

RECESS

PRESIDENT: The Legislature will come to order and register your presence.

CLERK: Mr. President, Senator Higgins and Beutler would like to be excused this afternoon.

PRESIDENT: Record the presence, Mr. Clerk.

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

PRESIDENT: Quorum being present, do you have any messages on the desk, anything to read into the record?

CLERK: Yes, sir, I do. Senator Maresh would like to announce that Senator Fitzgerald has been elected as vice chairman of the Business and Labor Committee. Senator Marvel would like to announce a chairperson's caucus for Monday, January 12, 1981, at 9:00 a.m. in Room 1520. It is a chairperson's caucus at 9:00 a.m., Room 1520, Monday morning.

Mr. President, Senators VonMinden, Senator Hoagland would like to be excused all day tomorrow.

PRESIDENT: We are ready for the introduction of new bills, Mr. Clerk, proceed.

CLERK: Mr. President, new bills: Read LB 37-48 by title for the first time. (See pages 85-88 of the Legislative Journal.)

Mr. President, Senator Hefner would like to have the Miscellaneous Subjects Committee meet upon adjournment this afternoon underneath the South balcony. That is the Miscellaneous Subjects Committee upon adjournment underneath the South balcony.

Mr. President, I have the communication from the Secretary of State addressed to the Speaker and members of the Legislature regarding the bonds and oaths for the following elected officials: Public Service Commissioner, Eric Rasmussen; Jack Romans; Treasurer of Workmen's Compensation Court, James Monen; Regents: Robert Simmons and John Payne; State Board of Education, Frank Landis, James Monahan, Walter Thompson, Helen Greene; and for Judge of the Nebraska Supreme Court, Lawrence Clinton, Hale McCown and C. Thomas White. That will be inserted in the Legislative Journal. (See pages 88-90.)

March 3, 1981

LB 21, 24, 38, 44, 54, 65, 67,
77, 80, 104, 109, 110, 154,
186, 214, 221, 236, 260, 264,
275, 288, 459

File with amendments; 264 to General File, (Signed)
Senator Cullan, Chair.

Mr. President, your committee on Judiciary reports LB 44
to General File with amendments.

Mr. President, new resolution offered by Senator Fowler,
LR 27. (Read.) That will be laid over pursuant to our
rules, Mr. President.

Mr. President, your committee on Enrollment and Review
respectfully reports we have carefully examined and en-
grossed LB 24 and find the same correctly engrossed, 38,
54, 104, 154 and 275 and 288 all correctly engrossed,
(Signed) Senator Kilgarin, Chair.

Mr. President, your Enrolling Clerk reports that she has
presented to the Governor for his approval LBs 110, 214,
65, 21, 67, 77, 80, 109, 186, 221, 236 and 260.

SPEAKER MARVEL: The next bill on Select File is LB 459.

CLERK: Mr. President, there are E & R amendments to LB 459.

SPEAKER MARVEL: Senator Kilgarin, E & R amendments to 459.

SENATOR KILGARIN: Mr. Speaker, I move the E & R amendments
to LB 459.

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

CLERK: Mr. President, I now have a motion from Senator
Fowler. (Read Fowler amendment as found on page 733 of
the Legislative Journal.)

SPEAKER MARVEL: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, this bill changes the
contribution rates with regards to certain aspects of
retirement. In working with the legislative fiscal staff
we felt that rather than have the bill take effect on what-
ever day, ninety days after the session which may be in the
middle of a pay period, that we would try and pick a date
for it to take effect so as to ease implementation. So
this is for October 1. This really is an amendment to
help with the mechanical aspects of adjusting the payroll
to reflect the new contribution rates for the retirement
plan. I would move for its adoption.

SPEAKER MARVEL: All those in favor of the Fowler amendment

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LB 44, 111, 119, 201, 323,
LB 379, 337, 505, 536

SENATOR VICKERS: Okay, thank you very much, Senator Cullan.

SENATOR CLARK: The question before the House is the advancement of LB 379. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. We will now take up LB 44.

CLERK: Mr. President, may I read some material in?

SENATOR CLARK: You bet, go right ahead and read it in.

CLERK: Mr. President, Senator Koch would like to have an executive session of the Education Committee Monday, March 30 upon adjournment in Room 1517.

Mr. President, Senator Chambers asks to print amendments to LB 111 in the Legislative Journal. (See page 1169 of the Legislative Journal.)

Appropriations Committee will meet in executive session today upon adjournment in Room 1003.

Senator Beutler would like to print amendments to LB 536 in the Legislative Journal. (See page 1169.)

Public Health and Welfare reports a gubernatorial appointment hearing.

Your committee on Business and Labor reports LB 119 indefinitely postponed; 201 indefinitely postponed; 323 indefinitely postponed; 337 indefinitely postponed and 505 indefinitely postponed, (Signed) Senator Maresh, Chair.

Mr. President, LB 44 was introduced by the Criminal Justice and Law Advisory Committee. (Read.) The bill was read on January 8, referred to Judiciary for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SENATOR CLARK: On the committee amendments, Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, the Judiciary Committee amendments on LB 44 completely re-draft the bill so what I would like to do, Mr. Chairman, is

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LB 44

to go ahead and adopt the committee amendments and then discuss the amendments which are the bill and I move for the adoption of the committee amendments.

SENATOR CLARK: We have amendments to the committee amendments. Mr. Clerk.

CLERK: Mr. President, Senator Wesely moves to amend the committee amendments.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, the amendment that I am offering at this time was presented to the committee at the hearing discussing this legislation and I appreciate the fact that they took the time to develop the committee amendments which are before you at this time, however, my specific concern still I don't think has been dealt with as well as it could be in this bill. I know that John Goc, legal counsel for the committee is trying to find a way to deal with that but I would like to try and add this amendment to the committee amendments to get it on the bill and to take a look at this situation because what these amendments would do is deal with a problem I have had in the City of Lincoln and I think others may have had in your districts and one of the problems is that this individual had a boat. It could be any piece of property, whatever you want to talk about, but this fellow had a boat and he had a roommate who took the boat down to a pawnshop and the pawnbroker there kept the boat and was going to sell it and this guy found out that his roommate had taken his boat to the pawnshop and was trying to sell it. So he immediately took court action on that to try and recover his boat, however, the statutes did not provide for him to recover that boat. There was all kinds of litigation going on and it went on into months and months of time that were spent, all the time at which this boat was not being able to be used or had access to by the individual who owned it and was being held by the pawnbroker. The amendment which is being proposed at this time would allow for, after going to a court, to claim the rightful ownership of that property, the chance for somebody to get back their property instead of having it sit in some pawnbroker's shop or perhaps in some police station awaiting the final disposition of a trial which may go on for months. Now what it is trying to do is protect somebody who owns property and somebody else try and pawn it off and not being able to use that property until something is finally done with it. Now I realize there may be some problems that may arise through this amendment perhaps, but I think the fundamental purpose is to try and help people

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LB 44

keep in possession their own property is one that we can all agree to so I would encourage your support for it and then I think I would be willing to work with Senator Nichol if there are any changes necessary on Select File.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I have no opposition to working with Senator Wesely. I would suggest rather than putting an amendment to the amendment that the amendment stand on its own rather than attach it to the amendment. Would you be agreeable to that, Senator Wesely?

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Well if there is a strong opposition to that I would be glad to. I just thought it might as well come up now as any point.

SENATOR NICHOL: I don't know whether there is any strong opposition to it, Senator Wesely.

SENATOR WESELY: Okay, I will withdraw it at this point and put it up as a regular amendment.

SENATOR NICHOL: No opposition.

SENATOR CLARK: Senator Kahle, did you want to talk on the committee amendment?

SENATOR KAHLE: Yes, Mr. President. I think the committee amendments are all right. I had some problems with the amendment that Senator Wesely wanted to put on so I do support the committee amendments.

SENATOR CLARK: The question before the House is the adoption of the committee amendments. All those in favor vote aye, opposed no.

CLERK: Senator Clark voting aye.

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

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

SENATOR CLARK: The committee amendments are adopted. Do you have an amendment now?

CLERK: Yes, Mr. President, Senator Wesely would like to offer his amendment now. (See pages 1170-71 of the Legislative Journal.)

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LB 44

SENATOR CLERK: Senator Wesely, we will take up your amendment at this time.

SENATOR WESELY: Yes, again, Mr. President, what this amendment tries to do is provide for protection for individuals who have had their property taken by somebody else to be pawned and gives them an opportunity to go to court and ask that they determine who is the rightful owner of that property so that they can claim possession and get it back in their possession. I know Senator Kahle has some concerns about protection of the pawnbroker. I guess what I am saying is we need to protect the owner of the property and we should provide some sort of protection of pawnbrokers as well. I do not have an answer to the particular problem he may have but I think that can be worked out. Still though, the basic fundamental point of the amendment is when somebody owns property, it is taken to a pawnbroker, he should have the right to the possession of that property, not have to wait while it sits somewhere else even though it is his own property. It is not fair I don't think.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I guess what I am concerned about is the pawnbroker and where he comes into this whole thing. It looks to me like if someone took property that was not theirs and attempted to pawn it that it would be theft involved and I don't know how that relates either exactly. I know that if the pawnbroker takes an automobile or a motorcycle or something like that that has a title to it, why they have to have the title before they can take this vehicle into possession. A boat, I am not sure how that would be worked but it looks to me like there should be some protection for the pawnbroker when someone comes in and says well this is my boat and I want to pawn it. I think you have to protect both parties and not just one of them and that is the reason I am concerned. I don't know how to do it exactly but that is my concern at the moment.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I really don't know whether I support the amendment or not. I think it is a little bit clumsy to handle this quickly, Senator Wesely, and I think that the problem should be addressed. I just wonder if this is the time. We haven't had a hearing, have we, on some other bill on your amendment? I think what the problem would be would be to establish that the owner was really the owner and secondly, if you had a boat, I can understand why you would not want that hanging around in a pawnshop. It would take up a lot

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LB 44

of space that you could put diamond rings and watches that may be stolen in place of...I really would prefer, Senator Wesely, to attempt to work this out at a little later date rather than discussing now but it is up to you.

SENATOR CLARK: Are you done, Senator Nichol? Senator Nichol, are you done? Senator Wesely, do you wish to close?

SENATOR WESELY: Yes, I appreciate Senator Nichol's concern and I realize time is running out. Just to refresh memories though, I did bring this proposal to the committee. The committee did spend a great deal of time looking at a number of issues involving the pawnbroker, however, did not pursue this issue as I had hoped they would, thus I am bring it to the attention again of this body. I would like to see if there is support for the idea of providing for someone who owns property, the chance to claim that property and get it back into his possession when it has been taken from him by somebody unrightfully. So I guess I would ask that we go ahead and vote on the amendment. Perhaps if there is some problems and it is adopted we can work those out on Select File but I would like to see if there is support for trying to maintain the fact that somebody owns property ought to have right to that property and not have it taken from them unjustly.

SENATOR CLARK: The motion is to accept the amendment by Senator Wesely. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting no.

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

SENATOR WESELY: I would ask how many are excused at this point.

SENATOR CLARK: I will find out for you. Six.

SENATOR WESELY: Six are excused. I would like to go ahead I guess and have a Call of the House if possible and allow call-in votes.

SENATOR CLARK: A Call of the House has been requested. All those in favor vote aye. Record the vote.

CLERK: 10 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will return to their seats please. Unauthorized personnel will leave the floor. We will accept call-in votes.

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LB 44

CLERK: Senator Wagner voting aye, Senator Vickers voting yes, Senator Kilgarin voting yes, Senator Schmit voting no, Senator Sieck voting yes.

SENATOR CLARK: Have you all voted?

CLERK: Senator Fowler voting yes.

SENATOR CLARK: Once more, have you all voted?

CLERK: Senator Hoagland voting no.

SENATOR CLARK: Record the vote. Do you want a roll call vote?

SENATOR WESELY: Yes, I guess we will have to at this point.

SENATOR CLARK: They don't seem to want to vote so one way or the other...

SENATOR WESELY: I see Senator Maresh wants to vote and here is another vote over here. They are voting.

CLERK: Senator Maresh...

SENATOR CLARK: Everyone is supposed to be in their seats now.

CLERK: Senator Maresh, did you want to vote? Senator Maresh voting yes. Senator Newell, are you voting? Senator Newell voting yes. Senator Higgins voting yes. Senator Chambers voting yes.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 10 nays, Mr. President, on the motion to adopt the Wesely amendment.

SENATOR CLARK: The amendment is adopted. Senator Nichol on the bill.

SENATOR NICHOL: Mr. Chairman, LB 44 was one of those little one paragraph bills that turned out to be a lot more work for the committee than we had anticipated. As originally drafted LB 44 simply cleared up the internal reference in the section of statutes dealing with pawnbrokers. They would have included failure to take a colored picture of a person pawning an item into current penalty classifications. At the public hearing the committee discovered that very few people in the State of Nebraska were complying with the current section of statute dealing with pawnbrokers because much of the language was outdated, vague and unworkable. It was further brought to the attention that the City of Omaha had

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an excellent ordinance on the books which was working well and had the concurrence of the Nebraska Pawnbrokers Association. It was suggested at the public hearing that the Judiciary Committee rewrite the pawnbroker's law incorporating many of the procedures currently being followed by the City of Omaha and by the Nebraska Pawnbroker's Association. It should be noted that outside of Lincoln and Omaha there were very few businesses that would be affected by this act. Judiciary Committee staff, with the cooperation of the Omaha city attorney, Omaha Police Department and the Nebraska Pawnbroker's Association and with input from the Lincoln city attorney's office rewrote the entire pawnbrokers chapter to update the language and to incorporate many of the provisions of the Omaha ordinance. These provisions are largely procedural in nature and spell out in statute how pawned property has to be handled and disposed of. To give you an example of how vague the current statutes are it is quite possible that many of the current laws which apply to pawnbrokers may also apply to modern banking procedures.

SENATOR CLARK: You have one minute left on the bill.

SENATOR NICHOL: I am more than willing to go through this rewrite and give you section by section summary of the bill, however, Senator Clark has indicated that I talked too much on these procedural matters so I will end it here and be glad to answer any questions you might have.

SENATOR CLARK: The question before the House is the advancement of LB 44. All those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 1 nay on the motion to advance the bill, Mr. President.

SENATOR CLARK: LB 44 is advanced and take up LB 173.

CLERK: Mr. President, LB 173 is a bill introduced by Senator Warner. (Read.) The bill was read on January 14. It was referred to the Ag and Environment Committee. The bill was advanced to General File. There are committee amendments pending by the Ag and Environment Committee, Mr. President.

SENATOR CLARK: Senator Schmit, on the amendments. Do you want Senator Warner to take the committee amendments?

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of mine, who chide me constantly wondering what kind of a record are we trying to set. The only record we are trying to set is fairness and I would suggest to you that we have with 245, we have had substantial amount of debate and I would also try to get your cooperation to debate this bill until noon and then we will come back and start on General File priority bills. If we can not do this, ladies and gentlemen, what it amounts to is that this Legislature is simply going to go downhill and there will be many of you whose priorities will not be touched. Okay what is the next item on LB 245, Mr. Clerk?

CLERK: Mr. President, if I may read some matters in before that. Very quickly, Senator Schmit, Johnson would like to print amendments to LB 167; Senator Wesely to LB 44. (See pages 1211-1211 of the Journal.)

Your committee on Public Health and Welfare reports LB 378 to General File; 499 General File with amendments; 270 General File with amendments; 212 with amendments; 404 General File with amendments; 522 General File with amendments, all signed, Senator Cullan. (See pages 1212-1218 of the Journal.)

Mr. President, the next amendment I have is from Senator DeCamp and that amendment is found on page 1145 of the Journal.

SENATOR DeCAMP: Mr. President, members of the Legislature, it appeared to me and several others that the real stumbling block on resolving the issue of the vets school and which way we go had to do with the issue of federal funds and whether we were just going to have an indefinite forever date on this and so the purpose of this amendment was to, so to speak, "fish or cut bait," make a decision one way or another on whether we were going to have the vets school and of course that decision was contingent as has been stated many times on what happens at the federal level. So the purpose of this amendment was and is to force that issue. The second purpose of the amendment was to say, if we do not get the federal funds, then we want to use this money for another purpose, some other agricultural purpose. And so I had the money funneled off into the Beef Science Building as of a certain date so that we would not have to fight that issue again. However, it is my understanding that Senator Schmit, Kahle, Lamb, those interested in the vets school have now resolved, so to speak, the issue of the "fish or cut bait" issue which is the principal stumbling block in this thing and they have a separate amendment with a separate date. It is a little more delayed. I am perfectly willing to go along with that since, as I say, that is the big

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LB 44, 47, 56, 84, 113, 151,
173, 218, 220, 308, 313, 331,
370, 379, 392, 478.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The Reverend Sidney D. Ellis of the Church of Christ, Lincoln, Nebraska.

REVEREND SIDNEY D. ELLIS: Prayer offered.

CLERK: Mr. President, Senators Beyer, Fowler and Vard Johnson would like to be excused for the day. Senators Hoagland, Cullan and Wiitala until they arrive.

SPEAKER MARVEL: Record the vote, Mr. Clerk.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Do you have anything for item #3?

CLERK: Yes, sir. Mr. President, first of all I have got a correction in the Journal found on page 1221. (See page 1230 of the Journal.)

Mr. President, your committee on Education whose Chairman is Senator Koch reports LB 218 to General File with amendments; 370, General File with amendments; and 308 indefinitely postponed. (Signed) Senator Koch. (See pages 1230 through 1235 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 56 and find the same correctly reengrossed.

Mr. President, LBs 47, 84, 151, 220 and 313 are ready for your signature.

Mr. President, I have a Reference Report from the Executive Board referring LB 556 to the Appropriations Committee and that is signed by Senator Lamb as Chairman of the Reference Committee.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 47, LB 84, LB 151, LB 220, LB 313.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 379 and recommend that same be placed on Select File with amendments; 44, Select File with amendments; 173, Select File with amendments; 331, Select File with amendments; 392, Select File with amendments; 478, Select File with amendments; 113, Select File with

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LB 111, 44

if that's what he was doing, that I have opposed increases in salaries for judges. I have supported them, but it is the principle of time that I am opposed to and I just want the record clear on that point.

SPEAKER MARVEL: The motion before the House is the reconsideration of the killing of LB 111. All those in favor of reconsideration vote aye, opposed vote no. It takes 25 votes. Have you all voted? Have you all voted? Senator Hoagland.

SENATOR HOAGLAND: Evidently we are going to have a Call of the House but perhaps we could take call in votes and see if we could....

SPEAKER MARVEL: Record the vote.

CLERK: 25 ayes, 22 nays, Mr. President, on the motion to reconsider the bill.

SPEAKER MARVEL: Okay, the motion is carried. Okay, we now turn to Select File, item #6. Senator Haberman, for what purpose do you arise?

SENATOR HABERMAN: A point of order to ask the Chair a question.

SPEAKER MARVEL: Excuse me?

SENATOR HABERMAN: Mr. President, this is a priority bill. Does it go to the bottom of the list or what happens to it now on the schedule?

SPEAKER MARVEL: The bill is not before us now, Senator Haberman. When the time comes, we will....

SENATOR HABERMAN: Thank you.

SPEAKER MARVEL:we will rule on it too. Okay, item #6, LB 44.

CLERK: There are E & R, Senator.

SPEAKER MARVEL: Senator Kilgarin. Just a second. Try it now.

SENATOR KILGARIN: (Microphone not on)....to LB 44.

SPEAKER MARVEL: The motion is the adoption of the E & R amendments to LB 44. All those in favor say aye. Opposed no. Motion is carried. The E & R amendments are adopted.

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LB 44

CLERK: Mr. President, Senator Wesely moves to amend LB 44 and the amendment is found on page 1212 of the Journal.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Mr. Speaker and members of the Legislature, the amendment before you is found again on page 1212 of the Journal. It would essentially strike an amendment which we placed on General File which dealt with an issue which I brought to your attention about an individual having some property taken to a pawnbroker that was their property but somebody else took it to the pawnbroker and tried to have it pawned, then they were caught using somebody else's property and so the owner of that property tries to get their property back but they aren't able to get it back and so there is some difficulty there where the owner of the property doesn't get their property back. Well, we put the amendment on to raise the issue and I sat down with the cooperation of John Goc, the legal counsel for the Judiciary Committee, and we arrived at the amendment which is now before you which would strike that original amendment and put in this new language which I think is a much better approach to dealing with that specific problem. This amendment would allow for a reference in the pawnbroker's statutes back to the replevin statutes of the state that we already have adopted, and the replevin statutes are a process they now go through in order to recover property which is theirs but which for some reason or another has been taken out of their possession. So this is a very clean way to deal with that problem that we have had with the pawnbrokers. I have talked to the representative of the pawnbrokers in the state and they have felt that this is a reasonable approach and so I certainly encourage your support for the amendment.

SENATOR CLARK PRESIDING

SENATOR CLARK: The question before the House is the amendment to the bill from Senator Wesely. Is there any discussion? If not, those in favor vote aye, those opposed vote nay. While we are waiting for the vote, I would like to introduce four students from Wesleyan University of Nebraska. They are up in the north balcony. Senator Marvel is their instructor. Will you stand up and be recognized, please? Welcome to the Unicameral. Have you all voted? The Wesely amendment. Record the vote.

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

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LB 44, 173

SENATOR CLARK: The amendment is adopted.

CLERK: I have nothing further on the bill.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move LB 44 be advanced to E & R for Engrossment.

SENATOR CLARK: The motion is to advance LB 44. All those in favor say aye. Opposed no. The bill is advanced. LB 173.

CLERK: There are E & R, Senator.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 173.

SENATOR CLARK: The E & R amendments to 173. All those in favor say aye. Opposed. They are adopted.

CLERK: Mr. President, Senators Wagner and Vickers now move to amend the bill. (Read the Wagner and Vickers amendment found on pages 1324 and 1325 of the Legislative Journal.) That is offered by Senators Wagner and Vickers.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. Speaker and members, the reason for the amendment that Senator Wagner and I are offering is very similar to the bill that we passed earlier this session that was sponsored by myself, LB 121, that allowed the utilities, public entities, that desired to build utilities or to use the power of eminent domain on Board of Educational Lands and Funds, that as the law had previously been they had to condemn and go through the condemnation proceedings every time they attempted to get an easement on this land. We passed a bill, LB 121, that changed it so that through an agreement process if an agreement could be worked out between the two parties, the two public entities, then the condemnation proceedings didn't have to be used. 173, the amendment that Senator Wagner and I are offering to 173 is basically saying the same thing that the entity having the power of eminent domain does not have to use that power, does not have to use the condemnation proceedings, the expensive type proceedings, if a simple agreement can be reached with the owner of the easement created by LB 173. In other words, it would hold down the cost considerably if it is

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LR 54
LB 167, 72, 205, 378, 40,
44, 87, 173, 292, 292A,
317, 536,

SENATOR CLARK: We have about three pages left. Can we get the Legislature to take their seats and vote on the bill. Continue.

ASSISTANT CLERK: Continues to read LB 167.

SENATOR CLARK: Everyone is in their seats please. All provisions of law having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 30 ayes, 13 nays, 5 present and not voting, 1 excused and not voting. Vote appears on page 1375 of the Legislative Journal.

SENATOR CLARK: The motion passed, the bill is passed. We have 40 students from Westlawn Elementary School in Grand Island in Howard Peterson's district. Roger Lee is the teacher. They are in the north balcony. Could you raise your hands please. Welcome to the Unicameral. We will now go to item six.

CLERK: Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor at 11:00 a.m. LB 72 and 205.

Senator Marsh would like to print amendments to 378.

The Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 40 and find the same correctly engrossed, LB 44 correctly engrossed, LB 87 correctly engrossed, LB 317 correctly engrossed, LB 292 correctly engrossed, 292A correctly engrossed, 173 correctly engrossed and LB 536 correctly engrossed.

Mr. President, a new resolution. Read LR 54. That will be laid over Mr. President.

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LB 44, 74, 87

take care of your area so we can proceed with Final Reading? Thank you. The Clerk will read on Final Reading LB 74.

CLERK: (Read LB 74 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 74 on Final Reading. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 1478, Legislative Journal.) 35 ayes, 5 nays, 9 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is passed on Final Reading. The Clerk will now read LB 44.

CLERK: (Read LB 44 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading? Those in favor vote aye, opposed vote no. Have you all voted? The Clerk will record the vote.

CLERK: (Record vote read. See pages 1478 and 1479, Legislative Journal.) 39 ayes, 1 nay, 9 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read on Final Reading LB 87.

CLERK: (Read LB 87 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 87 on Final Reading. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 1479, Legislative Journal.) 36 ayes, 3 nays, 9 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Permission has been requested to temporarily pass over LB 173 until the introducer gets here. Is there objections? If not, so ordered. Senator Beutler, what were we doing on the next bill?

SENATOR BEUTLER: Since Senator DeCamp is not here and there

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LR 21
LB 44, 74, 87, 173, 271

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Gifford Myers from the First Evangelical Free Church, Lincoln.

GIFFORD G. MYERS: (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: A quorum being present, are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will then stand correct as published. Any other messages, reports or announcements.

CLERK: Mr. President, LB 74, 44, 87, 271, and 173, as well as LR 21 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 74, LB 44, LB 87, LB 271, LB 173 and LR 21. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: The Chair recognizes at this time for a very special explanation and presentation, Honorable Senator Marsh.

SENATOR MARSH: Thank you very much, Mr. President. I am very pleased, ladies and gentlemen, members of the legislative body, to share with you some of the excitement which has been going on at our house the past few months. The State Treasurer as a member of the Plant Two Trees Committee of Lancaster County has made the little gift available to you which you found on your desk this morning. This is some of the night hours put in by the State Treasurer delivering these in person last evening and this committee through the leadership of the State Treasurer has made available to every fifth grade school child in the County of Lancaster County a tree to be planted on Arbor Day. I urge you to plant this tree or give to someone who will plant it. It is a blue spruce and there is attached to the package some interesting facts regarding trees and the State of Nebraska. I wish

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propriated in this bill, there is some question about the continued operation of the Eppley Institute. This would be a shame. I urge the body's support of 506.

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

SENATOR CULLAN: Mr. President, members of the Legislature, I appreciate all the support that has come and I appreciate Senator Warner's constructive amendments to LB 506. Senator Wesely just asked a question about what the scope of the bill now is with respect to research. The \$1.2 million which we appropriated to the Department of Health will be available for research, not only for cancer related research, but for research related to any disease or medical problem that it would be caused by smoking. There are a tremendous number of smoking related diseases and so I do not believe that is an excessive amount of money for that research. I think it really is just a start and I really hope that you will join me in advancing the bill. I would, however, have to correct Senator Hefner who urged Senator Koch to start chewing tobacco instead of smoking. Senator Dworak was recently advised by his dentist not to do that and so in light of that I wouldn't suggest Senator Koch taking that habit up either. As to why we have not increased the tax on chewing tobacco and cigars, that is something that the Revenue Committee or somebody may want to look at, but if you have as many ranchers in your district as I have in mine, that is not something you want to be involved in initiating. Thank you very much and I would urge you to advance LB 506.

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

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

SPEAKER MARVEL: Motion is carried. The bill is advanced. Go ahead.

CLERK: Mr. President, your Enrolling Clerk respectfully reports she has presented to the Governor for his approval LB 74, 44, 87, 271 and 173.

Mr. President, a new A bill, LB 226A offered by Senator Haberman. (Title read.)

Mr. President, LB 483 is ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign reengrossed LB 483. We are now ready for LB 266.

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LB 44, 74, 87, 113, 271, 298,
327, 328, 331, 404, 478, 486,
252, 241, 483

not going to be built for a variety of reasons, environmental costs, eminent domain and many other reasons. You start talking about building a project and immediately you have a whole group of people that rise up in arms to it. We all know that, but yet it is nice to stand up on the floor and make glowing speeches about how we need to store more water. But now when we are talking about an issue where we might be able to save some of that water in the State of Nebraska although it might not be in your area, it might not be in your basin, you might have to drive a couple hundred miles to go fish in it, suddenly you don't want to do that and you want to put language in the statutes that I assure you is going to prohibit it from happening. I suggest that reasonable people that are of conservative nature should agree with me to remove the language in lines 13 and 14.

SPEAKER MARVEL: Okay, the motion is on the second half of the Vickers amendment, is the adoption of that amendment. All those in favor vote aye, opposed vote no. Have you all voted? Senator Vickers, where are you? Oh, there you are. Eight are excused, Senator Vickers.

SENATOR VICKERS: Record the vote. Oh, make it...I want a record vote.

SPEAKER MARVEL: Okay, record.

CLERK: (Read the record vote as found on page 1519 of the Legislative Journal.) 10 ayes, 23 nays, Mr. President, on adoption of the amendment.

SPEAKER MARVEL: The Clerk has some items to read in.

CLERK: Your Enrolling Clerk has presented to the Governor LB 483.

I have a communication from the Governor addressed to the Clerk. (Read communication regarding the signing of LBs 44, 74, 87, 271 and 483 as found on pages 1520 and 1521 of the Legislative Journal.)

Mr. President, Senator Fowler would like to print amendments to LB 404. (See pages 1521 and 1522 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 241 and find the same correctly engrossed; 298, 327, 328, 486, 113, and 331 and 478, all correctly engrossed, Mr. President. (See pages 1524 and 1525 of the Legislative Journal.)