

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 13, 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.)

February 3, 1981

LB 4, 10, 14, 18, 26, 41,
45, 51, 66, 68, 121

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Dean Herman, Church of the Nazarene, Curtis, Nebraska.

REVEREND DEAN HERNAM: Prayer offered.

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

CLERK: 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 then stands correct as printed. Are there any messages, reports or announcements, Mr. Clerk?

CLERK: Mr. President, your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle to whom we referred LB 41 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 45 General File; LB 18 General File with amendments; LB 121 General File with amendments. (Signed) Senator Kahle, Chairman. LB 4 indefinitely postponed by the Government Committee; LB 10 indefinitely postponed; LB 26 indefinitely postponed; LB 66 indefinitely postponed. (Signed) Senator Kahle.

Mr. President, your committee on Public Works whose Chairman is Senator Kremer to whom we referred LB 14 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 51 General File with amendments. (Signed) Senator Kremer.

Your committee on Business and Labor whose Chairman is Senator Maresh to whom we referred LB 68 instructs me to report the same back to the Legislature with the recommendation it be indefinitely postponed. (Signed) Senator Maresh.

Mr. President, your committee on Judiciary gives notice of public hearing in Room 1113 for February 23, 24, 25, March 2, 3, 4, 9, 10, 11 and 16. (Signed) Senator Nichol.

Mr. President, two reports: A report of the activities of the Nebraska Commission on Rural Health Manpower will be inserted in the Journal; and I have a report from the Nebraska

February 4, 1981

LB 39A, 45, 64, 65, 92, 165,
170, 185, 187, 199, 238, 244.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: (Microphone not on)....will be given by Dean L. Hubbard who is the President of Union College.

PRAYER: Offered by Dean L. Hubbard, Ph.D., President of Union College, Lincoln, Nebraska.

SPEAKER MARVEL: Roll call. Please record your presence. Have you all recorded your presence?

CLERK: Mr. President, Senators Warner and Carsten would like to be excused all day.

SPEAKER MARVEL: Okay, record.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: The Clerk will read in some reports first.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 165 and recommend that same be placed on Select File; LB 185, Select File; LB 187, Select File; LB 238, Select File with amendments; LB 244, Select File; LB 92, Select File with amendments; LB 199, Select File with amendments; LB 170, Select File with amendments. (Signed) Senator Kilgarin, Chairman. (See pages 413 and 414 of the Legislative Journal.)

Mr. President, your Committee on Public Works whose Chairman is Senator Kremer to whom was referred LB 64 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 65, General File with amendments. (Signed) Senator Kremer, Chairman. (See pages 414 through 416 of the Legislative Journal.)

Mr. President, new bill, LB 39A, offered by Senator Kahle. (Read title to LB 39A as found on page 416 of the Legislative Journal.)

Mr. President, Senators Vard Johnson and Chambers would like to print amendments to LB 45 in the Legislative Journal. (See page 417 of the Journal.)

Your committee on Banking, Commerce and Insurance gives notice of public hearing in Room 2230 for Tuesday, March 3. (Signed) Senator DeCamp, Chairman. (See page 417 of the Journal.)

and this year I have to come back again.

SENATOR BEUTLER: The City of Lincoln has done it also.

SENATOR SIECK: I would like to have a study of this so that we can change this so it wouldn't be necessary every time we go by an armory or some place in the state to get permission from the State Legislature. I think this is kind of foolish.

SENATOR BEUTLER: Thank you.

SPEAKER MARVEL: The motion is the advancement of LB 82 to E & R for review. All those in favor of the motion vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: The motion is carried. The bill is advanced. Senator Carsten is absent. We will pass over 167 and go to LB 45.

CLERK: Mr. President, LB 45 was offered by the Law Enforcement and Criminal Justice Advisory Committee. (Read title.) The bill was originally read on January 8 of this year. It was referred to the Government, Military and Veterans Affairs Committee. It was advanced to General File. I have no committee amendments although I do have amendments from Senators Johnson and Chambers.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Perhaps Senator Chambers would like to speak to the amendments.

CLERK: Mr. President, Senator Chambers and Senator Vard Johnson have amendments to the bill found on page 417 of the Journal.

SENATOR CHAMBERS: Members of the Legislature, I hope you will turn to that page as I am doing and so that you will understand what this bill pertains to, it is the Law Enforcement Training Center. In its present form, without amendment as introduced the bill would allow money collected from fees attached to court costs to go directly into a fund instead of going into the treasury and then being transferred. Because of various discussions that have occurred relative to court costs and the impropriety of attaching to court costs an attempt to raise revenue for functions that don't relate directly to the administration of the courts, Senator Johnson and I felt that we ought to take this opportunity to put in

place a system whereby the state would appropriate money to operate the Law Enforcement Training Center. The state has taken the position that law enforcement at the municipal and county level is a matter of state concern and as such, there should be certain training requirements to equip these individuals to fulfill the law enforcement function more competently. So rather than tailgating on court costs a dollar for the Training Center and the Governor and the Training Center are trying to add an additional fifty cents to that, the state should do away with all of this tinkering with the court system and simply by appropriation provide the money necessary to operate this Training Center. One of the deficiencies in the present system of funding is that the Center is limited to whatever money might be available which means that there could be legitimate, justifiable programs which cannot be implemented because enough money has not been generated by these court cost fees. So what the amendment, which you will find on page 417 would do is to strike that dollar from the court cost that goes to the law enforcement training fund by requiring an appropriation by the Legislature for this agency as it does any other one. The agency would come in and present its case and show how much is needed to operate and carry out the programs that the Legislature requires it to carry out and the money would then be made available in that fashion. The Chief Justice, and there are other judges who feel that court costs should not be a vehicle for raising revenue for other agencies. An additional dollar is tacked on the court cost for the judges retirement fund. The Chief Justice also does not feel that that dollar should be attached to court costs. So since we have a bill here dealing with the law enforcement training fund we ought to correct that problem this morning and if you have any questions to put to me, I will be glad to answer them and if you want some figures based on various amounts that the Law Enforcement Training Center has had to operate with, I think Senator Johnson can provide you with those figures from some research he has had done but anything based on the issues I have raised I am prepared to answer questions and I am asking adoption of the amendment.

SPEAKER MARVEL: Senator Vard Johnson, do you wish to be recognized on the Chambers amendment?

SENATOR V. JOHNSON: Yes, Mr. Speaker, just a couple of remarks on the amendment that Senator Chambers and I introduced. Both of us are members of the Government, Military and Veterans Affairs Committee that heard this bill and we did want to put this but the bill itself was a fairly innocuous bill and we wanted to get it to the floor of the Legislature right away so we advanced it but at the time there was considerable discussion in our committee

about the wisdom frankly of imposing an additional dollar on the court costs in criminal conviction cases and using that money and using that money for the law enforcement improvement fund. The court administrator, Mr. Joe Steele came in and testified to our committee that it was basically the philosophy of the judiciary that court costs ought to be used essentially for the administration of justice which means very simply, for the court system and no part of court costs should be specifically earmarked for nonjudicial functions and frankly that seems like a very wise philosophical point. So what we have done with this amendment is we have just said simply that there shall be no one dollar of court costs going into the law enforcement improvement fund but that does not mean in any way to detract from the training operation in Grand Island. Whatever monies this Legislature wishes to appropriate out of general funds for that endeavor can be done and should be done. We do not mean to interfere or hamper with that training function. We are only deearmarking a fund to make certain that whatever court costs are available are essentially used for the administration of justice and not the furtherance of some other worthwhile and valuable social program. We think this frankly is in keeping with sound, responsible fiscal government.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I rise to oppose the amendment for two or three reasons. Several years ago, like in 1971 or whenever the law enforcement improvement statute was created by this body, they decided at that time in addition to the one dollar collected as fees by the judiciary handling law enforcement actions they would collect one dollar for retirement of judges and in addition to that they would collect one dollar for the law enforcement improvement fund. That fund was to pay for the schooling of officers which is now located at Grand Island, Nebraska. This bill simply said that we would eliminate one of the bookkeeping steps in handling this money. Now we come at this late date which was not heard before the committee, at least from the public and two senators have suggested that we change this entire way of funding of the school out at Grand Island. I suggest if we want to accept this amendment we take it back to the committee, have an appropriate hearing and bring that to this body to see if that is what they want to do. I don't think it is appropriate to come in, put the amendment in yesterday, we vote on it today to change the entire system. If we are going to change that, then why don't we put another amendment on to take the one dollar fee out that goes for judges' retirement at the same time,

putting them all under the budget. I'm not saying which way is better but I am saying this body should have an opportunity to think about it at least for a while rather than quickly throwing something on to upset the apple cart. I strongly object to this amendment at this time done in this way.

SPEAKER MARVEL: We are speaking to the Chambers-Johnson amendment. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Unicameral, if you adopt this amendment you could, in effect, destroy the Enforcement Improvement Center because you are taking away the funding of the center and you are saying we are not going to collect this dollar. We are going to go to the general fund and collect this money. Now we have no fiscal statement. We have no idea as to how much it would cost from the general fund. We don't have any idea of whether the Governor would veto it or not. We don't have any idea what the Appropriations Committee would do to it and furthermore, in the committee, we decided that quite possibly it is not correct to collect the dollar from the person in court and also it is not possibly correct to collect the dollar for the judges' fee. So we decided, eight-zip, to advance the bill as it is, have an interim study to find out if there are other ways we should have the judges' retirement fund funded and to find out if there are other ways about the law enforcement funding. This is what the committee decided on and if you will look in your book it says the committee voted to advance without amendment, eight to nothing. So I ask you to vote no on this amendment, give the committee the opportunity to have the interim study and we will come back next year and if we can find a better way of funding, because I, too, do not think possibly it is correct to collect the dollar from the poor person in the courts but this is not the time to make such a drastic change on such an important bill. Thank you.

SPEAKER MARVEL: Senator Dworak, we are speaking to the Chambers-Johnson amendment.

SENATOR DWORAK: Mr. President and colleagues, ironically I didn't see the amendment printed in the Journal and wrote out an amendment to do exactly what Senator Chambers and Senator Johnson are attempting to do. This is another one of these rare opportunities we have to correct some past mistakes. We are earmarking to the point where we have very little discretionary money in the general fund. Now Senator Nichol has indicated that we are changing the whole system. He has also indicated that we are in some way taking the integrity of the law enforcement improvement fund.

We are not doing that at all. We are just putting it through a normal structured, common sense legislative appropriation process. The money, instead of being earmarked, would go to the general fund. The Appropriations Committee and the Governor and then the floor would direct that money to the proper authority, the law enforcement improvement fund, depending upon their needs. To me this is the way state government should run. We keep the reins. We are responsible. We can't pass the buck. The buck stops here. The buck stops in the corner office and that is where it should be. Earmarking is sort of taking a detour right from the start saying that we don't want this responsibility. We are going to come up with some kind of magic formula and let the numbers fall where they may. That is not good business and that is not good government. I think the amendment before us is excellent and I think it is the proper approach and one that is an opportunity for us to correct right now.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President and members, I have to object to the amendment as it is now written. I checked with Senator Johnson and the way we are understanding it at this point, that this amendment would abolish the one dollar and so you are then putting the burden of supporting this function on the taxpayer rather than on the violator and I believe he is amenable to altering the amendment so that one dollar goes to the general fund and then the facility is funded out of the general fund which would correct the amendment as far as I am concerned but as it stands now, we are eliminating the dollar and I don't think we should do that.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I think we are finally getting down to the crux of it and I have two trains of thought here. I think Senator Dworak was not aware that we are eliminating the fee and they are working on it up here now but I certainly thought that we had an agreement in the committee that we would make a study on this and we had the eight to nothing vote on it with the idea that we would be....this amendment would not come in. Of course, I know you can't stop anybody from putting amendments up on the floor but I think we are delving into something this morning that could wreck the Training Center out in Grand Island where we just spent something like three and a half million dollars, I believe, building the facility and making it better. I do think that perhaps the offender should pay part of that cost of training. If you want to run it right through the general fund that is fine but I don't want to have any part of taking that money out of the bill and then trying to go through Senator Dworak's

Appropriations Committee and try to get it back because I don't think we can get it and that is the problem. Right at the moment I oppose the amendment. If we can get it ironed out, I may change my mind.

SPEAKER MARVEL: Senator Stoney. Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I am going to oppose the amendment and I am going to try to talk Vard into opposing it too here. I think he has stumbled onto something that maybe he doesn't realize completely so I would like to ask a couple of questions, first of all, give a little information. A few years ago those members of the Legislature that are here will remember that I got tired of paying parking tickets in Lincoln. I used to get lots of them and the parking ticket I think was two dollars, something like that. Now a nickel of it was fines they said and a dollar ninety, dollar ninety-five was court costs. There is a part in our Constitution that says all fines and penalties have to go to the school fund but, in fact, none of this two dollars was going to the school fund. It was 100% going to the City of Lincoln because they said, well these are court costs and I said, where is the court? Well there wasn't any court. Well I took the case all the way to the Nebraska Supreme Court and the ruling was given not too long ago, what, a year or so ago, some of you may remember. Lincoln was kind of panicked and Omaha was kind of panicked because this involved hundreds, well it involved more than that. It involved millions of dollars that they were collecting to use for the cities. They would come down and explain to me that I was really tinkering with things that were kind of serious as far as they were concerned but it involved something more vital. It involved the judges' retirement fund because the judges' retirement fund was passed back in the days when they wanted to get a retirement system set up but nobody wanted to appropriate the money so they just added a dollar on court costs and that automatically went in there. So if the Supreme Court were to have found that court costs were part of the fine or penalty and my argument was, look, if you are paying two dollars on a parking ticket that is a penalty and it is doggone obviously a penalty when a dollar ninety-five cents of it is supposedly one thing. That is the real penalty, not the nickel. It is the dollar ninety-five that is the hurt. I would gladly give a nickel. Well the Supreme Court found that indeed court costs were a legal separate entity from fines and penalties. Now what did that mean? That meant as long as you could call something court costs you were home free. Right? If you could say it was court costs. Now the Supreme Court was smart enough to realize that they were

tampering around with their own retirement so they didn't try to define court costs at the time and they kind of hoped people would go away and not try to tamper with this too much in the future. For example, there were bill after bill in the previous five or six years to add fifty cents onto court costs to finance this, fifty cents there to finance that. I don't know, we were going to build the State Office Building one time with another fifty cents on court costs. What you are doing then with the amendment as I understand it, Vard, is you are taking what is collected as court costs, you are putting it in the general fund with no guarantee that Donnie or Jerry are ever going to put it in courts or anyplace else. Now I personally don't believe that you can say court costs right now as we are using them and financing the place out there are really court costs but it has never been defined and nobody has taken it up to the court and everybody is kind of happy and all the amendment does that he does is guarantee that it still stays in the same fund. So I question whether you don't tip over the whole bucket if you go with Vard's amendment when you can't guarantee in any way that what you do with the money actually gets into anything remotely related to courts. I think this is a real good subject to have an interim study on as to just how far and broad those court costs are. The judges get nervous about it and they pay attention to you all during the summer if you are doing it anyway and kind of keep their attention worrying about their retirement. I personally question whether judges retirement is "court costs" but as long as nobody is challenging at this time, it is kind of safe.

SENATOR CLARK PRESIDING

SENATOR CLARK: You have one minute.

SENATOR DeCAMP: But you take this money now as I say and I will repeat it again so you kind of understand it, you take her, calling it court costs, throw it into the general fund and wait for Donny to say yes or no, he is going to give her back, and I think you are on thin ground.

SENATOR CLARK: Senator Pirsch. The question has been called for. Do I see five hands? I don't see five hands. Now I do. The question is shall debate now cease. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 26 ayes, 1 nay to cease debate, Mr. President.

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

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I don't know why somebody as learned in the law and politics as Senator DeCamp would make the kind of statements he made other than because he is trying to make a point to the Supreme Court judges. This bill is not the one on which to make that point. The idea is that court costs should be what the term indicates, go toward the cost of administering the courts. Senator Kahle's comment is totally irrelevant because maintaining that Law Enforcement Training Center has nothing whatsoever to do with the operation or administration of the court. They are two different entities. The Law Enforcement Training Center was created by statute. It ought to be funded by means of an appropriation as every other state agency. You don't say that somebody may get upset with the Department of Insurance and, therefore, the Appropriations Committee may not give them the money it takes to operate so let's start earmarking a certain amount from every premium paid to support the Department of Insurance. That is not done with the State Patrol which is a law enforcement agency. You don't say, Senator Kahle, and the rest of you and Senator DeCamp, earmark fifty cents from every traffic case that comes before the court and call it court costs and let that go to defray the cost of the State Patrol who are the ones who write the tickets, therefore they should be supported by those against whom they write the tickets. What you are really saying is that you want to give those who make judgements about whether people are guilty or innocent an interest in finding them guilty. The more people who are found guilty the more money there is that goes into a certain fund. People can say that a judge will not be influenced in his decision by the fact that a dollar from every guilty fine goes into his retirement fund but if such is not the case why are they so concerned if we knock that dollar off? That dollar does make a difference. One of the reasons they got rid of the justice of the peace system as I mentioned the other day was that in some cases it was like a bounty. The amount of compensation that JP got was determined by how many people were found guilty. So if you are going to make somebody's salary or some type of financial enrichment dependent on the outcome of a decision which he or she must make, then it is clear that the judgement can be influenced by that financial interest. I think the amendment is valid and for those who are concerned about a hearing, adopt the amendment and send the bill to the Judiciary Committee or

wherever you want to, to the Budget Committee for a public hearing and if enough information can come in to show that the amendment cannot be adopted feasibly this session, then the amendment can be stricken and the bill will be restored or maintained in its present form. This gives us the opportunity to test the water on the issue so what I am suggesting we do is to adopt the amendment and then send the bill with that amendment for a public hearing. At that time anybody who has an interest in the bill or its subject matter can present those arguments. The only way this type of matter will be considered is in the way that it is being done today. There is general agreement that these types of fees should not be tacked onto court costs and one place where Senator DeCamp was absolutely correct was where he stated that money to operate the Law Enforcement Training Center cannot be called a cost of administration of the court. The dollar that goes into the judges retirement fund cannot be called a part of the cost of administering the court. So we should deal with all of that but right now we have before us a bill that can not only correct some of the inequity and the impropriety of the handling of the court costs system but to ensure that enough money is appropriated to properly fund the Law Enforcement Training Center. They operate on a shoestring as it is. I am strongly in favor of the Center. I have gotten bills enacted by the Legislature that require other law enforcement types to go there and take the training. So I am for competent law enforcement but I am also in favor of the state assuming its legitimate responsibility and funding this operation. Mr. Chairman, how much time do I have left?

SENATOR CLARK: Four minutes.

SENATOR CHAMBERS: May I yield that to Senator Johnson in case he has anything, then we can wrap it all up?

SENATOR CLARK: You may if you so desire.

SENATOR V. JOHNSON: Senator Chambers, you were doing so well that I am more than prepared to let you have the rest of the time, unless you don't want it in which case, I will take it. I can see that Senator Chambers has ducked down behind the bench. It seems to me that we have an opportunity that we don't get very frequently to take an earmarked fund and to de earmark it. Now one of the things this amendment does is it literally removes the one dollar court cost that is assessed right now in criminal convictions for the law enforcement improvement fund. I have talked with Senator Chambers. It is not our intention, it is not our intention to totally eliminate the one dollar court cost and if this amendment does carry and the bill advances beyond General File, we on Select File will make certain that the one dollar

court cost is always available. Senator DeCamp tells me that he is convinced that that is illegal but if that is illegal then so are all the rest of the court costs that are out there and there are a number of court costs. Nor do we intend to adversely affect the Law Enforcement Training Center in Grand Island. That Center should be able to compete with every other state appropriation on a nonear-marked basis. That is better government to do it in that fashion and if it is done in that fashion then if the Center merits additional money it will receive additional money. If it does not merit additional money then it ought not to receive additional money but the amount of money that it receives will not be a function of the number of criminal convictions in the state because right now that is the way it is where we have an earmarked fund and earmarked funds in many respects are bad government and it is time in the 1980s that we begin to change the policy of earmarking funds and say simply that each organization, each entity, each program has got to compete with each other organization, entity and program for the scarce state revenues.

SENATOR CLARK: You have one minute left.

SENATOR V. JOHNSON: Thank you. I would move this amendment.

SENATOR CLARK: The question before the House is the adoption of the Chambers-Johnson amendment. All those in favor vote aye. All those opposed vote nay. Have you all voted?

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted? Record the vote. Yes, Senator Chambers.

SENATOR CHAMBERS: I am going to ask for a Call of the House and a roll call vote.

SENATOR CLARK: A Call of the House has been asked for. All those in favor of a Call of the House vote aye. All those opposed vote nay. Record.

CLERK: 18 ayes, 3 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor. Everyone record in please.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Fowler, will you record your presence please. Senator Beutler, Senator Johnson, Senator Hefner, Senator DeCamp, Senator Pirsch, Senator VonMinden,

Senator Higgins. Senator Schmit and Senator Higgins. Senator Higgins is underneath the balcony. Everybody is accounted for except Senator Schmit, Senator Chambers, can we proceed with the roll call? Okay.

CLERK: Senator Barrett.

SPEAKER MARVEL: All legislators must be in their seats. You must be in your seat before we can proceed with the roll call. In anticipation of some criticism may I say this. We spend more time bringing legislators back into the chamber for a roll call vote than we do on some other matters and since we are beginning to be pressed for time it would be helpful if you leave the room, please let somebody know where you are going. Okay, call the roll.

CLERK: (Read roll call vote as found on pages 444-445 of the Legislative Journal.) 26 ayes, 20 nays, Mr. President, on adoption of the amendment.

SPEAKER MARVEL: Okay, the motion carried. What other... Senator Chambers.

SENATOR CHAMBERS: I have a motion.

SPEAKER MARVEL: Do you have a motion up here?

SENATOR CHAMBERS: I will sign it but it is very simple.

SPEAKER MARVEL: Go ahead.

SENATOR CHAMBERS: I move that LB 45 as amended be returned to committee for a hearing, a public hearing on the amendment that was adopted.

SPEAKER MARVEL: Which committee do you have in mind, Senator Chambers?

SENATOR CHAMBERS: It doesn't matter to me but I say that it would be returned for a public hearing and so in order that it is fair, the Executive Board can refer it or anybody. I sit on the Judiciary Committee. That is the one that heard the bill but if they want it to go to Appropriations or wherever, it doesn't matter.

SPEAKER MARVEL: Okay, the bill will go to the Reference Committee for proper routing. Senator Lamb.

SENATOR LAMB: I was wondering if we could debate this motion to refer it to...

SPEAKER MARVEL: Yes, it is debatable.

SENATOR LAMB: I guess I don't see the purpose in referring the bill to a committee again. We have an amendment here that is not all that earthshaking. If we are going to... every time we adopt an amendment on the floor then we are going to refer it back to a committee we're not going to have any progress here at all. So I suggest that this bill continue on its merry way and stand or fall on its merits and anybody that wants to amend it, why hop to it and we will go from here.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the...

SPEAKER MARVEL: The motion is on the reference of the bill to another committee.

SENATOR NICHOL: That is what I want to talk about.

SPEAKER MARVEL: Okay.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, the amendment....

SPEAKER MARVEL: Senator Vickers, for what purpose do you arise? Okay, the Call is raised. Go ahead.

SENATOR NICHOL: I think that the amendment is much more substantive than the bill was now. We are going back to what was established several years ago. Incidentally, I want to make one correction, Senator Chambers. Way back when we had Justices of the Peace as you have been saying the last few days that the reason why Justice of the Peaces found everybody guilty was so that they would get their four dollars at that time. Let me say that when the Justice of the Peace found the person guilty that he did collect four dollars for the fee. When they found them innocent they collected their four dollars from the county. I just wanted to correct that in passing, but we are going back now to when this safety situation was created and a Legislature in their wisdom at that time found that they wanted to earmark this dollar for judges fee which is a sacred cow and which you will find if you take it back to a hearing, you will find it so and also that this one dollar should be assessed to those who are breaking the laws. Now what you are going to lose out on are out of state money for all those travelling through the state who are socked for speeding and if we are going to enforce the laws, a lot of truckers who are beating heck out of our interstate right now will be helping to pay some of these fees. If we do away with these fees you as taxpayers are going to

be paying these and I think this is substantive enough that it should be held in a hearing, should be advertised and the people in the state and other entities be heard on the matter. It isn't an earthshaking matter whether we cut out one book-keeping step but I really do think that this body should have an opportunity and the committee that held the hearing in the first place should be able to hold the hearing again in the second place and to decide for themselves whether they think the thing ought to be brought up on this bill. Why wasn't this bill brought up on its own prior to the time running out? Simply perhaps because it wasn't thought of. Now if there is another bill running through here somewhere that we don't know about, why didn't Senator Johnson throw it in? He knew what the situation was. Senator Chambers knew darn well what the situation is. No bill there that I know of. Maybe there is but why attach it to something as an insignificant amendment? Senator Vard Johnson, I have heard you criticize us for putting an amendment on. Oh, I will take it back. Maybe you haven't but at least somebody has done so in the past but I really think that we should refer this back to the Government Committee where it was in the first place for a hearing on these two substantive measures.

SPEAKER MARVEL: We are still speaking on the motion to rerefer the bill. Senator Koch.

SENATOR KOCH: Mr. Speaker, a question of Senator Nichol if he would yield.

SPEAKER MARVEL: Senator Nichol.

SENATOR KOCH: Senator Nichol, I had my button on earlier and the question you just brought up is the question I wanted to ask. Approximately how much money do we presently collect from fines that support the Law Enforcement Center at Grand Island?

SENATOR NICHOL: Senator Koch, I don't have the slightest idea. The bill had nothing to do with the amount of money being handled, therefore, I did not pay any attention to how much money would be handled. The amendment didn't show up in the book until this morning.

SENATOR KOCH: Well I will tell you the reason I supported the amendment was that during the course of explanation and discussion Senator Chambers said that the bill should then properly be referred back to the committee for a hearing since there is a major change and I understand the burden of time but I would suggest to this body that unless we take that bill back to the Government Committee again for a re-hearing since we have changed it substantially in terms of

impact fiscally that I don't know whether to support the bill or the amendment. I think that that is a very serious question and Senator Nichol brought a good point. We forget often about the motorists who come through this state and do indeed exceed and break the laws and are fined and why should we diminish that thrust when the Safety Center was set up in Grand Island first of all saying it was going to be partly supported off of fines to maintain its application and its programs. So I would hope we would send it back to the Government Committee and allow Senator Kahle and that committee to treat it again and find out exactly how much money normally we collect from fines to support this training institution in Grand Island.

SPEAKER MARVEL: Senator Kahle, then Senator Cullan, Senator Haberman, Senator Lamb, Senator DeCamp. Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I guess I am a little bit disappointed that...of what has happened this morning. We had a hearing on this bill. We did have a lengthy discussion in committee about it. We talked about the very things that were brought up this morning including the judges retirement fund. It was decided, I thought unanimously by the committee, that we would pass the bill out as it was and have an interim study on it and now I find that that is not the case and it has my staff confused as well as everybody else. I think that if you do send it back to committee I will warn you about one thing. We are booked clear into March. I doubt if we will change our booking. We have already notified people. If we do not pass the bill as it was presented, you are going to have that fund tied up. I don't believe Senator Johnson or anybody else has changed the fee situation. All they are saying is we won't have any. I guess if you really wanted to be astute about the whole thing you should refer it to the Appropriations Committee because they are the ones that are going to have to fund the Center the way it now stands and I still think we are messing with something that is going to take some time to work out. Now if you want to send it back to our committee why we will certainly work on it but I thought we had already worked on it. Thank you.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I would rise to oppose sending this bill back to committee. I think the chairman of the Executive Board made a very valid point. It is not something new to see major amendments on the floor of the Legislature with respect to a bill. It is not new to see new concepts on the floor of the Legislature. I had a little...real safety bill one time and it

turned into to be a what I think is an unconstitutional tax. Things happen like that around here and you can't worry about them too much. I didn't even try to send that one back to committee. I just tried to kill it and if you don't like this bill you ought to try and kill it too but let's not spend a lot of time with the Government Committee rehearing this bill. The issue is not a complicated one. We understand it and I think that we ought to either vote advance the bill or not advance the bill.

SPEAKER MARVEL: Senator Haberman, do you wish to speak to the motion to rerefer the bill?

SENATOR HABERMAN: Mr. President, members of the Unicameral, if you vote to send it back to the committee, I think it should go back to the Military, Government Affairs Committee but I would like to tell you one thing. We have not eliminated the dollar fine or the dollar fee. That is still going to be collected so what we have here is we have a can of worms. When it came out of the committee it came out unanimous to go this way for one more year. Let's try it one more year, have an interim study, find out all the problems and then go ahead and do it. So I have to support sending it back to a committee because as amended it isn't worth the paper it is written on because it doesn't do away with the fine and it completely changes where the funding is supposed to come from so how can you do that all at the same time? So I am going to support sending it back to the committee but I am going to ask that it go back to where it came from, Government, Military Affairs Committee. Thank you.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President and members, I am not arguing the merits of the bill but I have one more argument in regard to procedure. What we are actually doing here is introducing a new bill with twenty-five votes. If we are going to continue that you can put a major amendment on any bill, then vote to send it back to committee for a hearing and so you are getting around the rules. You are introducing a new bill with twenty-five instead of thirty votes. You should have thirty votes to do this so on that basis I oppose sending the bill back to committee.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. President, I call for the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Okay, record.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. Senator Chambers,...no close? Okay, the motion is the rereferral of the bill. All those in favor vote aye, opposed vote no. Have you all voted? The motion is to refer the bill back to the committee. Have you all voted? Senator Chambers. Record the vote.

CLERK: 21 ayes, 16 nays on the motion to rerefer, Mr. President.

SPEAKER MARVEL: The motion lost. What is the next item? Before we go to the next item, underneath the South balcony from Gothenburg, Nebraska, Senator Barrett's area, I would like to introduce Laura Kaiser, Rhonda Jobman and Ann Anderson. Would you please stand so we may greet you? Okay.

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

SPEAKER MARVEL: Read the motion.

CLERK: Senator Remmers moves to reconsider our vote on adoption of the Chambers-Johnson amendment. That is offered by Senator Remmers.

SPEAKER MARVEL: Senator Remmers.

SENATOR REMMERS: I want to reconsider the vote on the Chambers-Johnson amendment because I feel that without the study that I cannot support the amendment.

SPEAKER MARVEL: The motion is....

CLERK: Mr. President, the motion is to reconsider the body's vote in adopting the Chambers-Johnson amendment.

SPEAKER MARVEL: Senator Nichol, do you wish to speak to the motion? Your light is on.

SENATOR NICHOL: Is this on Senator Remmers' motion?

SPEAKER MARVEL: Yes.

SENATOR NICHOL: And that is to reconsider the Chambers-Johnson amendment, is that correct? I would support this amendment for the reason that we have not gone back. I think that some who voted for the amendment were of the opinion it would go back for a hearing but Senator Remmers may wish to speak on that on his own behalf but I would suggest that we reconsider and vote down their amendment at this time and support the Remmers motion.

SPEAKER MARVEL: Senator DeCamp, do you wish to be recognized on the motion to reconsider?

SENATOR DeCAMP: Yes, Mr. President. I need to know exactly where we are now so I need Vard or somebody to explain this to me because I sure have cooperated trying to help and solve this problem. Now, Vard, as I understand with your amendment as the bill stands now, we have eliminated all the money for the Center. Is that right?

SENATOR V. JOHNSON: (Mike not activated.)

SENATOR DeCAMP: Okay, we have eliminated...how much money have we eliminated?

SENATOR V. JOHNSON: ...in a moment. Am I on? I guess I must be on. All right. In 1979, 1980 the Center received from court costs or court fees \$356,960.

SENATOR DeCAMP: A piddling \$400,000.

SENATOR V. JOHNSON: Plus interest at \$21,104 for a total of \$378,064 and that is what has been eliminated.

SENATOR DeCAMP: Okay.

SENATOR V. JOHNSON: That is what is no longer being directly earmarked out of the court cost for the Center.

SENATOR DeCAMP: Where do we plan to get the money then or we just tell Donny about that, right? Donny Dworak...

SENATOR V. JOHNSON: That is correct, that is correct.

SENATOR DeCAMP: But we are going to eliminate permanently the court costs you had in there, right?

SENATOR V. JOHNSON: The court cost is gone with this amendment. That is correct, that particular one dollar court cost.

SENATOR DeCAMP: Okay, now I heard some conversation that you were going to solve that problem by putting the dollar back on. Is that what you plan to do?

SENATOR V. JOHNSON: That is what I would plan to do.

SENATOR DeCAMP: What were you going to do once you put the dollar back on? How were you going to sign it, into the general fund?

SENATOR V. JOHNSON: Probably. That would be the probable way that it would go.

SENATOR DeCAMP: Then how is that a court cost? That is just money collected and put into the general fund.

SENATOR V. JOHNSON: I would assume that that would be just money collected and put into the general fund as other court costs are so collected and put in the general fund.

SENATOR DeCAMP: Could you give me an example?

SENATOR V. JOHNSON: It is my understanding that that is what happens to the court costs out of the state District Court, that they ultimately end up in the general fund.

SENATOR DeCAMP: They aren't put and credited to a specific account to be used only for a specific purpose?

SENATOR V. JOHNSON: That is my understanding, that they are not so credited.

SENATOR DeCAMP: Okay, and you don't feel there would be any problem with just collecting under the guise of court costs, putting it in the general fund with no guarantee that Donny or Jerry or anybody is going to give that money back, more or less or anything else. It is put into the general fund just like all the other little dollars that come from all the other places. That is all it is when it gets in there, right?

SENATOR V. JOHNSON: That is usually what money in the general fund is, yes.

SENATOR DeCAMP: Okay, I submit to you that that program is blatantly unconstitutional and I, therefore, support the motion to reconsider since the bill did not get to go back to committee. I did support sending it back to committee. I think it is important though that we have had this discussion today because quite frankly, the points raised by Senator Chambers and Senator Johnson to do with court costs, highlight this whole thing of how we have done with court costs over the years and this is one example. As I say, I think it is pretty thin and somebody may challenge it down the road a ways but right now at least it is raising money. So it is kind of the horns of a dilemma and I would have liked to see it go back to committee and get restudied and people learn about it but that didn't happen, so if you are going to advance the bill, you are going to be short half a million bucks almost which I don't think we can afford to do right now. If you put the dollar on like he wants to do, I think you make the dollar collection unconstitutional which means

you have dropped a half million bucks and so I urge you to reconsider and take the amendment off and shove the bill forward like they had planned.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Well I guess I need some clarification from the Assistant Chief Justice as far as the constitutionality. Senator DeCamp, you indicated it is blatantly unconstitutional. Could you elaborate on the reason for that?

SENATOR DeCAMP: Because the Constitution says fines and penalties go to the school fund. It says court costs are collected for court costs and you are collecting it calling it court costs and you may ultimately take enough money out of the general fund that go to pay for the courts or anything else but, in fact, when you collect it, which is what we are caring about, when you collect it you are collecting it calling it court costs and putting it into the general fund the same as your sales and income tax money and there is no guarantee that you are going to use it for court costs or not.

SENATOR FOWLER: Okay, so what you are saying is money in the courts can only be used for court costs and if it is not used for court costs it should go to the school fund. Is that what you are saying?

SENATOR DeCAMP: Yes.

SENATOR FOWLER: How did we ever come up with the idea that a Law Enforcement Training Center is a court cost?

SENATOR DeCAMP: I already discussed this. I said I think we are on thin ground. I think if probably somebody challenged it the Supreme Court would be hard pressed to defend it but nobody has challenged it. It is raising money and I doubt that somebody is going to spend the money to do it.

SENATOR FOWLER: But it is as blatantly unconstitutional wouldn't you say?

SENATOR DeCAMP: No.

SENATOR FOWLER: How...?

SENATOR DeCAMP: Because it is put into a specific fund that they are calling court costs now and everybody has accepted. You are not doing that. You are just throwing it into the general fund.

SENATOR FOWLER: Well it does seem to me that the Law Enforcement Training Center is no more related to court costs if we are going to be strict in that determination than any other general fund expenditure.

SENATOR DeCAMP: But nobody is challenging it right now.

SENATOR FOWLER: Right.

SENATOR DeCAMP: If you put that amendment on you will get an Attorney General's opinion or something challenging it where you are just taking and collect money in court and putting it into the general fund. It is just basically a tax.

SENATOR FOWLER: Well I think Senator DeCamp has convinced me that maybe the bill is best as it is right now, that we not add that dollar, that we not take it and that we not use court costs or fund anything other than the cost of courts and that we shouldn't give it to a training center or we shouldn't give it to the probation system or we shouldn't earmark it for other things. So I think that if we are in some sort of constitutional questionable area we simply should not put the dollar back on, that Senator Johnson and Senator Chambers have steered us in the right direction. So I don't think we need to send it back to committee. I think Senator Johnson should reconsider his next amendment if it is blatantly unconstitutional because I know Vard would never want to do anything that is blatantly unconstitutional and I think that we should simply advance the bill as it is.

SPEAKER MARVEL: Before we continue, as a guest of Senator Rumery, Chris Rosenberg from North Platte, Nebraska, right over here; Margaret Moylan, is she still in the room? Yes, there she is, from Richard Peterson's district and Norfolk, James Nelson over here and from Emil Beyer's district, Webb Warren, insurance agent from Gretna, Nebraska. Larry Frerichs from Wilcox underneath the North balcony. Okay. Senator Chambers, do you wish to be recognized?

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this issue of court costs is something that I have dealt with for years. When Senator Luedtke was here as a member of the Legislature he attempted on a number of occasions to raise the costs, sometimes by two dollars, sometimes by one dollar and I fought it all the time and was successful in defeating it. I have stated time and time again that I do not think the courts should be self-sustaining in terms of raising enough fees in court costs to pay for the courts anymore than any other city or state

service is totally funded by those who make use of it. The courts are provided by the Constitution. They are required and they are to be open to all citizens and they should not be required to be self-supporting. The state has an obligation and when they created a unified state court system it meant that the state would appropriate the money necessary to fund the courts and we would make no correlation between the cost of operating the courts and the costs that are assessed in an action before the court. Now, when court costs are collected now in any part of the state system they go into the general fund. Then money is appropriated to run the courts. When money is taken in in Omaha and Lincoln which have municipal court systems aside from the dollar for the law enforcement training fund and the dollar for the judges retirement fee goes into these cities general fund. Then they appropriate whatever money is necessary to run the courts. I don't know what in the world Senator DeCamp is talking about. I understand the words that he is uttering but they have nothing to do with the issue that is before us now. If it is felt by any of the members that since the amendment has been adopted and that money will not be collected from court costs to fund the Law Enforcement Training Center but rather that will be done by appropriation, there are other bills before a committee right now dealing with court costs and if it is felt that the dollar should be taken off or subtracted, that can be done on one of those bills and they are before the committee right now. Senator Nichol knows it. Everybody on the Judiciary Committee knows that. So whatever we are going to do in terms of subtracting from the court costs this dollar, that can be done and there are bills before the committee right now and on every one of these bills the issue that was contained in this amendment was raised before those committees, the impropriety of attaching these extra amounts that have nothing to do with the administration of the court system. I did agree as a member of the Government Committee I think it is, that we ought to study the relationship between the costs that are raised through the assessment of costs in court and how much it costs the courts to operate. Personally, I don't think there should be any correlation whatsoever. The police division and the fire division do not have to raise fees or funds to be supported. People other than those who use these services contribute to their use. The court system is one of the most important institutions in a society and especially a democracy. The state has an obligation to provide these courts. I don't think there ought to be a separate municipal court in Omaha nor one in Lincoln. They ought to all be merged under one state court system and if we stop giving an incentive to these cities to maintain courts by continuing to increase court costs, they would then

have an actual affirmative incentive to push for the consolidation or merger of these courts and so that nobody is laboring under a misperception as to my ultimate goal in all of this, I want to see the municipal courts merged with the state court system. I also want to see a termination of the idea of using court costs as a revenue raiser. The courts are not revenue producing institutions and because certain legislators and others view them in that fashion you will hear arguments like, we got to allow this particular practice or that particular practice to raise money through the courts for some other purpose that has nothing to do with justice or the administration of justice. We are perverting the system of justice when we talk about courts as revenue raisers. They are not to serve that function. So I hope that by saying these things I have told you what it is that I have in my mind. I am in favor of the amendment that was attached. If it is not referred back to a committee and the bill moves on, I am going to work, by the time the thing gets to Select File to take that dollar from the judges fee for the judges retirement fund off of court costs also and I don't think the Chief Justice or anybody else will be taken by surprise. Nobody in this body is naive. We all know, those of us who have been here any particular amount of time what certain interests that some of the senators have would be and my interest is to purify the court system and the court costs structure and I am going to do everything at my disposal to accomplish that in the same way that other senators on this floor do everything they can to accomplish what they are interested in.

SPEAKER MARVEL: Your time is up, Senator Chambers. Senator Marsh, your light is on and, Senator Nichol, your light is on.

SENATOR MARSH: Mr. Speaker and members of the Legislature, I do not wish to reconsider the amendment that was placed on this bill because I like the amendment which was placed on this bill. I also would like to say that we fund our share of the retirement for all other state employees with the exception of the state legislators, for all Nebraska state employees except legislators and judges. The people of the State of Nebraska receive the services of the judges. The people of the State of Nebraska need to be paying their share of the retirement in the same way that we pay for all the other employees with the two exceptions. All employees ought to be under this and perhaps some day the Constitution will allow senators to receive some share of the retirement for their expenditure of energy and time and effort for the citizens of the state but in the meantime let's at least clear up the judges retirement dollars and have it be on the

same basis which it should have been for many generations.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, Senator Marsh, may I ask you a question? Do you understand this amendment to take the judges retirement dollar out of the fee paid and put it in the general fund?

SENATOR MARSH: Yes, sir.

SENATOR NICHOL: Okay, let's set that straight right now. This amendment has nothing to do with the judges retirement fund.

SENATOR MARSH: It has one thing to do with it however, Senator Nichol. It has something to do about whether the judge will say that is going into my retirement fund directly or whether it is indirect.

SENATOR NICHOL: No, this amendment has nothing to do with the judges retirement dollar that we are talking about. This has only to do with the dollar that we collect from offenders for the increasing and the payment of the continuation of the school at Grand Island for the training of officers. That is all. Thank you, Senator Marsh. Now, if we are going to really address the problem why didn't Senator Chambers and Senator Johnson come in with one dollar for the retirement of judges? It is exactly the same amount of money. It is exactly the same principle. It may be the best but why tack it on something like this and if they really feel so strong about it, come on in with both of them at the same time. Let's hear them all at the same time. If this body feels that is the thing to do, okay, but I don't feel we should take this piecemeal and confuse people like Senator Marsh when we really shouldn't be confused.

SPEAKER MARVEL: I have three more guests to introduce and then I think we will call the question on the motion. From Senator Haberman's district a guest, Gaylord Lacey from Grant. Where are you, sir? Okay, over here. Frank Palmer, insurance agent, Omaha, a guest of Senator Fitzgerald. Are you back there? And from Senator Maresh's district, Harris Holle from Deshler. Two items and then we will go back to the bill. First of all, in the Journal there will be a letter concerning priority bills and there will also be a notation that full day sessions will start March 23, full day sessions, March 23. The motion before the House is the reconsideration of the adoption of the Chambers amendment. Senator Remmers, do you wish to close on your motion?

SENATOR REMMERS: Well I just want to say, Mr. Chairman, that I do think that we do need to have another look at this bill because I think there is some things there that need further study.

SPEAKER MARVEL: All those in favor of the motion vote aye, opposed vote no. Okay, record the vote.

CLERK: 26 ayes, 8 nays on the motion to reconsider, Mr. President.

SPEAKER MARVEL: Okay, the motion is carried.

CLERK: Mr. President, I think the motion now should be, I assume by Senator Remmers that, strike the Chambers-Johnson amendment.

SENATOR REMMERS: Motion would be to strike the Chambers-Johnson amendment.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, we are almost back to square one but what I was going to point out, some people thought that that vote on reconsideration was to reconsider whether it should be sent to a committee but that is neither here nor there. What I want everybody to understand now and be clear on is that the motion is to strike the amendment that had been added which would take that dollar off. I am opposed to striking that amendment. I think it ought to be left there and Senator Pirsch and Senator Nichol asked me why I hadn't done anything about taking the dollar from the judges fund. I wasn't aware that because of what this bill did, dealt with, that it might be appropriate to add it but I suppose if it is added it can always be taken off at a later time too, but I did tell you that if this bill gets to Select File then I am going to prepare an amendment that will touch every section of statute related to the judges retirement fund and a dollar from court costs going into that fund to take that dollar away from that fund. So that the whole picture is clear, it is not necessary when you say that that money will not go to those particular funds to reduce the amount of the court costs. So let me give an example and I am going to use a round figure of ten. Let's say that the total court costs now is ten dollars. One dollar goes to the judges retirement fund, one dollar to the law enforcement training fund. If the amendment that has been adopted today stays on the bill it does not reduce the amount that is brought in in court costs. There is still ten dollars brought in. If I am successful on Select File in saying that one dollar from those costs will not go to the judges retirement fund there still will be ten dollars coming in. The money would no longer be earmarked and it would go into the general fund in the state court system and in the two cities that have municipal courts, Omaha and Lincoln, it would go into their general fund. Then they could appropriate that money as they do any other general

fund money they have. However, if anybody felt that since the two dollars were taken from the earmarked purposes that two dollars should be deducted from the total amount of the court costs bringing it from ten dollars to eight dollars, there are bills before I think the Judiciary Committee dealing with court costs and whatever is desired to be done with that two dollars that no longer would be earmarked could be done through those two bills. So, I am not in favor of this amendment being stricken. Nothing unconstitutional has been done. Nothing which is difficult to understand has been done. So I am asking that you vote against Senator Remmers motion to strike that amendment.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I urge you to support Senator Remmers motion. It is simply whether or not you want to attach this weighty a problem and perhaps weightier problems along the way on this insignificant bill. Senator Chambers is right in one respect. There are other bills coming along on which these amendments can be made if you can convince the members of the committee to do so and I believe, if I understand these bills correctly, they would be in the same section so there wouldn't be a problem. I really think that this bill should not be amended with this weighty amendment and should be allowed to proceed on its own without this amendment.

SPEAKER MARVEL: Senator Labedz.

SENATOR LABEDZ: Mr. Speaker, I call for the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? The question before the House is, shall debate cease? All those in favor vote aye, opposed no. Record.

CLERK: 25 ayes, 7 nays to cease debate, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Remmers.

SENATOR REMMERS: Mr. Chairman, I have no further comments. I call for the question.

SPEAKER MARVEL: The motion is to strike the Chambers-Johnson amendment. All those in favor of that motion vote aye, opposed no.

CLERK: 25 ayes, 13 nays, Mr. President, on the motion to strike.

SPEAKER MARVEL: Motion carried. Senator Nichol, for what purpose do you arise?

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LB 24, 45, 143

SENATOR NICHOL: Well, I guess we really discussed the bill at quite length. I am free to speak to the bill itself finally. The bill merely....

SPEAKER MARVEL: Okay, there is nothing further on the desk so proceed.

SENATOR NICHOL: Okay, the bill merely is a bookkeeping system change whereby the money instead of going to the school fund out at Grand Island, then coming to the general fund, then back to the school fund and they spend the money would eliminate one step. The money would now come directly to the State Treasurer which would credit the money to the Grand Island school. That is all the bill says. I move for the advancement of the bill.

SPEAKER MARVEL: Senator Johnson, do you wish to speak? Your light is on. Okay, the motion is the advancement of the bill to E & R for review. Is that right, is that the motion?

CLERK: Yes, sir.

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

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

SPEAKER MARVEL: The motion is carried. The bill is advanced. I have two more items to read before we turn it back to the Clerk. Arlo Wirth from Hartington, Nebraska, is a guest of Senator Hefner, should be underneath the North balcony clear in the back and from Senator Kremer's district, Bob Leach from Aurora, should be underneath the North balcony. Where are you, sir? Now, Mr. Clerk, do you have some items to read in?

CLERK: Yes, sir, I do. Mr. President, Senator Haberman would like to print amendments to LB 24 in the Journal, Senator Hoagland to LB 143. (See page 446 of the Legislative Journal.)

Mr. President, Senator Kremer would like to be excused all day tomorrow, February 6.

Your committee on Revenue gives notice of public hearing in Room 1520 for February 17 and dates thereafter.

Your committee on Rules gives notice on proposed rule change offer by Senator Lamb for Wednesday, February 18.

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LB 15, 16, 20, 27, 30, 37,
45, 82, 93, 108, 130,
140, 165, 165A, 178, 185,
187, 238, 244, 260

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Loren Mullins of the Warren United Methodist Church of Lincoln.

LOREN MULLINS: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Will you please record your presence.

CLERK: Mr. President, Senators Vard Johnson, Carsten, Cullan and Dworak would like to be excused.

SPEAKER MARVEL: Okay, record. The machine is acting up and somebody will be here to fix it fairly soon. Meanwhile we will call the roll verbally. The Clerk will call the roll.

CLERK: Called the roll. We do have a quorum, Mr. President.

SPEAKER MARVEL: Okay, the Clerk has some items to read into the Journal.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 20 and recommend that same be placed on Select File; LB 165A Select File; LB 178 Select File with amendments; LB 140 Select File; LB 37 Select File; LB 30 Select File; LB 130 Select File; LB 27 Select File; LB 82 Select File and LB 45 Select File, all signed by Senator Kilgarin, Chairperson.

Mr. President, your committee on Public Health and Welfare whose chairman is Senator Cullan to whom was referred LB 260 instructs me to report the same back to the Legislature with the recommendation if be advanced to General with amendments; LB 93 indefinitely postponed and LB 108 indefinitely postponed.

SPEAKER MARVEL: The Legislature will be at ease for the next ten minutes.

EASE

SPEAKER MARVEL: The Legislature will come to order.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 15 and find the same correctly engrossed, 16 correctly engrossed, 165 correctly engrossed, 185 correctly engrossed, 187 correctly engrossed, 238 correctly engrossed, 244 correctly engrossed,

February 10, 1981

LB 130, 27, 82, 45, 214

Any discussion? All those in favor signify by saying aye, opposed nay. LB 130 is advanced to E & R for engrossment. LB 27. Senator Nichol.

SENATOR NICHOL: Mr. President, I move LB 27 be advanced to E & R for engrossment.

PRESIDENT: Motion to advance LB 27 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 27 is advanced to E & R for engrossment. LB 82. Senator Nichol.

SENATOR NICHOL: Mr. President, I move LB 82 be advanced to E & R for engrossment.

PRESIDENT: Motion to advance LB 82 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 82 is advanced to E & R for engrossment. LB 45, Senator Nichol.

SENATOR NICHOL: Mr. President, I move LB 45 be advanced to E & R for engrossing.

PRESIDENT: Motion to advance LB 45 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 45 is advanced to E & R for engrossment. That will conclude Select File with LB 178 being laid over. Mr. Clerk, anything else?

CLERK: No, sir. I have nothing further.

PRESIDENT. We will proceed then to General File. As I understand the Speaker, the first bill on General File will also be passed over because Senator Chambers is not here. Senator Carsten has been excused so LB 167 will also be laid over which leaves us with LB 214. Mr. Clerk.

CLERK: Mr. President, LB 214 was offered by Senator Elroy Hefner. (Title read.) The bill was read on January 15. It was referred to the Banking, Commerce and Insurance Committee. It was advanced to General File. There are committee amendments pending by the Banking Committee, Mr. President.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: I move the adoption of the committee amendments.

PRESIDENT: Motion to adopt the committee amendments. Any discussion? Senator Beutler.

February 11, 1981

LB 1, 2, 18, 41, 43, 46, 45,
57, 60, 71, 81, 141.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: (Microphone not on)....this is by the Reverend Gale R. Baldrige, First Baptist Church, Lincoln, Nebraska.

REVEREND GALE R. BALDRIDGE: Prayer offered.

SPEAKER MARVEL: Record your presence, please.

CLERK: Mr. President, Senator Witala, Kilgarin, Kremer, Vard Johnson, Stoney, Labedz, Higgins, Sieck, Carsten, and Chambers until they arrive. Quorum present, Mr. President.

SPEAKER MARVEL: Okay, item #3, messages, reports, announcements.

CLERK: Mr. President, communication from the Governor addressed to the Clerk. (Read communication relating to engrossment of LB 1, 2, 57, 60, 71 and 141, as found on page 491 of the Journal.)

Mr. President, Attorney General's Opinion addressed to Senator John DeCamp regarding LB 45. (See pages 492 through 494 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 43 and find the same correctly engrossed, 46 and 81 correctly engrossed. (Signed) Senator Kilgarin, Chair.

SPEAKER MARVEL: Senator Nichol, do you want....Senator Nichol, do you want to follow Select File for us? Item #4 is Select File and the first bill is LB 41.

CLERK: There are no E & R amendments.

SENATOR NICHOL: Mr. Chairman, I move the advancement of LB 41 to E & R for Engrossment.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. The motion carried. The bill is advanced. LB 18.

CLERK: No E & R amendments, Senator.

SENATOR NICHOL: Mr. Chairman, I move LB 18 be advanced to E & R for Engrossment.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. The motion carried. The bill is advanced. LB 121.

February 11, 1981

LB 20, 27, 29, 30, 37, 45,
82, 125, 130, 140, 150, 165A,
167.

RECESS

SPEAKER MARVEL: Come back to order, please. The Clerk has a couple of items to read in and then we will proceed back with the business as we had it prior to this recess.

CLERK: Mr. President your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 165 and find the same correctly engrossed....165A, excuse me; 20 correctly engrossed; 27 correctly engrossed; 29 correctly engrossed; 30 correctly engrossed; 37 correctly engrossed; 45 correctly engrossed; 82 correctly engrossed; 130 correctly; 140 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Judiciary whose Chairman is Senator Nichol to whom was referred LB 345 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (Signed) Senator Nichol. (See page 498 of the Legislative Journal.)

Your committee on Banking instructs me to report 125 back to the Legislature with the recommendation it be advanced to General File with amendments; LB 150 to General File with amendments. (Signed) Senator DeCamp, Chair. (See page 499 of the Legislative Journal.)

Mr. President, your committee on Revenue gives notice of exec session. (See page 499 of the Journal.)

SPEAKER MARVEL: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I ask unanimous consent to withdraw my motion to bracket.

SPEAKER MARVEL: Any objections? If not, so ordered. Senator Warner.

SENATOR WARNER: Mr. President, I ask unanimous consent to withdraw the kill motion at this point.

SPEAKER MARVEL: Any objections? So ordered. Now is there.....Senator Wesely. The Chair will move that the bill be passed over which will be either tomorrow or the first of the week. Does anybody object? Okay, if not, the bill is passed over. Underneath the south balcony a guest of Senator Marsh from Thailand. His first name is Sam. Do you want to raise your hand so we can wish you Good Morning? Underneath the south balcony.

February 20, 1981

LB 45, 46, 81, 82

are off the floor of the Legislature, all legislators are at their desks, and as soon as everyone is at their desk, we will commence with Final Reading. As soon as we get everyone at their desks, we will commence with Final Reading. We have a quite a bit of it this morning. Okay, Mr. Clerk, you may begin then with the first bill on Final Reading, LB 45.

CLERK: LB 45 (Read on Final Reading).

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 45 pass? All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 594, Legislative Journal.) 43 ayes, 0 nays, 4 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 45 passes. The next bill on Final Reading is LB 46.

CLERK: Mr. President, LB 46 (Read on Final Reading).

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 46 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 595, Legislative Journal.) 47 ayes, 0 nays, 1 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 46 passes with the emergency clause attached. The next bill on Final Reading will be LB 81.

CLERK: LB 81 (Read on Final Reading).

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 81 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 596, Legislative Journal.) 42 ayes, 5 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 81 passes. The next bill on Final Reading is LB 82.

CLERK: Mr. President, LB 82 (Read on Final Reading).

LB 14, 18, 20, 27, 28, 29, 30
37, 41, 42, 43, 45, 46, 81
110, 121, 125, 130, 140,
143, 155, 164, 188, 188A,
207, 207A, 214, 234, 82, 64
234A

February 20, 1981

SENATOR DWORAK: I wish to close, Mr. President. I just reiterate that LB 125 be advanced to E & R initial.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Okay, record.

CLERK: 33 ayes, 9 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The Clerk has some items on the desk before we adjourn.

CLERK: Mr. President, before we leave Senator Kremer would like to remind the Public Works Committee that they have a hearing at noon today in Room 1517 on Gubernatorial appointments for the public roads classification for motor vehicle licensing board. That is in Room 1517.

Mr. President, I have legislative bills ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and I do sign LB 121, LB 64, LB 41, LB 18, LB 14 and engrossed LB 140, engrossed LB 130 and engrossed LB 82, engrossed LB 81, engrossed LB 46 and engrossed LB 45. Okay, Mr. Clerk.

CLERK: Mr. President, I have an Attorney General's opinion addressed to Senator Goodrich. It will be inserted in the Journal. (See pages 608-610.)

Your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 110 and find the same correctly engrossed; 188, 188A, 207, 207A, 214, 234 and 234A, all correctly engrossed.

Mr. President, your Enrolling Clerk respectfully reports she has at 10:37 a.m. presented to the Governor for his approval the following bills: 28, 42, 156, 20, 27, 29, 30, 37 and 43.

Mr. President, Senator Chambers moves to reconsider the action in voting to indefinitely postpone LB 143. That will be laid over.

I have explanation of votes from Senator Haberman and Senator Sieck. (See page 611 of the Journal.)

I have a report of registered lobbyists for February 12

February 24, 1981

LB 14, 24, 31, 33, 41,
45, 46, 64, 81, 82,
85, 96, 120, 121,
130, 14, 158, 213

SPEAKER MARVEL PRESIDING

REV. JOSEPH A. MROCZKOWSKI: Prayer offered.

SPEAKER MARVEL: Will you please record your presence?
Record.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Underneath the North balcony, it is my privilege to present visitors to Nebraska sponsored by Partners of the Americas and the sponsors are Mrs. Ben Schulze and Gilbert Erickson and the visitors are coordinated with Dr. Fortes and his wife Maranna and the technical title is the Coordinator of Congressional Affairs for the Ministry of Education and Cultural Affairs from Brazil. Would you folks please stand so we can welcome you to the Unicameral. Okay, there is some items on the Clerk's desk and we will start with those.

CLERK: Mr. President, a communication from the Governor addressed to the Clerk regarding signing of LBs 14, 18, 41, 45, 46, 64, 81, 82, 121, 130 and 140. (See page 639 of the Legislative Journal.)

Your Enrolling Clerk respectfully reports that she has on February 23 at 2:37 p.m. presented to the Governor the following bills: 31, 33, 85, 96 and 120.

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 24 and find the same correctly engrossed.

Your committee on Appropriations whose chairman is Senator Warner to whom is referred LB 158 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendment, (Signed) Senator Warner, Chair.

Mr. President, I have a report from the State Employment and Training Council. It will be on file in my office.

Mr. President, Senator Cullan asks unanimous consent to add his name to LB 213 as coinstructor.

SPEAKER MARVEL: Do you have any other items?

CLERK: No, sir.

SPEAKER MARVEL: Okay, item #4, resolutions.