

January 20, 1981

LR 6, 7  
LB 490 - 529, 144, 182

SENATOR BURROWS: I move the adoption of the resolution as amended.

SPEAKER MARVEL: Any further discussion on that motion? All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 42 ayes, 1 nay on adoption of the resolution, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Members of the Legislature, it is my privilege to introduce to you a young lady who with her staff has put out at least 869 separate bills and I would like to have her stand, and if it is your will to acknowledge the work that is done. The Clerk will read.

CLERK: Mr. President, new bills: (Read title to LB 490 through LB 517, pages 305 - 311, Legislative, Journal.)

Mr. President, while we are waiting, new resolution, LR 7: (Read. See pages 212 and 213, Legislative Journal.) That will be laid over.

Mr. President, hearing notice is provided by the Business and Labor Committee for February 4.

Mr. President, Senator Labedz offers explanation of vote.

Mr. President, new bills: (Read title to LB 518 through LB 526, pages 314 - 316, Legislative Journal.)

Mr. President, Senator Burrows would like unanimous consent to have his name added to LB 144 as coinroducer.

SPEAKER MARVEL: Hearing no objection, so ordered. One last call, does anybody have any legislation that is buried someplace that you would like to dig up? Now is your chance. Last call for any legislation.

CLERK: Mr. President. (Read title to LB 527 and 528, pages 316 and 317, Legislative Journal.)

Mr. President, Senator Kremer would like to ask unanimous consent to have his name added to LB 182 as coinroducer.

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: Mr. President: (Read title to LB 529, page 317, Legislative Journal.)

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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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LR 64  
LB 58, 283, 491, 499, 180

Mr. President, a communication from the Governor addressed to the Clerk. (Re: LB 58, 283, and 491. See Legislative Journal, page 1594.)

Mr. President, a new resolution offered by Senator Wesely. (Read LR 64. See pages 1596 and 1597, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senators Fowler and DeCamp ask unanimous consent to add their names to LB 180 as cointroducers.

SPEAKER MARVEL: Hearing no objection, so ordered.

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

SPEAKER MARVEL: I would like to recognize Senator Vickers for an announcement and then we will go to LB 499 which will be the last bill for the afternoon. Senator Vickers.

SENATOR VICKERS: Mr. President, thank you very much. Mr. President and members, on your desks this morning you found a little page with the schedule of events for Heritage Days to be held at McCook, Nebraska, May the 1st, May the 2nd and May the 3rd, and along with that schedule, I am issuing to you an invitation from the McCook Chamber of Commerce to any and all of you that are able to be there on Saturday, May the 2nd for their parade at ten-thirty and they would like to have you there a little bit ahead of time and vehicles will be provided for anybody that...any of the members that were able to be there and also the luncheon put on by the Cordials, the ladies group of the Chamber of Commerce, and I might add it will be a very enjoyable luncheon, I am sure. As you notice, there is a variety of ethnic foods will be available, and also, of course, it is out in the middle of the 38th District and I would be happy and proud to be your host to any and all that could make it. Thank you, Mr. President.

SPEAKER MARVEL: Thank you, sir. Okay, we are now ready to go to LB 499.

CLERK: Mr. President, LB 499 (read title). The bill was first read on January 20, referred to Public Health and Welfare. The bill was advanced to General File. There are committee amendments pending by Public Health and Welfare Committee, Mr. President.

SPEAKER MARVEL: Senator Cullan, committee amendments to LB 499.

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SENATOR CULLAN: Mr. President, members of the Legislature, as I recall the committee amendments, they were brought to us by Senator Landis and so I would please ask Senator Landis to help me out and tell me what we are doing here.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, accepting the recognition from Senator Cullan, let me proceed to just indicate that the committee amendments for the most part are clerical or technical in nature. They do effectuate one change in the bill if you have looked in it. You will see that the notice requirements have been limited. We had utilized the term "interested party" to include not only parents, guardians, guardian ad litem, the partitioners in the case, county attorneys, and all kinds of officials. However, the committee amendments narrow the range of notice that is required and that would be to the parents of an individual who is being considered for a commitment procedure under this act, the guardian, the guardian ad litem, the foster parents in the event they were a ward of the court, and the like. When you use a term like "interested party", it can be so broadly interpreted that there could be an almost endless stream of notices that would be required and we have simply closed an open-ended term and replaced it with a very explicit list that occur in the bill, and with that, I would ask for the committee amendments to be adopted and then I will be happy to discuss the bill in its entirety and explain it to the body succinctly.

SPEAKER MARVEL: Senator Landis, do you have an amendment to the committee amendments first?

SENATOR LANDIS: I do personally have an amendment to offer to the committee amendments. It has been printed in the Journal, Pat, on page...

CLERK: 1504, Senator.

SENATOR LANDIS: 1504. It simply strikes a section that says that allows the commitment of an individual to any intermediate care facility for the mentally retarded. That language was offered by the Department of Public Welfare. It is, however, a term that the Department of Public Institutions who is responsible for the management of this act is uncomfortable with since that is not defined, and what we are really talking about here is commitment to the Beatrice facility, and so we want to strike that provision which was offered at the committee level by the Department of Public Welfare because it is not consistent with the goal of the bill and I would offer the amendment to the amendment and then once that is successful, hopefully, the

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committee amendments.

SPEAKER MARVEL: Senator Haberman, do you wish to speak to the amendment to the committee amendments?

SENATOR HABERMAN: Mr. President, I have a question on the bill in its entirety because of the fiscal statement that is suppose to be with it and may I address the Chair about that?

SPEAKER MARVEL: Yes, go ahead.

SENATOR HABERMAN: I believe the rules say that where there is a fiscal impact the fiscal bill will be attached to the bill. The fiscal note on LB 499 says it would be difficult to make up what the fiscal impact would be due to they do not know how many cases that are going to be filed. However, up above that in the second section, it says commitment programs are now filed with the county or the juvenile courts. Well, now it seems to me, Mr. Speaker, that they now know how many commitments are being filed with the county and the juvenile courts and they can take that figure and give us some sort of a figure as to what the cost is going to be because the cost is going to have to be born by the counties and, therefore, I question the propriety and the accuracy of the fiscal note with this bill and I think we should pass it over until we get a proper fiscal note with the bill.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: I would be happy to respond, Mr. Speaker. Although this is on the merits of the bill itself, over the course of the last five years, there have been roughly twenty-five commitments that would fall under the terms of LB 499. Since we are talking about the bill and its merits right now, let me just say that this replaces an existing set of statute. We are not creating a new program or a new mechanism here but we are replacing one that has been utilized and has incurred costs but has been found to be unconstitutional by the Lancaster County District Court. So that this same function which occurs now but occurs without sufficient due process standards will continue to be utilized without I would expect no greater frequency than what we have had in the last five years and that has been roughly twenty-five commitments throughout the state over the course of the last five years. The impact, I think one can reasonably say, will be minimal. The procedures that will be utilized, by the way, are with one exception similar to what we already have. We do allow for a review at the local county level which is not there now but all the rest of the reviews which are done at Beatrice that are mentioned in the bill are currently done, not only

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for commitments but for voluntary commitments as well. So I would expect we are talking a minimal change in fiscal obligations. I would, however, also like to say I am more than amenable to having this fiscal note be asked for a clarification and that that information could be developed by Select File.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: He addressed the bill, Mr. Speaker. He didn't address my question. He didn't answer my question. It says there will be an additional cost to the county and then it doesn't say what the cost is going to be. They know how much these twenty-five cases, if that is all there were, cost over the period of years. So I suppose the thing to do is I will go along with the advancement to Select File and Senator Landis will be sure to bring us and have us an up-to-date fiscal note. Will you agree to that, Senator Landis?

SENATOR LANDIS: I will be happy to agree with that and I will send to the fiscal office a request for the same.

SENATOR HABERMAN: Thank you, Mr. Speaker.

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

CLERK: 19 ayes, 0 nays, Mr. President, on adoption of the Landis amendment to committee amendments.

SPEAKER MARVEL: The Landis amendment to the committee amendments is adopted and now, Senator Landis, we are adopting the committee amendments first, excuse me. All those in favor of the adoption of the committee amendments vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to adopt the committee amendments.

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Do you want to explain the bill first, Senator Landis?

SENATOR LANDIS: Yes, Mr. Speaker, and I will try to do this as quickly as possible given the lateness of the hour and the heat of the room. LB 499 replaces our involuntary commitment statutes with respect to the mentally retarded. Let me

say at the outset we are not talking about the mentally ill, those that have to meet the standard of dangerous to themselves or to others but we have had in our statutory scheme where a longstanding statute which allows for the commitment to Beatrice without the voluntary agreement of the parents or the guardians for people that are not receiving mental retardation services and who are in need of them. The commitment statute has been found unconstitutional for a variety of reasons, essentially that there has not been sufficient review, essentially that there is not sufficient opportunity for a fair hearing by a cross-examination of witnesses, an opportunity for counsel and the like. Our law writer years ago before the upheaval in the due process section of the 14th Amendment simply said that when it appeared to the judge that the person was mentally retarded they could be committed to Beatrice. Well, as you can all imagine, that is not a sufficient guarantee of rights nor does it put people on notice as to when they fall under the parameters of the commitment statute. This summer under the aegis of the Public Health and Welfare Committee I served on a subcommittee that met with mental retardation officials at the state department's level, DPI level, the citizens for...the parent groups that are involved, other individuals that were involved, the advocacy service agencies and others. We met several times and hammered out as best we could a mechanism that they were comfortable with. At this juncture I should also say that I will offer on Select File one last set of changes making certain that the decisions of the regional directors of mental retardation health service agencies and their decisions under the bill are appealable by a court of law. This is in discussions with Senator Burrows and a point of concern with some parents groups and that will be, you have my assurance, taken care of on Select File basis. Now the first nineteen sections, I believe, of the bill are simply definitions of all of the parties involved, the definition of mental retardation, the definition of the people that serve on the reviewing panels. The meat of the bill starts roughly on Section 20 that indicates that when an individual believes that a person is not receiving mental retardation services and they are mentally retarded that they may make that fact known to the local county attorney. The local county attorney when assured that those facts are so may make a petition to the local court for a determination that the individual, number one, is mentally retarded and is in need of services and, thirdly, that those services are not being received. At that point, if the judge believes that that is so, he can set up an interdisciplinary team to examine the individual and to establish whether or not those situations exist. If they do exist, the court is then empowered to continue on with the process of committing an individual to Beatrice. Once at Beatrice, the

needs of that individual are assessed, and if Beatrice is the appropriate location for the distribution of those services, then that is where the individual may be committed. All along the line, these orders by the court are appealable to higher courts. For example, a parent who feels that the interdisciplinary team's decision is wrong may themselves ask for a second interdisciplinary team and delay the process and have those results utilized by the court and weighed at the hearing. The hearing is open. It has a chance for a cross-examination of witnesses. It has the opportunity for representation by counsel and it has the basic guarantees of a full and fair hearing under the due process clause. I would also add that we have built in here the recognition of our current status under the Horacek decision which allows for the attempt at arriving at the alternative which is the least restrictive on the individual. It works in this way. Once there is proof and evidence that the individual is mentally retarded and that they are in need of services, those services are identified by the team. They are then forwarded, this list of services, to the local regional office of mental retardation and the director there can say whether or not those services are available in that area or they will be available in the next ninety days. If they are available, the expectation will be that most likely the individual's commitment to Beatrice will not proceed, that they probably will be handled at the regional level. However, if a parent or if another party is not satisfied with that, they can continue with the commitment process but we have built in the review in order to search for the least restrictive alternative which may potentially be a regional mental retardation center. Now, in the event those services are not available at the regional level and in the event that Beatrice is the best location, then the commitment procedure can continue and the individual can be committed to Beatrice. Towards the end of the bill, there are also other sections which after outlining this process indicate that there is a limitation on the liability for people that are participating in this process if they are acting in good faith and that appears in Section 34. Of course, the right to representation is found throughout the bill although it is specifically guaranteed in Section 35. There is also the opportunity for the appointment of counsel for those who are indigent and that appears in Section 36. Also once an individual is placed in Beatrice, they have to be reviewed on a regular basis, and when possible and if it is the best possibility and if it meets with the approval of the guardians or the parents, they can be replaced back in the community in the regional mental retardation section or programs throughout the state. There are also some changes in juvenile court language to allow for this kind of process to occur and those occur in Section 40 and 41 of the bill,



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also Section 42, I should add. The bill is a consensus bill. It does not have the full agreement of every party but is still that change which I recognize with respect to the appeal of the regional director's decisions but that will be made on Select File. It came out of the committee with a unanimous vote and I hope the body will move it on to General File. If there are concerns about the merits of the bill, I will hope you will move it off General File today, please come to me, I am still malleable. I will still work with any party that is interested and I will make every good faith attempt to draw a bill that we can all agree to by Select File. Thank you.

SPEAKER MARVEL: Senator Carsten and then Senator Howard Peterson.

SENATOR CARSTEN: Mr. President, members of the Legislature, I would like to ask Senator Landis a question if I may. Senator Landis, I have not been able to follow this bill as closely as I would like but I certainly have some concerns with the commitment process, and relative to the parents themselves, up to this point in many instances regardless of relocation or even the commitment itself, many times the parents concern and desires have completely been weightless and that really concerns me. It seems that the parents, to me at least, it seems that the parents should have a good deal of weight as to the disposition of a case whatever that disposition may be, and I am just wondering and I am concerned if this bill does give adequate protection and help to the parents of an individual under these circumstances? And maybe we need to visit about that privately as opposed to the floor, Senator Landis, and if that is true, I would be glad to do that.

SENATOR LANDIS: Let me make a brief response, and if there are other questions, we can do it off the floor. In the first place, the parent is apprised at all levels, at every stage of consideration. Secondly the parent has the right to offer and provide an interdisciplinary team of their own composition that they select that a court may look at. Third, a parent may object or appeal at any stage and, lastly, I would also say that we passed another bill that Senator Schmit and Senator Wesely indicated that allows for the giving of services in the home. Now if the question is whether or not an individual parent may desire to keep a retarded child at home and not provide that child with any services, the state long ago answered the question that where a child is mentally retarded, where a child is in need of services, and because the parent chooses not to, that the state has the right to proceed with a commitment process.

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Now that has been ruled unconstitutional but we have always had that. This bill continues with that philosophy. I would also like to add that in the event 499 was not to pass and we simply did away with that commitment process, another alternative method would still exist for a parent who chose to keep their child at home to have that decision attacked in the court, and that would be by the bringing of a guardianship by some third party which then could persuade a court to have the child treated. So let me say that to object to LB 499 will not do away with all potential claims contrary to the parent but in fact creates a mechanism for which the parent has a lot of alternatives, and by comparison to which I think the guardianship route is not nearly as fair or as good a mechanism to safeguard the parent as LB 499 would be.

SENATOR CARSTEN: Thank you.

SPEAKER MARVEL: Senator Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would have a question for Senator Landis. What provision is made in the bill for church owned institutions like Martin Luther at Beatrice, Bethphage at Axtell? We have a number of these kind of individuals at both of these institutions and it seems to me that they in some way ought to be involved.

SENATOR LANDIS: Right. Let me answer that, first, those kinds of facilities now are designed for voluntary placement by the choice of the guardian, the foster parent, the ward of the court. However, it is possible that these facilities can be utilized and it would occur in this way. I indicated that after they determine if the individual is mentally retarded, they may be placed in the regional community mental retardation area. Those areas may contract with exactly the kinds of facilities you are talking about, and if they can so contract and provide those services, it is entirely possible that under this process you identify the person who is mentally retarded in need of services, it goes to the regional director. Maybe his program can't meet it but he can contract for it with the kind of facility you are talking about. Nothing in LB 499 would stop him from doing so, and if he did so, the individual could be placed there.

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

SENATOR LANDIS: I will waive closing. I do want to indicate the bill is very technical in nature and has been arrived at over the course of a long period of discussion. However, I am sure that you may have questions about it. What I am hoping

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you will do because of the press of the time in the session today is come to me off the floor and we can discuss those, as I indicate to you again, the bill is still in the malleable form, if there are sufficient objections that you want to examine and specific language in the bill. What we are voting on right now is the philosophy of replacing an unconstitutional statute designed to involuntarily commit the mentally retarded with one that will meet constitutional standards that is based off the Georgia statute which did meet constitutional standards and appeal from Georgia to the Supreme Court of the United States.

SPEAKER MARVEL: The motion is the advancement of the bill. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: The motion is carried and the bill is advanced. Do you have anything else you want to read in?

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 529.

SPEAKER MARVEL: You have all received this notice but I will read it once again. To all Senators from Bill Burrows in regard to slide presentation and discussion on the Beatrice State Developmental Center. Immediately following adjournment today the members of the staff for the Beatrice State Developmental Center will present a slide review of the facilities at the Center and will be available to answer any questions you may have regarding the operation and training programs they are using. The presentation will be held in Room 1517. I urge you to attend, says Senator Burrows. Senator Rumery, would you like to adjourn us until nine o'clock on Tuesday, April 28th.

SENATOR RUMERY: Mr. President, members of the Legislature, I move that we adjourn until nine o'clock tomorrow morning, April 28th.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. Motion is carried. We are adjourned until nine o'clock tomorrow morning.

Edited by:

*Marlyn Zank*  
Marlyn Zank

3946

April 29, 1981

LR 62, 66  
LB 132, 249, 296, 327,  
331, 499, 512

SPEAKER MARVEL PRESIDING

REVEREND JAMES C. COUSER: (Prayer offered.)

CLERK: Mr. President, Senator Vard Johnson would like to be excused until he arrives; Senator Hoagland would like to be excused for the day; and Senator Beyer, Pirsch and Labedz until they arrive.

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

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

Mr. President, first of all, I do have a correction to the Journal. (Read. See page 1620, Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 512 and recommend that same be placed on Select File with amendments; LB 499 Select File with amendments. Both signed by Senator Kilgarin, Chair.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 296 and find the same correctly engrossed; 327 correctly engrossed; and 331 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, a new resolution, LR 66 (read). Mr. President, that will be laid over pursuant to our rules.

Mr. President, LBs 132 and 249 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign, LB 132 and LB 249. Item #4, resolutions, the first resolution #62.

CLERK: Mr. President, LR 62 (read). It is found on page 1551.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, if you paid attention to the reading of the resolution, you know that Kenneth Bowen passed away on April the 18th. He was a resident of the 37th District until his death, the District that I represent. You also know that he was a State Senator from '59 to '67 and he was Speaker in '65 of this body. Later he was appointed to the Farmers Home Administration and was Executive Secretary of the League of Nebraska Municipalities.

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LB 334A, 95, 376, 499,  
559

Any discussion? All those in favor signify by saying aye, opposed nay. LB 334 A is advanced to E & R for engrossment. We will now go back to LB 11.

CLERK: Mr. President, I now have pending on LB 11 the...well, Mr. President, if I may right before that, Senator Von Minden would like to print amendments to LB 559; Senator Landis amendments to LB 499; and Senator Barrett amendments to LB 376; and Senator Fowler to LB 95.

SPEAKER MARVEL PRESIDING

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LR 169, 170, 171  
LB 499

Mr. President, LR 169 introduced by Senators Wesely and DeCamp calling for study to provide for legislative review of the present recommendations as compiled by the Governor's Task Force on government improvement. LR 170 by Senators Vickers and Maresh, the purpose being...(interruption).

SENATOR CLARK: Did you have an amendment by Wesely and DeCamp?

CLERK: ....is to determine the scope of the problem and identify possible legislative action which, if enacted, would serve to curtail the problem. Those will be referred to the Executive Board, Mr. President. (See pages 1886 through 1888 of the Legislative Journal.)

SENATOR CLARK: 499. We are going to pass over 512. They are not ready for it yet.

CLERK: Mr. President, I do have E & R amendments to LB 512.

SENATOR CLARK: We are not going to take 512. They are not ready for it.

CLERK: 499, excuse me, my mistake, Mr. President.

SENATOR CLARK: Okay, 499. Senator Kilgarin.

SENATOR KILGARIN: I move to adopt the E & R amendments to LB 499.

SENATOR CLARK: The move for the adoption of the E & R amendments on 499. All those in favor say aye, opposed nay. They are adopted. Anything further on the bill?

CLERK: Mr. President, Senator Landis moves to amend the bill, and the Landis amendments are on page 1707 of the Journal.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I had indicated on General File during consent calendar discussion that I would offer, to satisfy an objection raised by Senator Burrows and some parents in the Mental Retardation field that are interested, an amendment slightly altering the procedures outlined in this bill. To refresh your memory, this is the Involuntary Commitment Statute which was created by a subcommittee of the Public Health and Welfare Committee over the summer. It seeks to replace sections of the law found unconstitutional by

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the Lancaster District Court. The provision that I am implementing with this amendment simply indicates that once a regional director has found that services are not available, that that decision...or in the event that he has found that they are available, parents or guardians or interested parties may appeal that decision and so that we do not give a regional director unimpeachable authority to make this decision on behalf of an individual going through this commitment process, that that stage as well is appealable. And if Senator Burrows is here, I would like to yield a moment of my time to ask him whether or not this provision satisfies the question that he raised to me personally and also mentioned on the floor that day.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Right. This amendment clarifies what I think might have given the regional director unimpeachable authority and I think it makes the bill a reasonable measure to be passed. I thank you.

SENATOR LANDIS: Mr. Speaker, I will say that after having been recognized for this and while we are on the bill as a whole, Senator Haberman had asked me questions about the cost. Once this amendment is adopted, if I can be rerecognized, I have some information from the legislative fiscal analyst staff that I would like to read into the record.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The amendment is adopted. Senator Kilgarin.

SENATOR KILGARIN: I move we advanced LB 499 to E & R for Engrossment.

SENATOR CLARK: The question is the advancement of the bill. It is debatable. Senator Landis.

SENATOR LANDIS: I just want to take a couple of minutes

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LB 404, 499

because on General File there had been a question which I indicated that at that time I would answer. Now Senator Haberman asked me....

SENATOR CLARK: I had to do it this way because there was nothing before the House to talk on.

SENATOR LANDIS: This is....the question that was asked of me by Senator Haberman was the expected cost of an involuntary commitment under this law and how much counties could be expected to absorb by the way of costs. Terry Ryan in the legislative fiscal analyst staff has given me information based on the cost estimates of the Douglas County officials and previous commitments that they have gone through. Their expectation is that the cost to the county would be roughly \$675, and the cost to the state roughly \$450. This is based on the cost of expert witnesses, the cost of bailiffs, the cost of clerical staff, county attorney time and the like. Finally, I should just read a paragraph that says, "According to the Department of Public Institutions, in the last two years five individuals were committed by the courts to the Beatrice State Development Center." That is five in two years. I had indicated twenty-five in five years. So this indicates the procedure is not used often. Assuming that this is an average, the annual cost to all counties for the current commitment process would be \$1,688 per year, and the cost to the state \$1,125 per year. The total fiscal impact then divided between state and county would be roughly \$2,700...\$800.

SENATOR CLARK: The question is the advancement of 499. All those in favor say aye. Opposed nay. The bill is advanced. LB 404.

CLERK: Mr. President, LB 404, there are E & R amendments to the bill.

SENATOR CLARK: E & R amendments?

CLERK: Yes, sir.

SENATOR CLARK: Go ahead.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 404.

SENATOR CLARK: You heard the motion. All those in favor say aye. Opposed no. The amendments are adopted. Anything further on the bill?

CLERK: Yes, sir. Mr. President, Senator Warner now moves



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LR 181  
LB 376, 252, 499, 529,  
529A, 412, 451

CLERK: Yes, sir, I do. Mr. President, I have an explanation of vote from Senator Warner.

Mr. President, you committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 252 and recommend the same be....and find the same correctly engrossed. LB 451 correctly engrossed, 499, 529 and 529A all correctly engrossed. Those are signed by Senator Kilgarrin as Chair.

Mr. President, new resolution LR 181 offered by Senators Clark and Beutler. Read LR 181. That, Mr. President, will be laid over pursuant to our rules.

SENATOR CLARK PRESIDING

SENATOR CLARK: LB 412.

CLERK: Mr. President, LB 412 introduced by Senator Newell. Read title of LB 412. The bill was first read on January 20th it was referred to the Revenue Committee for public hearing. The bill was advanced to General File. There are committee amendments attached, Mr. President. The membership considered the bill April 6th of this year. At that time the committee amendments were adopted. There was a motion by Senator Warner that was adopted at that time. I now have, Mr. President, an amendment by Senator DeCamp to the bill.

SENATOR CLARK: Senator DeCamp. Senator Newell, would you like to briefly explain the bill again. A short explanation and then we will let Senator DeCamp take over.

SENATOR NEWELL: Yes. Mr. President, members of the body this is the green belt law, basically there has been agreement on the language of the bill in terms of clarifying just when and how it is to be used. The only issue outstanding at this time is what the interest rate should be in terms of those taxes not paid. Basically the present law says the interest rates will be 6%. The original proposal was to raise that to 14% to be in line with what we have done on all other interest rates, delinquent interest rates. The amendment that I have, I know that Senator DeCamp has an amendment, the amendment that I will be offering I will explain later.

SENATOR CLARK: Senator DeCamp. Oh, are you going to withdraw them?

CLERK: I believe that he is, yes, sir.

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LB 179, 252, 451, 499

having been complied with, the question is, shall the bill pass with the emergency clause attached. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: (Read record vote as found on pages 2130-2131 of the Legislative Journal.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SENATOR CLARK: 179 is declared passed with the emergency clause attached. The Clerk will now read LB 252.

CLERK: (Read LB 252 on Final Reading.)

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

CLERK: (Read record vote as found on pages 2131-2132 of the Legislative Journal.) 40 ayes, 8 nays, 1 excused and not voting, Mr. President.

SENATOR CLARK: 252 is declared passed. The Clerk will now read 451 with the emergency clause.

ASSISTANT CLERK: (Read LB 451 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall 451 pass with the emergency clause attached. All those in favor vote aye, opposed nay.

ASSISTANT CLERK: Senator Clark voting aye.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Have you all voted? Okay, Clerk, record the vote.

ASSISTANT CLERK: (Read record vote as found on page 2132 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached, LB 451. The Clerk will now read LB 499.

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LB 499, 529

ASSISTANT CLERK: (Read LB 499 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass with the emergency clause attached. Those in favor vote aye, opposed vote no.

ASSISTANT CLERK: (Read record vote as found on page 2133 of the Legislative Journal.) The vote is 44 ayes, 0 nays, 1 excused and not voting, 4 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk will read on Final Reading LB 529.

CLERK: Mr. President, Senator Chronister would move to return LB 529 to Select File for a specific amendment. The amendment is on page 2064.

SPEAKER MARVEL: The Chair recognizes...Senator Kahle.

SENATOR KAHLE: Mr. President, I would like a ruling from the Chair. I believe this is a reconsideration of the same issue we had the other day on Final Reading.

SPEAKER MARVEL: The research, Senator Chronister, the research that was done after the last bill was presented indicated that it was a reconsideration.

SENATOR CHRONISTER: Yes, but that was at a different stage of the bill, Mr. Speaker. This amendment has never been brought up on Final Reading before. A different motion on a different page.

SPEAKER MARVEL: Come down for a moment. Okay, the Chair sustains Senator Kahle and it is my understanding that Senator Chronister will attempt to override the Chair which is his privilege.

SENATOR CHRONISTER: Correct, Mr. Speaker. I will ask to overrule the Chair in this particular instance because I feel this matter is of great import.

SPEAKER MARVEL: Senator Kahle, do you wish to comment?

SENATOR KAHLE: Well, Mr. Speaker, this issue, if it hadn't been brought before the body twice before I would have not held out so strongly for this ruling but we divide the question, if you will remember, on Select File so that they had a chance to beat that part of the amendment that I introduced

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451, 499, 506, 529

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record your presence, please. Okay, record.

CLERK: There is a quorum present, Mr. President. Mr. President, the bills that were read on Final Reading this morning are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign reengrossed LB 39, reengrossed LB 39A, reengrossed LB 179, engrossed LB 252, engrossed LB 451, engrossed LB 499. Do you have anything to read into the record, Mr. Clerk?

CLERK: Mr. President, one other item. Senator Chronister moves that the Legislature reconsider their action on the final passage of LB 529.

SPEAKER MARVEL: What was that announcement again?

CLERK: Mr. President, I have an Attorney General's Opinion addressed to Senator Lamb regarding LB 506. (See pages 2140 and 2141 of the Legislative Journal.)

SPEAKER MARVEL: From Senator Wesely's District we welcome forty-five students from Northeast High, Lincoln, Nebraska. Melvin Berka is the teacher. In the north balcony. Will you hold up your hands so we can see where you are? Welcome to the Unicameral. From Senator Sieck's District nineteen 4th Grade students and 2 adults from York Edison Elementary School, York, Nebraska, Mrs. Sue McDaniel, teacher, also in the north balcony. Where are you located? Welcome to the Unicameral.

SENATOR NICHOL: Senator Marvel.

SPEAKER MARVEL: Somebody says be kind. This is the time for action. I would like to read two or three paragraphs to you to emphasize the fact that we either get off of dead center, stop amending so many bills, stop putting discussion on certain pieces of legislation when we could do with maybe one-tenth of what has been offered. And I have indicated it is perfectly all right with me from a selfish standpoint if you want to continue the debate, if you want to continue to clog up the machinery, and it is clogged up, believe it or not, you can do that and you are going to lose some important legislation that practically everyone has, including reapportionment as an example. Now let me

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LB 548, 499

sure that they would do that, but I don't want to, because of equity the reasons I guess I don't want to create a problem but I am concerned about it because it is my impression that there are those groups that go around the country looking for these kinds of instances and I assure that the attorneys doing it probably have a fifty-fifty or something better share. I do not know on this particular case that that is true, but I can well imagine that there well may be other examples that could be significantly greater than \$13,900 that is involved in this issue today. And I think it...there is a great deal of reluctance on my part to establish a precedent of picking up with General Fund money those funds that were erroneously as it turned out or illegally as it turned out placed into this fund, and I think it is even hard for me to imagine that they couldn't file a suit on an equity basis and maybe have some basis as to when inasmuch as the money was not placed in the fund originally correctly. But again, as I have indicated, I probably...I guess I will withdraw the amendment, having called attention to it, but I have a great reluctance to see this precedent started and I think that certainly by next session we need to establish by statute some clear policy so that this does not result in some future substantial amount of funds being charged to the General Fund because of an error somewhere along the line on property that was escheated back to the state. So with that comment and because of my reluctance to for equity of the individual attempt to stop the payment entirely, I will withdraw the amendment, Mr. President, but I do so very reluctantly.

SPEAKER MARVEL: The motion is the advancement of LB 548. All those in favor vote aye, opposed vote no. All those in favor say aye. Opposed no. The motion carried. The bill is advanced. Okay, we are ready for 512. We are ready... yes, go ahead, and then we will take up 512.

CLERK: Mr. President, a few items to read in if I may. Mr. President, Public Works would like to have a meeting with the Natural Resources Commission at Noon on May 27 in Room 1517. Any Senators are invited to attend. That announcement is offered by Senator Kremer.

Mr. President, LBs 39, 39A, 179, 252, 451 and 499 have been presented to the Governor for his approval.

Mr. President, I have a proposed rules change offered by Senators Wesely and Beutler. That will be referred to the Rules Committee for their consideration. (See page 2144 of the Legislative Journal.)