being extremely reasonable with the twenty-five mile provision. I know some neighbors of mine that have eight row corn heads or twenty-four foot grain platforms who take their platforms off, put them on a trailer to just move a matter of a few miles on the state highway. It simply is a matter of safety not only for themselves but for the other people out there on the highway. I don't think there is anything too restrictive in this at all. It seems to me that for the farmers' own protection and for the other people using the highways out there, for their protection that this minimal restriction as Senator Cullan is talking about is certainly reasonable. The heads are not that difficult to take off and put on on the combines that would be imposing any undue restraints on the farmers of this state in any way, shape or form. I would hope that the body would concur with Senator Cullan and advance LB 417.

SENATOR CLARK: Senator Cullan, do you wish to close on the advancement of the bill?

SENATOR CULLAN: Yes, Mr. President, members of the Legislature, I do. First of all, I would emphasize that these provisions to this bill are no more stringent than the provisions which are in operation in most grain states in the United States. It is no more stringent than the provisions in Wyoming, Montana, Colorado, Kansas, Oklahoma and Texas and if those states can live with these similar types of statutes I don't see why the State of Nebraska can't. Secondly, I concur with Senator Schmit that farmers are not the kind of individuals who are out trying to endanger the public but I also know, because I live in western Nebraska myself, that when custom combines come up from Oklahoma and Texas they don't know where the back roads are and I know that during grain harvest you will see these people drive combines from Alliance to Chadron, about almost sixty miles with twenty-four and thirty foot platforms on them when they could take the back roads and they don't have advance vehicles and things and I think that is

January 28, 1982

LB 410, 428, 448, 657
LB 417, 192, 314,

dangerous and I think that we have a responsibility to ensure that that doesn't continue to happen. I urge you to advance LB 417. I don't think that it is a major problem if you are going to move a combine a great distance to drop the platform, put it on a trailer and not endanger the public. I urge you to advance the bill.

SENATOR CLARK: The question before the House is the advancement of the bill. All those in favor say aye, opposed nay. The bill is advanced. LB 421. The Clerk would like to read in.

CLERK: Mr. President, I have a series of items to read in. Senator Higgins would like to print amendments to LB 314; Senator Vard Johnson to print amendments to LB 428; Senator Vard Johnson to LB 410; Senator Vickers to LB 192; Senator Warner to LB 192 and Senator Warner to LB 448. (See pages 456-462 of the Legislative Journal.)

Mr. President, I have a reference report referring gubernatorial appointments. (See page 463 of the Legislative Journal.)

I have a notice of hearing from the Education Committee and Senator Nichol moves that LB 657 be placed on General File notwithstanding the action of the committee. That will be laid over, Mr. President. (See page 463 of the Journal.)

February 2, 1982

LB 284, 353, 417, 421,
465, 255A, 702, 801

SENATOR CLARK PRESIDING

SENATOR CLARK: The Legislature will come to order. The prayer by the Chaplain, Reverend Gilbert Visser, Hope Reformed Church.

REV. VISSER: Prayer offered.

SENATOR CLARK: Roll call. Will everyone check in please. Senator Vickers, will you let us know you are here please. The Clerk will record the attendance.

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

SENATOR CLARK: We are ready for item #3, messages, reports or announcements.

CLERK: Mr. President, your committee on Business and Labor whose chairman is Senator Barrett to whom was referred LB 801 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File. That is signed by Senator Barrett.

Your committee on Banking, Commerce and Insurance whose chairman is Senator DeCamp reports LB 702 advanced to General File with committee amendments attached. Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 353 and find the same correctly engrossed; 417 correctly engrossed; 421 correctly engrossed; 465 correctly engrossed, all signed by Senator Kilgarin as Chair.

Mr. President, I have a report to the Legislature from the Lewis and Clark Natural Resource District regarding payment of attorney fees and I have an Attorney General's opinion addressed to Senator DeCamp regarding LB 284 passed last session. That will be inserted in the Journal. (See pages 502-504 of the Legislative Journal.)

SENATOR CLARK: We are ready for item #4, LB 255 by Senator Wagner. The Clerk will read.

SENATOR WAGNER: Mr. Speaker, members, this is the A bill that went with 255. It hadn't got on the floor when we moved 255 so it is just the A bill to it so I just move the advancement of it so it can catch up with the other bill on Select File.

SENATOR CLARK: Is there any discussion on 255A? If not, all those in favor vote aye, opposed vote nay. Senator VonMinden, did you want to say something?

February 11, 1982

LB 353, 417

SPEAKER MARVEL: The amendment is adopted. Now, Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I move for the advancement of the bill, 353.

SPEAKER MARVEL: The motion is the advancement of 353. All those in favor say aye. Opposed no. The motion is carried. The amendment is adopted. Now, LB 421. The Clerk....417, Mr. Clerk.

CLERK: Mr. President, Senator Warner would move to return LB 417 to Select File for a specific amendment.

SENATOR WARNER: Mr. President and members of the Legislature, 417, Senator Cullan's bill dealt, if you will recall, dealt with requiring certain precautions for combines in excess of 15 feet, warning the traffic. And I offered an amendment to make it 18 feet rather than the 15 foot, and primarily because there is a great many six-row cornheads in this area at least that would have come under the requirement and if that amendment was adopted, unfortunately the wording elsewhere in the same section apparently ended up that the amendment I offered would result in requiring a combine operator to get a permit to go on the road if it was between 15 and 18, which obviously was not my intent. So the purpose of the amendment is to properly draft the amendment that I should have offered in the first place, which would have permitted combines up to 18 feet to operate as they have been and those in excess of 18 feet would then have the additional precautions for safety purposes. So I would move the bill be back so that the amendment can be adopted to reflect what I thought it did and what I said it did.

SPEAKER MARVEL: The motion is to return the bill. All those in favor of Senator Warner's motion vote aye, opposed vote no. Record.

CLERK: 33 ayes, 0 nays on the motion to return the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is returned. We now vote to adopt the amendment as explained by Senator Warner. All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 37 ayes, 0 nays, Mr. President.

February 11, 1982

LB 139, 417, 421, 465

SPEAKER MARVEL: The motion is carried. The amendment is adopted. All those in favor of returning the bill say aye. Opposed no. The motion is carried. The bill is returned. LB 421. The Clerk will read.

CLERK: Mr. President, I have a motion from Senator Schmit to return the bill but he is excused until he arrives. I have two motions from Senator Schmit.

SPEAKER MARVEL: Is there any one in the room that can handle these amendments? This specific one? Senator Cullan, do you wish to speak? We eventually are going to have to lay over the bill.

SENATOR CULLAN: Mr. President, I think it would be wise to lay this over until Senator Schmit arrives or until a later date. I would advise the body that I have requested an Attorney General's Opinion about the amendments which Senator Schmit requests to strike and I have not yet received a response to that Attorney General's Opinion, and I have also written Blue Cross-Blue Shield a letter requesting other information about the bill. So I think it would be premature to act on the bill or on these amendments until we have the Attorney General's Opinion. So I would think it would be prudent to at least lay over the bill until Senator Schmit arrives or until another day.

SPEAKER MARVEL: Okay, the bill will be laid over. We will go on to LB 465.

CLERK: (Read LB 465 on Final Reading).

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? LB 465. Record the vote, Mr. Clerk.

CLERK: (Read the record vote as found on pages 649 and 650 of the Legislative Journal). 44 ayes, 0 nays, Mr. President, and 2 excused and not voting.

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

CLERK: Yes, sir. Mr. President, I have a motion on LB 139. Senator Marsh would move to return LB 139 to Select File for a specific amendment. Her amendment is found on page 590 of the Legislative Journal.

February 16, 1982

LR 222
LB 126, 137, 139, 212,
212A, 215, 278, 304,
353, 410, 417, 421

PRESIDENT: Any discussion on the motion to appoint a committee of five to escort the Chief Justice into the Chamber? Hearing none, all those in favor then of the motion to appoint the committee signify by saying aye, opposed nay. Motion carries and the Chair appoints the following committee to escort the Chief Justice; Senator Nichol, Senator Vard Johnson, Senator DeCamp, Senator Cullan, and Senator Beutler. Those members would please follow Senator Nichol up the aisle and go to escort the Chief Justice. And now the Chair will read some matters in.

CLERK: Mr. President, new resolution, LR 222 by Senator Chambers. (Read.) Pursuant to our rules, that will be laid over, Mr. President.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 215 and find the same correctly engrossed; LB 304 correctly engrossed; LB 410 correctly engrossed; LB 278 correctly engrossed; LB 126 correctly engrossed; LB 212 correctly engrossed; LB 212A correctly engrossed; LB 353 correctly engrossed; LB 417 correctly re-engrossed; LB 139 correctly engrossed; LB 421 correctly engrossed; all signed by Senator Kilgarin.

Mr. President, your committee on Banking whose Chairman is Senator DeCamp instructs me to report LB 137 advanced to General File with committee amendments attached, Mr. President.

PRESIDENT: While we are waiting for the committee to come back, the Chair takes pleasure in introducing Bill Hefner, son of Senator Elroy Hefner. He is under the North balcony. Will Bill stand up and be recognized. Bill, where are you? Welcome to the Unicameral, Bill. The Legislature will be at ease until the committee returns. The Chair recognizes Sergeant at Arms, Ray Wilson.

SERGEANT AT ARMS: Mr. President, your committee now escorting his honor the Chief Justice of the Supreme Court of the State of Nebraska.

PRESIDENT: The committee will escort the Chief Justice to the podium. Chief Justice Norman Krivosha.

CHIEF JUSTICE NORMAN KRIVOSHA: (Gave the State of Judiciary Message as found on pages 689 - 703, Legislative Journal.)

PRESIDENT: The committee will escort the Chief Justice

SPEAKER MARVEL: The other motion is to readvance the bill to E & R for Engrossment. All those in favor of that motion say aye. Opposed no. The motion is carried. The bill is readvanced. The next item is 417.

CLERK: Mr. President, Senator Cullan would move to return LB 417 to Select File for a specific amendment.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, this amendment I think is really just Senator Warner and I finally getting together on what language we really wanted to do, what we have wanted to do for several weeks. So I think it really is just in the nature of a bill drafting amendment just to clarify what the amendment will do and how it will leave the situation is as follows: LB 417 would change...if this amendment is adopted and this is what we have always intended to do, would change the width law with regard to combines in the following manner. Combines in the normal course of farm operations less than eighteen feet in width would be driven on highways during daylight hours or hours of darkness with clearance lights without a pilot vehicle or flag persons. Combines in the normal course of farm operations if over eighteen feet in width may be driven on highways during daylight hours or during hours of darkness with clearance lights for a distance of 25 miles or less if accompanied by a flag person or a pilot vehicle. The amendment proposed would add the following....the amendment proposed would add the provisions allowing movement at night. That was something that I neglected....that was just an error in one of my earlier drafts. The width exception accorded to equipment dealers would remain unchanged. The width restriction placed on combines traveling into or throughout, or through the State of Nebraska during harvest seasons and vehicle transporting those combines will remain at 15 feet. The current law as interpreted by the Department of Roads as allowing 15 feet would only when such vehicles are being used to transport combines, but there is a possibility that the bill as it is now could be interpreted to mean that vehicles used in transporting combines could have such words any time regardless of whether they are actually hauling combines. The amendment would clarify this with the added exception that such vehicles could travel unloaded for short distances during the harvesting operation. Again, this amendment has been run by the Department of Roads several times. I think it accomplishes what Senator Warner and I have tried to accomplish and had

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LB 417

difficult getting the exact language worked out, but it is the same intent as the original LB 417 and I think we finally now have the appropriate language and I would urge you to return the bill and adopt the amendment.

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

SENATOR SCHMIT: A question of Senator Cullan if I could, please. Senator Cullan, I am sorry I was distracted in the first part of your explanation. How wide can the head be now?

SENATOR CULLAN: If it is 18 feet or less, you would not need a flagged vehicle. If it is more than 18 feet, it would be a flagged vehicle.

SENATOR SCHMIT: And how wide can it be? Is there a limit below 18?

SENATOR CULLAN: No limit.

SENATOR SCHMIT: No limit? But it cannot move more than 25 miles, right?

SENATOR CULLAN: The 25 mile restriction is in place.

SENATOR SCHMIT: Regardless of any other provisions, you cannot use a flagged vehicle before or after anything of that nature.

SENATOR CULLAN: If you go more than 25 miles, then you would need a flagged vehicle. I mean, if you go more than 25 miles, you would need to get under the 18 feet.

SENATOR SCHMIT: You have to saw off part of the head then.

SENATOR CULLAN: Drop it off for a while.

SENATOR SCHMIT: Okay, thank you, Senator Cullan. I just want to make a comment here before you vote on this bill. We had a little bill the other day that had something to do with the caboose, and I guess I am a little bit amazed that the farmer is considered to be unsafe on the highway traveling at a low rate of speed even though he would be willing to provide a four and a half emergency vehicle as a warning. But as Senator Kahle pointed out one time, you can send a coal train with a hundred carloads of coal down the highway...or down the railroad track at 70 miles an hour with a man sitting up there in a kind of a motorized

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LB 417

fifty-gallon drum looking out a little bitty of a cubby hole and that is no danger to anyone. So we scoot down the track at 70 miles an hour with a hundred carloads of coal and one or two men in charge of all that equipment but you couldn't put your wife and ten children as I could to warn that you can safely transport that combine 26 miles. I think the bill is not necessary and I am going to vote against it.

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

SENATOR WARNER: Mr. President, I would just briefly rise to support Senator Cullan's effort to make no change. Apparently the State Patrol is picking up combines and issuing tickets, and while there seems to be a disagreement between the agencies as to the effect of the present language, if you do not make the change, the things that Senator Schmit wants to do with his combine still is prohibited. So I think that the change would be beneficial in all respects and I would hope to adopt Senator Cullan's amendment.

SPEAKER MARVEL: Before we continue, from Senator Schmit's District there were 54 students from Ashland, Nebraska, K through Eighth Grade, teacher Lori Blum. They were in the south balcony. In the north balcony as guests of Senator Kilgarin, John Barstow of Hancock, Michigan, and Henry and Lorraine Wasserburger, parents of Jeff Wasserburger, an intern on one of the committees of the Legislature. All of these people were originally in the south balcony. Now we are ready to...okay, the motion before the House is to return 417E to Select File. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 28 ayes, 0 nays on the motion to return, Mr. President.

SPEAKER MARVEL: Okay, the motion is carried. The bill is returned. Now the motion is to adopt the amendment, and that takes 25 votes. All those in favor vote aye, opposed vote no. Record.

CLERK: 33 ayes, Mr. President, 0 nays on adoption of the amendment.

SPEAKER MARVEL: Okay, the motion now is to readvance the bill to E & R for Engrossment. All in favor of that motion say aye. Opposed no. The motion is carried, bill is readvanced. The Clerk will read LB 421.

March 3, 1982

LR 232
LB 215, 378, 410, 417,
665, 848, 850, 898

advanced to General File with committee amendments attached.
Signed by Senator Cullan.

Public Works committee whose Chairman is Senator Kremer reports 848 advanced to General File with committee amendments attached; 850 advanced to General File with Committee amendments attached. Both signed by Senator Kremer as Chair.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 215 and find the same correctly engrossed; 410 and 417, all correctly engrossed.

Mr. President, LR 232 is ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LR 232.

CLERK: Mr. President, communications from the Governor on gubernatorial appointments: Mr. Sheldon Harris to the Nebraska Investment Council, and a series of appointments to the Manufactured Housing Advisory Board. Both will be referred to the Reference Committee.

I have an Attorney General's opinion addressed to Senator Wesely; an Attorney General's opinion to Senator Vard Johnson on LB 665; and an opinion to Senator DeCamp on LB 898. All will be inserted in the Journal.

Mr. President, Senator DeCamp would like to print amendments to LB 378 in the Legislative Journal.

And I have received a report from the Policy Research Office pursuant to statutory provision.

And the committee on Constitutional Revision and Recreation reports a gubernatorial appointment confirmation hearing.

PRESIDENT: We are ready then for agenda item #4 on motions. We are ready for, Senator DeCamp, the Banking Committee's gubernatorial appointments report which I believe is the first motion up. Mr. Clerk, do you want to proceed with that motion?

CLERK: Mr. President, the first report is by Banking and it is a report on a Ms. Rosemary Hannam and it is found on page 777 of the Journal.

PRESIDENT: The Chair recognizes Senator DeCamp.

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LB 215, 410, 417

SENATOR CLARK: As soon as all Senators get in their seats, we will start Final Reading. Will all Senators take their seats please so we can start Final Reading. Senator Haberman. We will now go to Final Reading, LB 215 with the emergency clause. The Clerk will read.

CLERK: (Read LB 215 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See page 1115, Legislative Journal.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 410E.

CLERK: (Read LB 410 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See pages 1115 and 1116, Legislative Journal.) 48 ayes, 0 nays, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read 417 with the emergency clause.

CLERK: (Read LB 417 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay. Have you all voted? Have you all voted? Record the vote. I voted aye.

CLERK: (Record vote read. See pages 1116 and 1117, Legislative

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LB 417, 547

Journal.) 43 ayes, 2 nays, 1 excused and not voting,
Mr. President, 3 present and not voting.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read LB 547.

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LB 215, 410, 417, 493, 577,
584, 538, 643, 689, 791, 837,
807, 900, 815

SENATOR KILGARIN: I move we advance LB 807.

PRESIDENT: Motion to advance LB 807 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. The motion carries and LB 807 is advanced to E & R for Engrossment. The Clerk will read some matters into the record.

CLERK: Mr. President, I have a reference report referring LB 971 to Appropriations. I have notice of hearing for LB 971 by the Appropriations Committee.

Your Committee on Miscellaneous Subjects reports LB 493 indefinitely postponed; 584, 638, 643, 689, 791, 815, 837, and 900 all indefinitely postponed.

Mr. President, LBs 215, 410 and 417 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LB 417, LB 410 and LB 215. Ready, Mr. Clerk, then for LB 577.

CLERK: Mr. President, I have no E & R amendments to LB 577. I do have a motion to indefinitely postpone the bill. That is offered by Senator Wesely. That would also lay the bill over unless Senator Beutler or Koch agree to take it up at this time.

PRESIDENT: Senator Koch or Beutler, do you have any reaction to the motion....there is a motion to indefinitely postpone, what do you wish to do? Senator Koch, did you... what do you wish to do?

SENATOR KOCH: Mr. President, I will leave that to the high and profound ethics of my good friend, Senator Wesely. First of all, I did not like the motion in the first place, but obviously Senator Wesely thinks it is important that we discuss it some more, so why don't we discuss it today.

PRESIDENT: Okay, we will let it go then, Senator Koch, is that all right? Let's debate it today then.

SENATOR KOCH: What's my prerogative here?

PRESIDENT: Senator Wesely.

SENATOR KOCH: I would prefer to take it up today.

PRESIDENT: All right. Senator Wesely, he would just as soon take it up right now.

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LB 215, 410, 417

Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning. (Re: LBs 215, 410 and 417.)

PRESIDENT: I want to compliment everybody for really sticking around and cooperating for moving quite a number of bills this afternoon. It was a very good performance at a time where it was very well needed, so congratulations to you and have a good weekend and we will ask....is Speaker Marvel here? Senator Haberman, do you want to move....Rex, do you want to move that we adjourn us until Monday 9:30 a.m.

SENATOR HABERMAN: Mr. President, I move that we adjourn until Monday 9:30 a.m.

PRESIDENT: Senator Haberman moves that we adjourn until 9:30 a.m. Monday, March 15th. All those in favor signify by saying aye. Opposed nay. We are adjourned until Monday at 9:30 a.m.

Edited by:

Marilyn Zank
Marilyn Zank

March 16, 1982

LR 252
LB 215, 410, 417

SENATOR LAMB PRESIDING

SENATOR LAMB: The morning prayer will be offered by Reverend William Beatty, pastor of the Covenant Presbyterian Church, Omaha.

PASTOR BEATTY: (Prayer offered).

SENATOR LAMB: Roll call. Record.

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

SENATOR LAMB: Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LAMB: Are there any messages, reports or announcements?

CLERK: Two items, Mr. President. A communication from the Governor addressed to the Clerk. (Read. Re: LBs 215, 410, 417. See pages 1180 and 1181, Legislative Journal.)

Mr. President, a new resolution offered by Senator Beyer, LR 252. (Read. See page 1181, Legislative Journal.) That will be laid over, Mr. President.

SENATOR LAMB: Item #5, Final Reading, one hour limit. Item #4, gubernatorial appointments, Public Works Committee. Senator Kremer.

CLERK: Mr. President, the first report offered by the Public Works Committee is regarding Mr. Harold Peterson, Babette Prostok, and Merle Kingsbury. That report is on page 1076 of the Legislative Journal.

SENATOR LAMB: Senator Kremer, would you care to handle the gubernatorial appointments?

SENATOR KREMER: Thank you, Mr. Chairman. The Public Works Committee wishes to report favorably on the appointments of Mr. Guy F. (Jeff) Bush and Mr. Reed Gilmore appointed by the Governor to the Nebraska Oil and Gas Conservation Commission. The committee heard the testimony of these two men, reviewed their transcripts and report favorably and recommend to the Legislature these gubernatorial appointments be adopted by the entire Legislature. I so move.

SENATOR LAMB: The motion is to approve the gubernatorial appointments. All those in favor vote aye, those opposed

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