

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.)

LB 48, 62, 98, 172, 179,
226, 239, 266, 299, 304,
332, 342, 343, 344, 360,
453, 454, 506, 545

March 24, 1981

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Pastor Wayne Schroeder of the Calvary Lutheran Church and School, 28th and Franklin, Lincoln, Nebraska.

PASTOR SCHROEDER: Prayer offered.

SPEAKER MARVEL: Have you all recorded your presence? Is everybody here or are there still some missing? While we are waiting for the quorum you might be interested in the fact that our Clerk is hobbling around. The problem is that I was teaching him some dirty plays in basketball and got too vigorous. Record the vote.

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

SPEAKER MARVEL: Do you have some items under item #3?

CLERK: Yes, sir, I do, several in fact. Mr. President, I have a series of reports to read in. Your committee on Public Works whose chairman is Senator Kremer to whom was referred LB 98 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 226 to General File with amendments and LB 344 to General File with amendments, (Signed) Senator Kremer. (See pages 1082-1086 of the Legislative Journal.)

Your committee on Revenue whose chairman is Senator Carsten instructs me to report LB 454 to General File; LB 172 General File with amendments; LB 304 General File with amendments; LB 360 to General File with amendments; LB 506 General File with amendments; LB 48 indefinitely postponed; LB 62 indefinitely postponed; LB 299 indefinitely postponed; LB 332 indefinitely postponed; LB 342 indefinitely postponed; LB 343 indefinitely postponed; LB 453 indefinitely postponed, all signed by Senator Carsten as Chair. (See pages 1086-1089 of the Legislative Journal.)

Mr. President, your committee on Administrative Rules and Regs reports, whose chairman is Senator Vard Johnson, reports LB 266 to General File with amendments.

Your committee on Government reports LB 239 to General File with amendments and LB 545 to General File with amendments, signed Senator Kahle as Chair. (See pages 1089-1093.)

Mr. President, LB 179 is reported correctly engrossed.

Mr. President, LR 40, 41 and 42 are ready for your signature.

April 16, 1981

LB 360, 506

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: Motion is carried. The bill is advanced. We now move to LB 506.

CLERK: Mr. President, LB 506 (read title). The bill was read on January 20, referred to Revenue. The bill was advanced to General File. There are committee amendments pending, Mr. President, by the Revenue Committee.

SPEAKER MARVEL: Senator Hefner, do you want to take the committee amendments to LB 506?

SENATOR HEFNER: Mr. President and members of the body, I move the adoption of the committee amendments, and what they would do, the first part of it would delete the creation of the cash fund. The second part would delete the earmarking of the revenue from one cent increase and the third part of the committee amendment would delete the reduction of the wholesalers' commission and you will notice that in the original bill that the wholesalers' commission was reduced from five percent to three percent and what this would do is reinstate this. If I remember right, if I remember correctly at the committee hearing the industry showed proof that it does cost five percent to collect this tax and so I would urge the adoption of the committee amendments.

SPEAKER MARVEL: The motion is the adoption of the committee amendments. All those in favor of that motion to 506 vote aye, opposed vote no. Record the vote. Have you all voted? Now record the vote.

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

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Cullan. Senator Cullan, would you like to explain 506?

SENATOR CULLAN: Mr. President, members of the Legislature, I guess I will give an explanation of the bill as it has been amended and then Senator Warner will have an amendment that will change the bill, and at that point in time, I will urge you to support his amendment so we have kind of reached a compromise to solve some of the problems associated or some of the concerns some people had about LB 506. But at this point in time, I would like to introduce the bill to you. LB 506 is a proposal that increases the cigarette taxes in the State of Nebraska by one cent. The purpose

of the bill as it was introduced and as it exists currently is to fund research on smoking related diseases including, unspecifically, cancer. As the bill was introduced, it also had some other functions to provide education and information on smoking to the public and to provide for screening, detection and prevention of cancer and other functions as well. The philosophy of the bill is simple. We should increase the cigarette tax to fund smoking related research and education. The mechanism for LB 506 as it exists is to establish a Nebraska Smoking Disease and Cancer Research fund. It creates a peer review panel composed of individuals experienced in research and it appropriates \$500,000 to the Eppley Cancer Institute to insure that that facility continues to operate. The remainder of the one cent on cigarette tax or approximately \$1.2 million would be placed in the research fund. The tax increase is from 13 cents to 14 cents. I think there is a tremendous need in the State of Nebraska for us to do something about cancer and about research and also about smoking related diseases. When you look at some health care reports that I recently examined that came into my office, there is an estimate that smoking costs in direct health care, excuse me, not in direct, but direct and indirect cost of smoking as far as diseases were concerned, the increase in health care cost as a result of smoking nationwide is \$27 billion. When you extrapolate that to the State of Nebraska, smoking costs us as far as additional health care costs approximately \$3 billion. This includes not only cancer but heart disease, lung cancer, bronchitis and emphysema. Another reason that I believe we need to do more research and have a program in this area in the State of Nebraska is that Nebraskans are smoking at much higher rates than the rest of the nation is smoking. There is a recent study released by the University of Nebraska that indicated that young Nebraskans smoke more and more younger Nebraskans smoke than is true nationwide. I can give those figures to you if you desire them but the trend from the information that we have is that for some reason or another young Nebraskans are smoking more now than they did in the past despite the fact that we know so much about the problems relating to smoking. There were three thousand cancer related deaths in the State of Nebraska in 1980 and approximately 5,500 people will develop cancer this year in this state. The direct cost for cancer in Nebraska for 1981 will be approximately \$75 million and the indirect cost for cancer will be in excess of \$140 million for 1981. Last year in the legislature debated when we tried to deal with this problem, a lot of people I think looked at some of us in the Legislature as being rather discompassionate and not concerned about those people who had been afflicted with cancer, and

so after that debate which had occurred for three consecutive years in the Legislature, I decided to sit down and try to do something positive inside the State of Nebraska in that regard and LB 506 is part of the solution I believe. One thing that I want to point out is that the University of Nebraska has made the decision, and I think a good one, that if the State of Nebraska is not willing to support the Eppley Cancer Institute to the tune of about a half a million dollars a year, then they should close it. There is no reason to support an institution which does not have the financial commitment behind it to do quality research and they have made that decision. And this bill will provide the mechanism to fund Eppley Cancer Research Institute to the tune of a half a million dollars a year so that we can continue that facility in the State of Nebraska. There are several advantages, I think, in continuing the operation of the Eppley Cancer Institute in Nebraska. Primarily is that it will allow us to have an institution that can do quality research on cancer and that that research can be focused on problems that are unique to Nebraska. Some of you may not know but there are areas inside the State of Nebraska where there are alarming rates and incidence of pancreatic cancer. We don't know why this area in the State of Nebraska has rates of cancer considerably in excess of the national average. There is something in that area that is causing that cancer and we should do some specific research to find out what it is so that we can correct that problem. We should find out whether it is chemicals that we are using or what it is that is causing many Nebraskans in this very small section of the state to develop cancer and I think if we continue Eppley Institute and we have state funds we can focus on those problems more specifically. In the past Eppley has already paid for itself many times over with one project alone. They discovered that if you used Vitamin C with some meat preservatives that those meat preservatives will not cause cancer and that allowed the pork industry to keep using a meat preservative that would have otherwise been banned by the Food and Drug Administration. The economic impact of that one research project was tremendous for the State of Nebraska. And what is interesting is that that research project when it was started was not connected in any way, shape or form with the meat industry. It was a result of some basic scientific research that was applied in a way that saved the State of Nebraska, the pork producers in the State of Nebraska millions of dollars. So I think the reputation is there. We have a good facility and we should continue it. Most of the concern has been centered over the other funds that will be appropriated in LB 506. There are approximately \$1.2 million that would be appropriated to cancer research and

smoking related research in addition to the \$500,000 that would go to Eppley. I will support an amendment which Senator Warner will offer to you shortly which will insure that the proceeds of these funds can be used only for research, not for advertising and so forth, and that those funds can be expended only at educational institutions within the State of Nebraska. So we are narrowing it down with the Warner amendment so that not for profit groups and so forth will not be applying for these funds. We are also insuring that these funds will not be diluted so that they will have more effect. Irrespective of the need for this program, I think that we should raise the taxes on cigarettes. The last cigarette tax increase that the State of Nebraska passed was in 1971, ten years ago. Just ask yourself what has happened to property taxes or income taxes or sales taxes in that ten year period. They haven't stayed the same and neither should the taxes on cigarettes. Seventeen states currently have higher cigarette taxes than we do, and if we pass LB 506 with the one cent increase in cigarette taxes, sixteen states will still have higher cigarette taxes than does the State of Nebraska. So we are not being exorbitant in increasing the cigarette tax by a cent. Incidentally, a one cent increase in the cigarette tax is an eight percent increase in the cigarette taxes. The effect of a one cent increase in cigarette taxes on the consumers of these cigarettes is approximately a 1.4 percent increase in the price of a pack of cigarettes. The average effect on the average smoker in the State of Nebraska will be \$5.30 a year.

SPEAKER MARVEL: You have one minute.

SENATOR CULLAN: I think that \$5.30 a year to be invested in research in the State of Nebraska that may someday help us solve medical problems that that smoker is creating for himself or herself is a wise investment. I think we should ask Nebraskans who smoke to invest that \$5.30 in research, hopefully research that will someday save their lives, hopefully the research that will someday allow them to breathe easier, hopefully research that will someday benefit all of us by reduced health care costs. I urge you to advance LB 506, to adopt the Warner amendment that will be proposed shortly. Thank you.

SPEAKER MARVEL: Senator Warner.

CLERK: Mr. President, Senator Warner moves to amend the bill. Do you want me to read it Senator? Okay. (Amendment found on page 1510, Legislative Journal.)

SENATOR WARNER: Mr. President, members of the Legislature, I am sorry I did not have the amendment reproduced. I didn't think there was time to do it to have it passed out but I think Senator Cullan has indicated he would support it and this is what it does. First, it retains the concept of the one cent increase in the cigarette tax. Secondly, it would be deposited to the general fund. Third, the language would require that the Legislature appropriates a portion of it to the Eppley Research Center. The A bill will carry a \$500,000 amount. The balance of the amount would then be appropriated, instead of a new board that was created by the bill, it would be directly appropriated to the Department of Health which the director then could award grants for research only relating to cancer and smoking associated diseases and those grants would only be made to institutions of postsecondary education which have a college of medicine within the university and, essentially, as a practical matter that would within the state include only Creighton University and the University of Nebraska but they would be able to award those grants to any appropriate department, such as maybe chemistry as well as the medical schools if that was appropriate, but it always would be governed by the level of appropriation that was approved by the Legislature as far as the total amount. As indicated, Senator Cullan said he could support this concept and I think it does give us reasonable legislative control over the use of these funds that targets through the appropriation process the funds for research purposes for disease prevention and control and I would hope the body would adopt it.

SPEAKER MARVEL: Senator Kahle, do you want to speak to the Warner motion? Senator Kahle. Senator Koch, do you wish to speak to the Warner amendment? Senator Dworak, do you want to speak to the Warner amendment? Okay.

SENATOR DWORAK: Mr. Speaker and colleagues, Senator Warner, I have no objection basically to the amendment. I have several questions that I would like in the record for clarification. Number one, the \$500,000 that will be appropriated through the A bill will have to be reappropriated each year, is that correct? Mr. Speaker, if I could have Senator Warner's microphone, please, if he would yield to a question.

SPEAKER MARVEL: Okay, Senator Warner.

SENATOR WARNER: Yes, Mr. President, the answer is, yes, that it would have to be appropriated. The specific language in the authorization merely says that a portion to

April 16, 1981

LB 506

be determined by the Legislature would be appropriated to the University of Nebraska...the University of Nebraska Eppley Institute for Research in cancer and allied diseases and the level that I am suggesting that would be in the A bill would be \$500,000.

SENATOR DWORAK: So next year that could be more or that could be less.

SENATOR WARNER: Next year or this year, too.

SENATOR DWORAK: The second slight reservation I have, Senator Warner, is I am questioning whether we ought to be so specific that research must be cancer related. In other words, are we tying our hands to the extent that if there is truly a worthwhile research project that either Eppley or the University of Nebraska Med Center or whatever post-secondary education facility would get it but not cancer related, I wonder if we shouldn't broaden that just to medical research. That bothers me that we just may be tying ourselves, tying our hands a little tightly and that we may want to have the flexibility to expand to other unrelated areas and I see Senator Cullan would like to address that, and so if I could, Mr. Speaker, if Senator Cullan would yield to that question please.

SPEAKER MARVEL: Senator Cullan, do you yield?

SENATOR CULLAN: Yes, I do. Thank you, Senator Dworak. I appreciate it. The research is limited to not only cancer but it is also smoking related diseases and that means diseases whose causes are linked to smoking, and that includes but not limited to cardiovascular, pulmonary, and gastrointestinal diseases, and so there is a tremendously wide range of diseases that are definitely linked to smoking, and so it is not only cancer but smoking related diseases. So there are many projects that could...many medical areas for which these funds could be used.

SENATOR DWORAK: I wouldn't attempt to do this now at this particular point but I wonder if there would be any objections on Select File to striking smoking related diseases...any medical research that this board would deem appropriate. Senator Cullan, would you have an objection to that?

SENATOR CULLAN: Well, we have eliminated the board and for that reason I think....

SENATOR DWORAK: The Department of Health.

April 16, 1981

LB 506

SENATOR CULLAN: So the Department of Health is making this determination. I would object. I think that they ought to be limited to smoking related diseases and cancer because that is where a great deal of research needs to be accomplished.

SENATOR DWORAK: Very good and thank you.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker, a question of Senator Warner if he would respond please?

SPEAKER MARVEL: Senator Warner.

SENATOR STONEY: I will make a general statement while Senator Warner is talking on the telephone. I just rise to say that conceptually I certainly agree with the intent of LB 506 and will be supporting its passage but I do have some questions of Senator Warner if he would respond.

SENATOR WARNER: Yes.

SENATOR STONEY: Senator Warner, unfortunately I am a little handicapped in not having the amendment before me to review it in its entirety. The question that I have initially is that evidently you had some difficulty with the committee that was being created which would have had the responsibility of providing these grants and contracts, is that correct?

SENATOR WARNER: I had two reservations about the bill as it was before us. You are correct that one of them I have a reluctance to see another board established, and as established there had significant freedom from legislative oversight in what was done. Secondly the bill as drafted also would have permitted them to make grants and awards to a variety of nonprofit private organizations that their activity would be unrelated to research. It would have been, I think, they used education, prevention, I am not sure what all that included or was intended to include but it seemed to me to be exceedingly broad.

SENATOR STONEY: Senator Warner, I had a little difficulty with some of those categories that had been defined also but I am wondering if you feel that the Department of Health, if we are providing them with the opportunity to award these grants and contracts if they would have the expertise within the Department that this committee that was going to be formed under this bill would have had relative

to this particular subject and this disease?

SENATOR WARNER: Well, number one, the responsibility would be with the Director of Health to make the awards. The language does authorize the Director to establish other procedures he or she may deem necessary for the proper administration of those sections. If you look otherwise in the statutes, there are general authorization for advisory committee, this type of thing that a director could seek to give the kind of technical advice that I think you are suggesting, but we still avoid the creation of a whole new entity of another board and that administrative cost.

SENATOR STONEY: If I understand what you are saying, then, the Department of Health would have the ability to recruit the expertise that this particular committee might have had within the State of Nebraska with people within the profession that have a general and good understanding of this disease and the treatment.

SENATOR WARNER: The answer is, yes, but it is by virtue of the fact that they would already have that kind of authority or the director does, if they want to do it. So, and this specifically would authorize them to use those other statutes to do that.

SENATOR STONEY: One additional question, Senator Warner. When you were discussing where these funds might be appropriated, is there any problem with the funds being distributed to an institution within the state that is not a public institution? I think more specifically you mentioned Creighton University.

SENATOR WARNER: Someone may want to get, you know, an opinion specifically but I do believe that we have other examples of awards and grants made by state agencies on a contractual basis to nonpublic entities, and to that extent, I think it probably would be okay. It is limited to postsecondary education institutions having a medical department and are located within the state and that is the only two that there are, of course.

SENATOR STONEY: Thank you, Senator Warner. With the information that Senator Warner has provided, I feel that I will be in a position to support his amendment. I, too, had some difficulty with the inability of the Legislature to impact on decisions that would have been reached by this committee and would have felt much more comfortable if we had had legislative oversight through the appropriation process. But it appears with the amendment as explained that this will accomplish the same purpose and, therefore,

April 16, 1981

LB 506

I would be supporting the amendment. Thank you.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, I rise to support the proposed amendment which Senator Warner has presented to this body this morning which needs to be adopted to LB 506. This is a worthy endeavor. I compliment the persons who have worked on this type of legislation and I would like to be able to support 506, with this amendment feel that I can do so. Thank you very much.

SPEAKER MARVEL: I would like to introduce two groups of people before we continue. Seated under the North balcony, it is my privilege to introduce Fern Shomberg from Senator Burrows' office and her daughter-in-law, Karen Shomberg, grandson, Michael Shomberg, and also Adam Stern from Senator Marsh's District. They are all seated under the North balcony. Would you raise your hand so we can see where you are? And from Senator Schmit's District, 23 eighth grade students and 5 sponsors from Osceola Public Schools, Osceola, Nebraska, Mrs. Jean Peterson, teacher, and they are in the South...where are you? They were in the South balcony. Senator Warner, do you wish to speak to the bill or should we go on and come back to you. Senator Vard Johnson, do you wish to be recognized?

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I rise in opposition to the Warner amendment and I can appreciate Senator Cullan supporting the amendment because he certainly wants his important bill to carry but the amendment itself, in my opinion, dilutes some of the basic good concepts of the bill. In the first place we don't have the amendment on our desk nor is it printed in the Journal so that means we have to go up front to read exactly what it says. What it says is that the one cent sales tax or the one cent cigarette tax can be sent to two institutions, the University of Nebraska and Creighton. Now it doesn't name the University of Nebraska nor does it name Creighton but it just says simply the money only can be distributed to postsecondary education facilities that have a medical school. Well, there are only two medical schools in the State of Nebraska, one with Creighton and one with the University of Nebraska. Now I think if we are in the issue...if we are in the business of research, there is no reason why some research can't be done at Kearney State College because they have chemists, they have biologists, they have environmentalists, or some research can't be done at Chadron State College or Peru State College or even at private institutions, such as, Doane, Nebraska

Wesleyan, right on down the line. In addition, there is some research that is being done on the industry basis. We have grants being made by the Swanson Nutritional Center in Omaha throughout the United States, throughout the United States for various kinds of food research but some of that includes cancer research. I think it is wrong to narrow...to so narrow the grant making possibilities that are under this amendment to two institutions, to people working at the University of Nebraska or Creighton. Secondly, one of the things that I thought was very good about LB 506 was the fact that some of the dollars could be used not just for research but also for community education programs, community information programs. To a large extent, you know, a lot of the cancers that people sustain are products in some respects...some of the harm that is done by the cancer is a product of their failure to take the necessary steps to alleviate or to promote early detection. Cervical cancer in women, for example, is a condition that can be corrected early on, but for a woman to detect cervical cancer, she needs to appear regularly before a physician for a Pap smear. Now that kind of information is information that needs to be imparted regularly in Nebraska so that women do take those steps to make certain that they are having the Pap smear and so cervical cancer is detected early, so the treating physician can take the appropriate steps and 506 as originally drafted without the Warner amendment would have allowed some dollars to be used by private organizations to providing exactly that kind of information, that is for the detection of cancer and for the prevention of cancer. In addition, one of the things we may very well note is that there are certain parts of our state where there truly are hot spots for cancer. In fact, I think that Senator Maresh has got some areas where there is a fairly high incidence of colon cancer. Now again, since we know those statistical facts, there is no reason why we cannot use information to go out into the communities in those areas and suggest to people that they do go to physicians for examinations and those kinds of examinations can be more likely to detect cancer at a much earlier stage where at that time it is much more treatable without such devastating effects on the body. So I oppose the Warner amendment for the two reasons that it too narrowly, it too narrowly focuses our money into two institutions and for one purpose and one purpose only and that is research. The original bill allowed the money, the same amount of dollars, to be spread over more causes and to more places and for more purposes, all dealing with cancer.

SPEAKER MARVEL: Senator Cullan, do you want to speak to the bill? We are on the Warner amendment. Do you wish to speak to it? Senator Warner, do you want to close on your amendment?

SENATOR WARNER: Mr. President, members of the Legislature, I just would repeat, I did identify, I thought quite specifically, that the funds are targeted. It seems to me that is appropriate. There are a host of programs that exist now in terms of education, and it seems to me that the bill as it was, there was kind of a smorgasbord of functions. I think research is a proper role to be using and have it directed toward cancer and smoking related and associated diseases. That is not as narrow as it maybe sounds. That can be in itself quite broad and I would hope that the body would support the amendment.

SPEAKER MARVEL: The motion is the adoption of the Warner amendment to LB 506. All those in favor vote aye, opposed vote no. Okay, record.

CLERK: 26 ayes, 2 nays, Mr. President, on the motion to adopt the Warner amendment. I have nothing further on the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. Now, Senator Kahle, do you wish to speak to the bill?

SENATOR KAHLE: Mr. President, members, very briefly, first of all, I want to explain, if you have looked in your bill book, you will notice there were four or five opponents to the bill when it came up. I think to a person these were all concerned with the putting on the tax stamps on the cigarettes, and as Senator Hefner mentioned, they proved to us that they do need the five percent in order to do this. So the opponents really didn't have anything to do with where the money was going to go or even whether there would be one cent put on. I wanted to clarify that. This bill, I think, is one of the first times that we have allotted cigarette money to something that I personally believe it belongs, in the category it belongs in, and that is the research of diseases related to smoking, and we have spent a lot of money in Nebraska and which we all know about for a lot of good things with cigarette tax but this is one that looks to me like it is very much related to what we are trying to do. The other thing Senator Cullan mentioned that certain areas of our state have a high incidence of cancer. I happen to live in one of those areas or in the area that was mentioned by Dr. Rosenlof at the hearing and I lost a couple of cousins to cancer and we have lost a couple of young people in our neighborhood in the last three or four years, and when you think of the total population of our area, it is a high incidence of cancer. So I certainly support the bill. Thank you.

April 16, 1981

LB 506

SPEAKER MARVEL: Senator Koch, do you wish to speak to the bill?

SENATOR KOCH: Mr. Speaker, members of the body, first of all, I want you to know that I have recovered from yesterday afternoon and hold no grudges but I have to answer Senator Cullan for just a moment. I am going to support 506. In fact, I would probably support even more tax for these noble purposes but as one who uses cigarettes more than I should I keep smoking because I want to help the University build buildings. We built a great monument and we named it after the Athletic Director, and we are building other noble monuments, and we are going to probably put some name on those. But I want it on record now that when I came here I smoked about a pack a day. Now I am up to three and now when we take this I will probably go to four simply because to get enough revenue to carry on research on what causes hardening of the arteries and other kinds of diseases. But the thing I really want to get to is this. It has always been difficult for me to understand why when we know with considerable scientific research that tobacco is harmful to people, yet the Department of Agriculture and the federal government sees fit to subsidize that product at a higher level than they do other things that are healthier for us. I have always been concerned about this and I have a feeling if they cut out the subsidy for tobacco, a package of cigarettes may go to \$3 a package. That in turn might discourage some of us from spending \$9 a day for cigarettes, and, Senator Stoney, I know you are sitting over there with your tongue in cheek but some of us didn't start smoking until late in life and we are trying to catch up for those early days. The first time I tried to smoke as a kid was corn husks. I did that back of the chicken house only it didn't go over very good. So it took me a long time to get back to it again. Now another thing I don't understand is why we don't tax cigars, pipe tobacco, skoal, chewing tobacco and all the other items which lend themselves to certain kinds of diseases I am certain. The last thing that bothers me is that when we raise it a penny I wonder what the vendors are going to make, because you raise it a penny and immediately those who have vending machines can easily jump it a nickel and that is a pretty tidy profit and blame it onto us for raising it a penny. I just want to put all this in perspective and hope that this body will seriously think about what we are doing. Not that I mind that penny, but if I had my way, I would sooner take it out of our general fund and I would sooner support Eppley from our general fund than I would always looking for a sin tax because that is pretty easy. Thank you.

SPEAKER MARVEL: Before we proceed to the next speaker, it is

April 16, 1981

LB 506

my privilege to introduce two people in the North balcony, Senator Fowler's mother, Dorothy Fowler, and from Senator Hoagland's District, Senator Fowler's nephew, Luther Fowler. Will you folks hold up your hands so we can see you and welcome you? Welcome! From Senator Howard Peterson's District, 51 fourth grade students from Jefferson School, Grand Island, Chris Wykoff, Judy Kosmicki, teachers, in the North balcony. Will you raise your hand so we can see where you are? Good morning! Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I would rise to support the bill as amended. I feel that we do need more money for cancer research. I had an opportunity to tour the Eppler Institute the other night. I was very impressed with its facilities. I think we need to raise more money to keep it going. If you haven't toured the facility, I would strongly urge you to do so and learn more about cancer research. I realize that I don't understand everything that I saw the other evening or some of the presentations but I think it is real important that we do go ahead with more cancer research. I happen to live in an area where we think it has a high rate of cancer incidence and we are trying to find out more of what is causing it and why we are having it. I think that this is a good bill as amended and would urge your support, and as for Senator Koch, I would like to suggest that he perhaps would take up and start more chewing of tobacco instead of smoking. I realize that smoking three or four packs a day is very excessive. I urge you to support the bill.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, members, first of all I would like to compliment Senator Koch for trying to build these buildings all by himself but don't overdo it, Senator. You may not live to build too long. I support the bill without any doubt. I look at it possibly as an insurance policy for people that smoke if they will just listen to what the statistics prove in the research but it is good. Let's pass it.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker, members, I, too, rise in support of 506 as amended. Senator Hefner has probably stolen some of my thunder. I wanted to call the body's attention to a tour which a group of us took right before last which we inspected the Eppler Cancer Institute in Omaha. Very educational. Very interesting. Bringing the problem closer to home than ever before. The University of Nebraska has indicated that without the half million dollars being appro-

April 16, 1981

LB 506, 44, 74, 87, 266,
173, 226A, 271, 483

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

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

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

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

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

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

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

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

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

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

April 23, 1981

LB 35, 95, 132, 173, 266, 266A,
360, 477, 506, 541, 545
LR 57, 58, 59, 60

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Orin Graff, United Presbyterian Church, North Bend, Nebraska.

PASTOR GRAFF: Offered prayer.

SPEAKER MARVEL: Roll call. Would you please record your presence. Record.

CLERK: Quroum present Mr. President.

SPEAKER MARVEL: Do you have any items you want to

CLERK: Mr. President, a communication addressed to the Clerk regarding LB 173. Letter appears on page 1527 of the Legislative Journal.

Mr. President, your committee on Enrollment and Review respectfully reports they they have carefully examined LB 95 and recommend the same be placed on Select File with amendments, 541 Select File, 360 Select File with amendments, 506 Select File with amendments, 266 Select File with amendments, 266A Select File, 545 Select File with amendments, all signed Senator Kilgarin, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined engrossed Legislative Bill 35 and find the same correctly engrossed, 249 correctly engrossed, 477 correctly engrossed and LB 132 correctly re-engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, a new resolution LR 60 by Senators Koch and Wagner. Read LR 60. That will be laid over.

Mr. President, finally LR 57, 58 and 59 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 LR 57, LR 58, and LR 59.

We have some guests visiting us today and before we get started on other business, from Sidney, Australia underneath the north balcony visiting the Legislature today, Mr. Mon Khamis, will you please stand so that we can recognize you.

April 29, 1981

LB 134, 11, 146, 466, 506

Senator Marsh to print amendments to LB 466; Senator Warner to LB 506; Senator Kremer to LB 146; Senator Schmit to LB 11.

Your committee on Appropriations reports LB 556 to General File with amendments.

SPEAKER MARVEL: Okay, call the roll.

CLERK: (Read roll call vote as found on page 1628 of the Legislative Journal.) 17 ayes, 22 nays, Mr. President.

SPEAKER MARVEL: Okay, Senator Warner has agreed to holding up on appropriation bills until we after we come back that we take up 134 and see if we can finish it rather than having to come back to it again. Senator Landis... unless there is objection to that procedure. Senator Landis, do you want to recess us until one-thirty?

SENATOR LANDIS: Mr. Speaker, I move to recess until one-thirty this afternoon.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. We are recessed until one-thirty.

Edited by:


Mary A. Turner

May 5, 1981

LB 327, 331, 506, 536

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Jack Glass from the First Assembly of God Church here in Lincoln.

REVEREND GLASS: Prayer offered.

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

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

PRESIDENT: A quorum being present, Mr. Clerk, are there any corrections to the Journal?

CLERK: Mr. President, on approximately page 1774 we will insert LB 536 having been signed by the presiding officer.

PRESIDENT: All right, the Journal will stand as being corrected. Any messages, reports or announcements?

CLERK: Mr. President, yes, sir, two resolutions. Read LR 78. That will be referred to the Executive Board for reference. LR 79, introduced by several members. Read. (See pages 1737-1739 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, I have a notice of hearing from Education Committee on gubernatorial confirmation hearings scheduled for May 21. I have an Attorney General's opinion addressed to Senator Vard Johnson regarding LB 506 and LB 327 and 321 (sic) are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LB 327 and LB 331.

CLERK: Mr. President, I have a series of interim study resolutions. The first is LR 80 offered by the Business and Labor Committee. The purpose of the study to consider numerous questions that have arisen concerning Nebraska's unemployment compensation program. Mr. President, that is all that I have.

PRESIDENT: Before we begin on agenda item #4, the Chair takes pleasure in introducing some guests of Senator Kremer from Aurora, Nebraska, Mr. and Mrs. Larry Carrier and son, Steven. Would the Carriers stand and be recognized and welcome to your Unicameral Legislature, welcome. We will

May 5, 1981

LR 81-84

LB 257, 506

has pretty well proven through the years that government help is not very effective. It just simply does not match self-help and I urge you to adopt my amendment.

SPEAKER MARVEL: The motion before the House is to adopt the amendment as explained by Senator Remmers. All those in favor of adopting the amendment vote aye, opposed vote no. Have you all voted? Have you all voted? Senator Remmers, what is your pleasure?

SENATOR REMMERS: Just let it go.

SPEAKER MARVEL: Record the vote.

CLERK: 17 ayes, 23 nays, Mr. President, on adoption of Remmers amendment.

SPEAKER MARVEL: The motion is lost. The amendment fails. Okay the motion is to readvance the bill to Final Reading. A machine vote has been requested. All those in favor of the motion vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 5 nays, Mr. President, on the motion to advance the bill back to Final Reading.

SPEAKER MARVEL: In the North balcony from Senator Wiltala, Koch and Stoney's district, 22 students from Millard, Nebraska, High School are in the North balcony with their teacher, Richard Brown. Will you show us where you are so we can welcome you to the Unicameral. From Senator Wesely's district we welcome 65 students from Bethany, Lincoln, Nebraska. Joyce Vannier is the teacher. You are in the North balcony. Where are you? Will you hold up your hands. Okay, welcome. Under the North balcony is Barry Sherman from Kearney, a friend of both Senator Cope and Senator Kahle. Where are you, sir, we may welcome you to the Unicameral. Over in the corner.

CLERK: Mr. President, while we are waiting, Senator Warner would like to print amendments to LB 506. (See page 1744 of the Legislative Journal.)

We have four study resolutions from the Government Committee. The first calls for a study of the various aspects of the National Guard and military life in Nebraska. LR 82 by the Government Committee calls for a study of the adequacy of disability compensation for those state employees engaged in high risk jobs. LR 83 by the Government Committee which calls for a study of the existing ambiguities and conflicts in the statutes regarding the offices of County Engineer and County Surveyor. And LR 84 by the Government Committee calls

May 7, 1981

LB 360, 506

tax exemption that they now enjoy. So I would support the amendment and hope the body adopts it.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I rise to support the Schmit amendment. I think it is a good amendment and we perhaps should have had it sooner. I think as we market more gasohol we need to be sure that we always have a quality product in these tanks and that the dealers are selling this quality product. Sometimes if you have a mixture of less than 10% it can cause you carburation problems and of course the same way if you should have over the 10%. I think that Senator Schmit's amendment will clarify a lot of things. I also believe that from time to time we do have a shady dealer and of course the dealers never know when these inspectors are coming through and so I think it is a very good amendment. I would urge you to support it.

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

SENATOR DeCAMP: Not really. Just vote for it.

SPEAKER MARVEL: Okay, the motion is the adoption of the Schmit amendment as explained by Senator DeCamp. All those in favor vote aye, opposed vote no. Record.

CLERK: 29 ayes, 0 nays, Mr. President, on the motion to adopt the Schmit amendment.

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

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

SPEAKER MARVEL: All those in favor of advancing the bill say aye, opposed no. The motion is carried. The bill is advanced. LB 506.

CLERK: Mr. President, there are E & R amendments to LB 506.

SPEAKER MARVEL: Senator Kilgarin, do you want to move the E & R amendments.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 506.

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

May 7, 1981

LB 506

CLERK: Mr. President, I have an amendment from Senator Warner. That is found on page 1629, Senator.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, I move adoption of the amendment. It does a couple, three things. First this is the bill that, as you recall, increases the cigarette tax by one cent with the funds to be utilized for either Eppler or for research on related cancer or smoking diseases related to smoking or cancer. And the first amendment as the bill now stands says that up to 500 thousand of the one cent would go to the Eppler Center in the amount, again, to be determined by the Legislature through the appropriation and then the bill would state the balance collected from that one cent would go to the Department of Health to be used for research, grants, contracts. The first amendment, instead of saying the balance of the one cent, merely states that not more than the balance which would provide the discretion to future sessions of the Legislature to utilize those funds for something other than the limit that currently exists. There was some concern expressed about earmarking the funds. I agree with that. This still gives a priority to the use of those funds but does not restrict the use of that one cent, of the tax collected from that one cent to only those purposes. Another part of the amendment is merely corrective. There is language that said "the Legislature shall appropriate." We obviously cannot have continuing appropriation. The words are in it, "there shall be appropriated" which is enough difference to satisfy that need. It specifies that the funds to go to Eppler specifically are appropriated out of the general fund. The reason for that is that is where the money is deposited as it is collected and the final amendment is perhaps a little more significant. The question has been raised whether or not any of these funds can go to a private institution. And what the amendment does there, there is also the severability clause on it, but what the amendment states that the grants that would be made through the Department of Health, the Director of Health would only go to the public institution, in this case the University of Nebraska, but it does make it permissive that for private institutions having a medical school which obviously is Creighton, that contracts for research would be possible there. I don't know that that would correct the constitutional problem should one exist but I am quite certain that the way the bill is now that there is a constitutional issue and this may correct that. So I move adoption of that amendment.

May 7, 1981

LB 506

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, I rise to support the Warner amendments. I have reviewed these amendments with Senator Warner. I do not believe that there is a problem constitutionally but I think it is a good legal distinction to make between a contract and a grant and for that reason I would concur with Senator Warner's amendments and I would ask you to adopt them. Senator Warner's next set of amendments I believe will set criteria for the awarding of these grants, criteria to be considered by the Director of Health to decide and prioritize between the different grant proposals which the Director of Health may receive and so I guess at this time, just to save time, I would also like to say that the next set of Warner amendments are also acceptable to me. Thank you.

SPEAKER MARVEL: Senator Koch, do you wish to speak to the Warner amendment to the bill?

SENATOR KOCH: I wish to move the previous question.

SPEAKER MARVEL: The previous question has been requested. There are no lights, thank you. The motion is the adoption of the Warner amendment to LB 506. All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 31 ayes, 0 nays on adoption of the Warner amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The Warner amendment is adopted.

CLERK: Mr. President, I now have a second amendment from Senator Warner. That is found on page 1744 of the Journal.

SENATOR WARNER: That one I would ask to withdraw. That was the same as the first one or similar. Right? I still have one more.

CLERK: Yes, sir.

SPEAKER MARVEL: Okay, you wish to withdraw this one.

SENATOR WARNER: Yes, Mr. President.

SPEAKER MARVEL: Hearing no objections, so ordered.

May 7, 1981

LB 506

CLERK: Mr. President, Senator Warner would move to amend the bill by inserting a new Section 3. Would you like me to read, Senator? (Read Warner amendment found on page 1834 of Legislative Journal.)

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, I move adoption of the amendment. The amendments that are proposed as Senator Cullan has already indicated in response to the Attorney General's comment that there needed to be some guidelines, rules and regulations, which the Department of Health, Director of Health, would be required to use in the awarding of either grants or contracts and this is the proposed language to meet that necessary requirement. So I move their adoption.

SPEAKER MARVEL: The motion is the adoption of the Warner amendment as explained by Senator Warner. All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays on adoption of the Warner amendment, Mr. President.

SPEAKER MARVEL: The second Warner amendment is adopted.

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

SPEAKER MARVEL: Senator Cullan, do you wish to advance the bill?

SENATOR CULLAN: Mr. President, I move the bill be advanced.

SPEAKER MARVEL: Excuse me, Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, I realize I am crying in the wilderness and the thing is going to go but I want to be on the record, I am not at all sure that this is a good bill and I just want to outline some of the reasons why I have reservations. Number one, I have not heard, and perhaps I have not been listening, but I have not heard the detailed explanation as to why this money is needed in the State of Nebraska for this research. I do have a report here that was submitted to the Public Health Committee during the hearing which indicated there is in excess of one billion dollars spent in this area by the federal government. So I don't know, offhand, how much money is needed for cancer research. Now to talk against cancer research in this day and age is like talking against motherhood but I don't think it has been documented that this state should enter into a new program which has not been, in my opinion, sufficiently

May 7, 1981

LB 506

documented as to the need. Secondly, I don't believe that the Department of Health has the expertise to decide who should get these grants, what the research should cover and that sort of thing. This, in my opinion, is a new area as far as the Department of Health is concerned and to saddle them with this responsibility is in all probability beyond their area of expertise. In this day and age when we are faced with the cutback of services for several reasons, partly because of decreased federal funding, decreased tax revenues on the state level, here we are embarking on a new a program, a new program primarily I think designed to keep Eppley alive and I have no argument with that. My suggestion is that the money should be appropriated if it is 500 thousand dollars that Eppley needs, that should be appropriated to keep it alive, to keep it going to do the worthwhile things that that institution can do. However, as you notice from the bill we are not only doing that, we are doing two things. We are hooking them together. We are on one hand providing a fund for the ongoing work of Eppley and then, secondly, we are providing the cancer research and it is all in a neat package which comes out to one cent of cigarette tax money. I think it is unfortunate that both of these are in the same bill. I think there would be support here for the continuation of Eppley at whatever reasonable amount it should be decided that that funding should be, such as maybe a half million dollars. But to combine these two things I think is not logical and I just am expressing my reservations about the bill and now I assume you will go ahead and advance it. I ask for a machine vote, Mr. Chairman.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: A question of Senator Lamb.

SPEAKER MARVEL: Senator Lamb, do you yield?

SENATOR KOCH: Senator Lamb, would you restate the figure we spend on cancer research?

SENATOR LAMB: According to this report which was submitted to the Public Health Committee at the hearing, the budget for 1982 is \$1,26,000,000. The 1981 budget was \$983,000,000. 1980 it was \$999,000,000.

SENATOR KOCH: Are you talking about federal dollars?

SENATOR LAMB: Federal dollars.

SENATOR KOCH: Do you believe those federal dollars are going to be there in the future?

May 7, 1981

LB 506

SENATOR LAMB: Let me just point out that the Reagan administration has emphasized research at the expense of other projects and that according to this report the 1982-'83 budget is 43 million dollars over the previous budget or for the first time it gets over one billion dollars.

SENATOR KOCH: How much of that goes for animal research?

SENATOR LAMB: This is the National Cancer Institute.

SENATOR KOCH: All right, the question then, how much do we spend on animal research in this country?

SENATOR LAMB: I don't have that figure right here.

SENATOR KOCH: You don't think that is important to carry on those kinds of research for different industries?

SENATOR LAMB: Certainly I do...

SENATOR KOCH: Human versus animal?

SENATOR LAMB: What I am saying is that there is over a billion dollars being spent by the federal government on this cancer research.

SENATOR KOCH: Don't you think it is important?

SENATOR LAMB: I do. I very much think it is important, however, I am not sure that this is going to be properly coordinated on the state level with what they are doing on the federal level. I see nothing in the bill that guarantees that.

SENATOR KOCH: Didn't we just adopt guidelines in which these grants would be made?

SENATOR LAMB: Pardon?

SENATOR KOCH: Didn't we just adopt the guidelines under which these grants would be provided?

SENATOR LAMB: Yes, I understand that.

SENATOR KOCH: Okay, thank you, Senator Lamb.

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

May 7, 1981

LB 506

SENATOR CULLAN: Mr. President, members of the Legislature, I will not take much time. I appreciate as always the questions and comments that any member of the Legislature would have about the bill. I do think that it is important that Nebraska does put some money in cancer research and help research related to smoking diseases. When Senator Lamb mentioned the billion dollar figure and of course it sounds like a lot of money, from 1981 to 1982 it is my understanding that that is about a 2% increase in actual funds and dollars spent on cancer research and of course the rate of inflation in those two years, both years I believe in excess of 12%. So you can actually see that the net effect of the ability, our purchasing power in the cancer research area has actually declined in that period of time but nonetheless it is a significant amount of money that this country does spend on cancer research. One of the reasons I think it is so important for the State of Nebraska to have that 1.2 million dollars to spend, to have available for competitive grants is that Nebraska does have some very unique problems as far as cancer is concerned. There is some counties in the State of Nebraska that have cancer incidence, for example, cancer of the pancreas or whatever it might be called, with incidence of that type of cancer several times in excess of the national average and yet we do not have the means or the ability to look at those problems which are unique to the State of Nebraska and find out what is killing Nebraskans. About thirty-five hundred people will die of cancer in the State of Nebraska in 1981 and I think it is important for us to focus on that and other smoking related diseases, to try and accomplish something constructive to save lives. So I urge you to support LB 506, the entire, as Senator Lamb put it, neat package and I hope that you will advance the bill.

SENATOR CLARK PRESIDING

SENATOR CLARK: The question before the House is the advancement of LB 506. A machine vote has been requested. All those in favor vote aye, opposed no.

CLERK: Senator Clark voting no.

SENATOR CLARK: I would like to introduce Senator Beutler's mother and father, Dorothy and Jack Beutler, under the 30th balcony. Would you stand and be recognized please. Welcome to the Legislature. Record.

CLERK: 28 ayes, 3 nays, Mr. President, on the motion to advance the bill.

LB 3, 11, 12, 70, 95, 99, 228,
250, 257, 266, 266A, 296A,
310, 318, 328A, 369, 381, 384,
389, 428, 441, 470, 472, 472A,
497, 501, 506, 541, 543, 556A

May 11, 1981

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain Palmer.

REVEREND PALMER: Prayer offered.

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President, plus one.

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

CLERK: Mr. President, I have no corrections.

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

CLERK: Mr. President, I have an Attorney General's opinion addressed to Senator Chronister regarding compensation of rural water districts. That will be inserted in the Journal. (See pages 1899-1900 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined engrossed LB 3 and find the same correctly engrossed. 11 correctly engrossed, 12 correctly engrossed, 70 correctly engrossed, 95 correctly engrossed, 99 correctly engrossed, 228 correctly engrossed, 250 correctly engrossed, 257 correctly engrossed, 266 correctly engrossed, 266A correctly engrossed, 296A correctly engrossed, 310 correctly engrossed, 328A correctly engrossed, 369 correctly engrossed, 381 correctly engrossed, 384 correctly engrossed, 389 correctly engrossed, 428 correctly engrossed, 441 correctly engrossed, 470 correctly engrossed, 472 correctly engrossed, 472A correctly engrossed, 497 correctly engrossed, 501 correctly engrossed, 506 correctly engrossed, 541 correctly engrossed, 543 correctly engrossed. Those are all signed by Senator Kilgarin as Chair.

Mr. President, a new A bill, LB 556A, offered by the Speaker at the request of the Governor. (Read as found on page 1904 of the Legislative Journal.)

Mr. President, Senator Vard Johnson would like to print amendments in the Journal to LB 428 and Senator DeCamp to LB 318. See pages 1904-1906 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Speaker Marvel for an explanation of order of business today on the agenda. Speaker Marvel.

May 20, 1981

LB 39, 39A, 179, 252,
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

May 22, 1981

LB 322, 506

SENATOR SCHMIT: Mr. President, I move the adoption of the amendment.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. President, it is the only chance I will get to say have a look at this bill before you vote on it.

SPEAKER MARVEL: Okay, Senator Schmit, do you want to close on your motion?

SENATOR SCHMIT: I move the bill be readvanced.

SPEAKER MARVEL: Approve the amendment first. Okay, the motion is the adoption of the amendment which has been presented by Senator Schmit. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 2 nays, Mr. President.

SPEAKER MARVEL: All those in favor of the readvancement of the bill say aye, opposed no. All in favor of the advancement of the bill vote aye...say aye, opposed no. Machine vote. This is on the readvancement of the bill. Have you all voted? Record.

CLERK: 27 ayes, 7 nays, Mr. President, on the motion to readvance the bill.

SPEAKER MARVEL: The motion is carried. The bill is readvanced. We are now on for Final Reading LB 506.

CLERK: Mr. President, I have a motion to return on LB 506. It is offered by Senator Lamb. Senator Lamb would move to return the bill and the purpose being to strike the enacting clause.

SPEAKER MARVEL: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, on your desk is a copy of the Attorney General's opinion along with a little note from me which outlines my reasons for opposing the bill. The Attorney General's opinion says the bill is...Section 2 is unconstitutional. That is the section which deals with awarding the grants to medical schools in the state and, of course, one of the medical schools is a private institution, Creighton. Of course, I am like everybody else. I get these Attorney General opinions to substantiate what I think in regard to a bill. I really don't think the bill is

May 22, 1981

LB 506

a good one notwithstanding beyond the Attorney General's opinion. I believe I am correct in saying that this is the first time that we are earmarking cigarette funds on a permanent basis and for something other than construction projects. It is a new era, a new concept and I don't think we should do that. I hesitate to tie up this fund on into the future for that purpose. I have also been informed that since there are rules and regulations as set up in Section 4, page 3 of the bill, the Attorney General will have to approve those rules and regulations. Since the bill has unconstitutional provisions in it, I believe that he will not approve the rules and regulations and so the bill will not become operative anyway. I have offered the motion to bring the bill back for indefinite postponement. However, I think in the interest of time I will just ask that you don't vote for the bill and this will give Senator Cullan, if he so wishes, an opportunity to correct some of the problems in the bill and perhaps advance an amended version of the bill at a later time. So, Mr. Chairman, at this point I would ask that my motion be withdrawn.

SPEAKER MARVEL: Hearing no objection, so ordered. Senator Cullan.

SENATOR CULLAN: Mr. President, before the motion is withdrawn, I think it would be appropriate that I have the opportunity to respond to the points which Senator Lamb has made and also to enter into the record for the purposes of any future litigation on this issue some important information, and so with your permission before Senator Lamb's motion is formally withdrawn, I would like to address it. Mr. President, members of the Legislature, the first...is that okay, Senator Lamb? With your permission.

SENATOR LAMB: There is no issue, Mr. Chairman.

SENATOR CULLAN: I would like to respond to Senator Lamb and put some information in the record, if that is appropriate, before the motion is withdrawn. As a courtesy since Senator Lamb had the opportunity to attack LB 506, I would like the opportunity to speak briefly on it defending it.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Well, then I wonder, will I have a chance to close on my request to withdraw the motion after he...?

SPEAKER MARVEL: Yes, because as far as I am concerned you will. Senator Cullan is asking....

May 22, 1981

LB 506

SENATOR CULLAN: Well, in that case, Mr. President, I would not object to Senator Lamb's withdrawing his amendment or his motion to strike and, in fact, I will not request to speak on that. However, at this time I would like to file a motion to return LB 506 for, and I will sign the motion, Pat, if the Page will bring one back, to indefinitely postpone the bill and I will speak on it now. Mr. President, that way Senator Lamb won't have to bother us with speaking again. Thank you.

SPEAKER MARVEL: Senator Lamb has withdrawn his motion. The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, there are several points which I think should be made in response to the points raised by Senator Lamb. The first and most important point of which is if LB 506 is defeated the University will definitely close Eppler Cancer Institute in Omaha, and so for that point if you vote to indefinitely postpone LB 506, you are voting to close the Eppler Cancer Research Institute in Omaha and I think the great majority of us, I hope, will continue to support that facility. The second most important point that I would like to make with respect to the constitutional issue that Senator Lamb has raised is that the Attorney General's opinion which Senator Lamb circulated to you this morning deals not with the current version of LB 506 which you are going to vote on this morning but deals with LB 506 as it was introduced and there are some very important legal distinctions between those bills. And so if you are considering the constitutional opinion or the opinion on LB 506 as written by Marilyn Hutchinson for the Attorney General, I would say that that opinion is not accurate at this point in time because the bill has been amended to correct possible constitutional defects and it is unfortunate that that opinion does not reflect the actual facts in this issue. I have asked Gina Dunning, the committee counsel for the Public Health and Welfare Committee, to take a look at LB 506 and the Attorney General's opinion and I would like to read some information into the record so that that is there if there is a possible challenge to LB 506. "The Attorney General's opinion relied upon language found in Gaffney versus State Department of Education. The issue in that case is the constitutionality of Nebraska Textbook Loan Act. Under this program secular textbooks were loaned to elementary and secondary schools by public district boards of education. The cases discussed by the court in arriving at the Gaffney decision consider the issue of textbooks and tuition credits of religious schools. The facts of that case and Section 2 of LB 506 are not even remotely related. Consequently, for

this reason the Gaffney case can be easily distinguished. The Attorney General's opinion did not discuss the case of State ex rel. School Districts of Hartington versus State Board of Education whereby the Nebraska Supreme Court upheld the ability of a public school to lease a classroom from a private school in order to hold classes for students from a public as well as private religious school. On page three of the opinion, the court noted, 'If the property used or leased is under the control of the public school authorities and the instruction offered is secular and nonsectarian, there is no constitutional violation. The lease in this case meets these requirements. We find no excessive entanglement between government and religion in the lease involved in this case.' Although this case is not directly on point as the situation in Gaffney case cited above, it is noteworthy in this instance because it points out that an examination of the facts is necessary in each situation decided under Article VII, Section 11 of the Nebraska Constitution and that a blanket prohibition of every type of relationship between state and private colleges and universities does not exist. The only other Nebraska case which addresses the particular section of Article VII, Section 11 is State ex rel. Rodgers versus Swanson. This case is not on point in that it addresses the question of whether the state can make tuition payments to students to use at private institutions. While this practice was found to be unconstitutional, the facts are certainly not analogous to the question presented here. LB 506 does not provide that any contract will be given to any particular institution. In fact, it is possible that no contracts will be made to a private institution. The contract or contracts which may be awarded under LB 506 are not for the benefit of the schools affected. Such are the expressed purpose of the bill as stated in its title, namely, to provide for a program of smoking disease and cancer research as prescribed. These contracts do not aid the schools in the traditional sense that aid to schools is generally considered, i.e., questions of textbooks or tuition. Again the distinction is significant. The Nebraska Supreme Court has not ruled on any fact situation interpreting Article VII, Section 11 that is even remotely related to the present question as to whether a contract may be valid or which may be granted is valid. If the logic of the Attorney General's opinion applies, then there is absolutely no contract whatsoever between a private school and a state agency. I am not familiar with existing agreements but it is hard to imagine that this prohibition exists. All in all, it is difficult to adequately respond to the Attorney General's analysis of Section 2 of LB 506 as it addresses the language of the bill before it was amended to provide that grants and

contracts may be made to the University of Nebraska while it is stated that any other postsecondary educational institution having colleges of medicine located in the State of Nebraska may receive only contracts. This distinction is very critical to the issue presented here. Grants are prohibited other than to the University of Nebraska. The argument might be raised that there is no fundamental difference between a contract and a grant. However, this is not the case. Grants are often made to foster some public purpose but a direct benefit from the grantor to the grantee does not necessarily flow. Often the benefit received is received only by the grantee. Under established concepts of contract law, there must be consideration in order for there to be a valid contract. To have a valid contract, something of value must be exchanged by both parties. The Attorney General's opinion apparently uses the term 'contract' and 'grant' interchangeably. However, there is a legal distinction." The point I would like to make very clearly for the record is that the State of Nebraska, if we do contract with a private institution, is purchasing services, services for the people of the State of Nebraska in the public interest, not trying to assist any private institution. With that I think I have clarified the record as far as the constitutional arguments are concerned and I would urge you to support LB 506.

SPEAKER MARVEL: Senator Kahle, speaking to the Cullan motion to return.

SENATOR KAHLE: Mr. Speaker, I speak in favor of the bill and Senator Cullan's amendment. I think this is one time when we are going to use cigarette tax money for some related, at least, project to what most claim causes cancer. So rather than to take up a lot of time, I would hate to see this bill killed and I would support Senator Cullan in his efforts to get the funding. I know it is difficult to determine how these funds are going to be distributed and who is going to get them and there is some question, evidently, in the Attorney General's mind but rather than scuttle the whole bill I sure hope we can work this out. Thank you.

SPEAKER MARVEL: Senator Maresh and then Senator Marsh.

SENATOR MARESH: Mr. Speaker, a question of Senator Cullan. Are you, Senator Cullan, telling us that this opinion isn't on the final bill, is that correct?

SENATOR CULLAN: Yes, that is correct. The opinion was written before the bill was amended to correct the alleged constitutional defects.

SENATOR MARESH: It bothers me that we would be passing a bill that he won't agree with because one time I had the experience with losing an act that was passed by the Legislature, signed by the Governor, LB 884 in 1978, which allowed loans to medical students with the forgiveness provision if they located in doctor short areas, and by his not approving the rules and regulations, it was null and void for the rest of the time and we had to come back next year with a bill that he approved. So this is concerning me that we would pass something that he might strike and not allow to be enacted because he has to approve the rules and regs and that is part of your bill. So I would certainly encourage you to try to get something enacted that he would approve before we pass it. Could you hold this bill up to get another opinion on the final bill so we would know what we are doing?

SENATOR CULLAN: Mr. President, I believe there is no constitutional problems with the bill. The record is adequate. If the Attorney General...I just will not...do not see any reason to wait.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, I draw to your attention on page 7 of the bill, Section 7, a very short paragraph which reads, "If any section of this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof." Since that section is in this bill, I expect to give it my support. I urge you to do likewise.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Just a couple of comments, Mr. President. If I understood Senator Cullan correctly, he distinguishes between grants and contracts, and if you will look on page 2 of the bill, both of those words are still in the Final Reading copy. We are still talking about grants as well as contracts. And, furthermore, I would refer you to the last page of the Attorney General's report and I might just read a part of that. It says, "LB 506 as amended would permit the grant of approved money to a denominational school or college not exclusively owned or controlled by the state or a governmental subdivision thereof for purposes not within the exception expressed in Article VII, Section 11." Now here is the important part, "The fact that the state might benefit from the research conducted under such a grant does not affect our conclusion that the bill is unconstitutional. As pointed out above, the Constitution is an absolute

May 22, 1981

LB 506

bar to such grants and the benefit is not a factor to be considered. So that is still in the bill. We are still talking about grants in the bill and I don't really care if you pass it or not, I am just pointing out I don't think the thing is constitutional and I would hope that Senator Cullar would bring it back and work on the bill some more.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: I had my light on to call the question, Mr. Speaker, if that is necessary.

SPEAKER MARVEL: The question has been called for. Do I see five hands? Is he going to withdraw the motion? Okay. Are you ready to withdraw your amendment or (interruption)?

SENATOR CULLAN: Yes, Mr. President, I am ready to withdraw the motion. The last thing I want to say in response to Senator Lamb, who evidently did not read the memorandum which I circulated or listened to the comments I made when I read the amended opinion into the floor, there are no grants for private institutions, period. The bill has been amended. Grants are only for the University of Nebraska. Contracts are with private institutions when we are purchasing services for the benefit of the people of the State of Nebraska. The last thing I would like to say is that if there are constitutional problems with the bill, it does contain the severability clause and the bill is clearly severable and the constitutional issue has been raised so you should not rely upon the fact that there would be contracts for a private institution if that is your motive for voting for the bill, that the bill is clearly severable, and, again, the constitutional questions that the Attorney General has raised in her opinion, which is out of date, have been clearly taken care of. I urge you to vote for the bill. I withdraw the motion to kill it.

SPEAKER MARVEL: Before we proceed with LB 506, Senator Warner.

CLERK: Mr. President, Senator Warner would move to return 506A to Select File for specific amendment.

SPEAKER MARVEL: Senator Warner, do you wish to speak to the...?

SENATOR WARNER: Mr. President, I...

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, what this amendment does is

relative to the A bill the funds for this year and this year only, the A bill as you recall reflects the enabling legislation which is permissive as far as the use of the tax that is collected, the enabling legislation permits up to \$500,000 for Eppley, the amount to be determined each session of the Legislature. It could be anywhere from zero to that, a maximum of that, and then the balance that would be collected from the one cent, anywhere from zero up to the balance, went to the Department of Health to be awarded in the way of grants as you have been discussing or contracts. What this amendment would do is take \$300,000 of that \$900,000 for this year only appropriating to the Medical Center for research specifically in the area of heart stress related diseases, smoking related diseases. Some of the members here may remember several years ago the Legislature took a very active part in encouraging and expanding the role of this research area that is unique for Nebraska. There are considerable national publicity in medical journals, at least I have a copy of one here on my desk, of what they have done in this area. The amendment then would for this year only place \$300,000 to the Medical Center to be used in these related areas and I thought it was an opportunity for the Legislature, since the money all is to be used for heart and cancer research in any event, that it was an opportunity to once again reaffirm the interest of the body in this particular aspect of research and unique research that the Medical Center has been doing and that is the purpose of the amendment, for one year only, and I would move its adoption.

SPEAKER MARVEL: The motion is to...Senator Cullan, I am sorry.

SENATOR CULLAN: Mr. President, members of the Legislature, I rise to oppose the Warner amendment to LB 506A. First of all, I would like to say that I have the greatest amount of respect for Senator Warner who offers this amendment and is very concerned about stress related diseases in the State of Nebraska. Secondly, I would point out to a number of you that this is an amendment that I started to visit with you about privately. This amendment, I know former Senator Dave Tews has visited with a number of you about this amendment as well. The real purpose of the amendment as I understand it is to ensure that the cardiovascular research program at the University of Nebraska Medical Center headed by Dr. Eliot does receive some of these funds. I have certainly no objection to Dr. Eliot having the opportunity to compete for these research funds. That is the purpose of LB 506 and LB 506A, to appropriate that money to the Department of Health so that excellent researchers throughout the State of Nebraska similar to Dr. Eliot can compete for the

research monies with the other researchers in the State of Nebraska by applying through appropriate and normal channels to the Director of the Department of Health and then they can receive these research monies and help them develop the research programs at their particular institutions. So I am not speaking against the motives that Senator Warner, and Dave Tews and Dr. Elliot and others have. What I do object to at this point in time is the fact that we are making a special appropriation through LB 506. Dr. Elliot has the ability to apply to the Director of the Department of Health to receive these funds competitively with others who desire to do research in the State of Nebraska. I would encourage him to do that if he wants to use these research funds. I think it is inappropriate for us in the Nebraska Legislature to pick out one researcher or one program at the University of Nebraska Medical Center over programs, other programs. The process that we have set up is for the Director of the Department of Health to evaluate those research grant and contract requests which he receives and to pick those which are best. That I think is the appropriate process, not for the Legislature to step in and give one department, one particular department and program at the University of Nebraska Medical Center this type of preferred status. Now granted it is an excellent program that Senator Warner is trying to help out, but if it is such an excellent program and if the research is that important, I have no doubt that these funds will be obtained in the competitive process through the procedures that we have already established in LB 506. So I would urge you to reject the Warner amendment. The last thing I would like to say is that it is late in the session. There are four days left. I heard news of this amendment from Mr. Tews sometime ago and they could have attempted this at General File and certainly at Select File and it is unfortunate they waited until Final Reading. So I would really urge you at this late stage to reject the Warner amendment. I still believe that the purpose which Senator Warner is attempting to accomplish through this amendment can be achieved if the individuals he is trying to assist and the programs he is trying to assist simply apply for competitive grants through the process established in LB 506. I would urge you to reject the Warner amendment.

SPEAKER MARVEL: We are speaking to a return of the bill for a specific amendment. The Chair now recognizes Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, again, I had it to offer on Select File, Senator Cullan, and it slipped by me for which I apologize. I guess the real purpose of the amendment, maybe it is not needed based upon

some of the encouraging remarks that Senator Cullan has made because my real purpose is pure and simple of one of again expressing genuine interest on the part of the Legislature in a program that I think is significant and I know is unique that was begun by the Legislature, and I felt that it was appropriate since it was some seven, eight years ago, as I recall, Senator Marvel would recall as it was done when he was Chairman of the Appropriations, but I felt that it was perhaps appropriate because many would have not been familiar with the program when it was started that the Legislature at least once again expresses its interest in the continuation of that program both in terms of funding as well as the purposes that it has. And whether the amendment gets on or not, I would interpret from the discussion of Senator Cullan that he is too supportive, highly supportive, of this activity and would expect it to continue to function at the University. If you would want to even more strongly emphasize the support, the funds for one year, of course, would even emphasize it greater and to that extent would reaffirm once again the Legislature's interest in the program and that is precisely and no other purpose that I had in offering the amendment but to remind the Medical Center that this was a program begun by the Legislature, initiated in the Legislature, as a matter of fact, because of the unique talents of the individual that was available as well as the program itself. So with that, Mr. President, I would close.

SPEAKER MARVEL: The Warner motion is to return for a specific amendment. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Senator Warner. Senator Koch.

SENATOR KOCH: I would like to have a record vote on that.

SPEAKER MARVEL: Okay, a record vote has been requested. Record.

CLERK: (Record vote read. See page 2213, Legislative Journal.) 11 ayes, 32 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: Motion lost. All legislators please return to your seats so we can continue with Final Reading. The Clerk will read LB 506 on Final Reading.

CLERK: (Read LB 506 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 506. Have you all voted? Record the vote.

May 22, 1981

LB 506, 506A, 472A

CLERK: (Record vote read. See page 2214, Legislative Journal.) 39 ayes, 6 nays, 3 excused and not voting, Mr. President, 1 present and not voting.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read LB 506A on Final Reading.

CLERK: (Read LB 506A on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading? Those in favor vote aye, opposed vote no. 506A. Record the vote.

CLERK: (Record vote read. See page 2215, Legislative Journal.) 40 ayes, 5 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Senator Hoagland.

CLERK: Mr. President, with respect to 472, Senator Hoagland has a motion on 472A, to suspend Rule 4, Section 12, and withdraw the bill today.

SENATOR HOAGLAND: Mr. Speaker and colleagues, there is no need for the A bill on this matter in light of the fact that we passed the risk management bill yesterday. I think we should go ahead and pass the general authorization bill, 472, but in view of the fact we passed the risk management bill and the prospects are good that the Governor will sign that bill, there is no need to pass the A bill, so I would move to suspend the rules at this time and then move, simultaneously move to withdraw the A bill.

SPEAKER MARVEL: Okay, the motion is the suspension of the rules in order to withdraw 472A. Senator DeCamp. Senator Hoagland, Senator DeCamp has a question. Okay, we have a motion. What is your pleasure? Senator Carsten.

SENATOR CARSTEN: Mr. President, a question for information from the Chair. To withdraw a bill, you don't need to suspend the rules. Can't you do that by unanimous consent? It has to lay over if you move, right?

SPEAKER MARVEL: Suspending the rules rather than laying the bill over for a day otherwise 472 can't be considered. Okay, the motion before the House is the suspension of the rules. It requires 30 votes. All those in favor vote aye, opposed vote no. Record the vote.

May 22, 1981

LB 243, 316, 472,
506, 506A

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record your presence please. Some of you haven't recorded your presence. Would you please record so we can proceed? Senator Schmit, do you want to record your presence please? Senator Burrows, do you want to record your presence? Okay, record.

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

SPEAKER MARVEL: Okay, Mr. Clerk. (Gavel.) We are ready for the Haberman amendment to 243. While the Legislature is in session and capable of transacting business, I am about to sign and do sign reengrossed LB 316; engrossed LB 506; engrossed LB 506A; engrossed LB 472. Okay, ready.

CLERK: Mr. President, Senator Haberman has an amendment to LB 243.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, although there seems to be some Senators who are not listening, I will go ahead and explain the amendment anyway. This amendment says that the bill, 243, shall not apply to any project where construction bids were let prior to the effective date of this act which is to be funded in whole or in part from contributions by private individuals or organizations. That is all it says, any projects that have been started that are funded in whole or in part from contributions by private individuals or organizations. Now you may wonder why I am offering another amendment similar to the other one when I was beaten. The reason I am doing this is to see if some of those Senators who promised me to vote for the other one and changed their minds and/or didn't vote would like to change their ways and support the amendment. So there is no need arguing or trying to explain it. It pertains to the same thing but it just says where private or individual funds have been contributed. Thank you, Mr. President.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I was going to ask if this wasn't a reconsideration but Senator Haberman has just conceded that it is the same thing, it is a reconsideration, so I believe the motion is out of order and should be so ruled. He admitted it was a

May 22, 1981

LB 213, 234, 243, 16, 318,
394, 472, 506, 506A

CLERK: Mr. President, Senator Maresh would move to reconsider the body's action in their failure to pass LB 394 on Final Reading. That will be laid over.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor at 2:10 p.m. the bills that we read on Final Reading this morning. (Re. LB 316, 506, 506A, 472.)

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 213 and find the same correctly engrossed; 234 correctly engrossed; 318 correctly engrossed, all signed, Senator Kilgarin.

SPEAKER MARVEL: Senator Schmit, for what purpose do you arise?

SENATOR SCHMIT: Mr. President, have we had the reading of the vote yet? Have you read those who have voted?

SPEAKER MARVEL: Sorry. Say it again.

SENATOR SCHMIT: Has the Clerk read the report of those who have voted yet?

SPEAKER MARVEL: Yes.

SENATOR SCHMIT: Did you read the names? I'm sorry if I missed it.

SPEAKER MARVEL: Which names are you talking about? You mean a roll call vote? I don't understand your question.

SENATOR SCHMIT: Well the usual procedure I believe is to read those who have voted aye and those who have voted nay. As I understand, Senator Warner indicated that he had voted aye and he is not recorded as having voted and I would like to have the record read as we usually do.

SPEAKER MARVEL: Mr. Clerk, do you have the record?

CLERK: Mr. President, the vote on the advancement of 243 was as follows: (Read record vote again as found on page 2224 of the Legislative Journal.)

SPEAKER MARVEL: Senator Warner, for what purpose do you arise?

SENATOR WARNER: Mr. President, is it in order for me to move to reconsider as shown as having not voted? Pat could

LR 146, 180, 188, 189,
191, 194-196

LB 111, 118, 138, 213, 216,
320, 472, 506, 506A, 512,
523, 551, 556, 556A

May 29, 1981

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend John Schmeltzer, Associate Pastor of First Plymouth Congregational Church here in Lincoln.

REVEREND SCHMELTZER: Prayer offered.

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

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

PRESIDENT: A quorum being present, are there any corrections to the Journal.

CLERK: One little one, Mr. President, on page 2378, insert the contents of LR 194.

PRESIDENT: All right, the Journal will stand published as corrected. Any messages, reports or announcements?

CLERK: Mr. President, I have a series of items. Mr. President, I have several communications from the Governor addressed to the Clerk. (Read. Re.: LB 320, 472, 111, 118, 213, 216, 512, 523, 551, 553, 554, 556, 556A, LB 138, LB 506. See pages 2383-2384.)

Mr. President, I have a veto message from the Governor. (Read. Re.: LB 506A. See page 2385 of the Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Beutler regarding LB 321; an opinion addressed to Senator Hoagland on LB 213. See pages 2385-2387 of the Journal.)

Mr. President, new resolutions, LR 195 by Senator Koch. (Read. See page 2387-2388.) And Mr. President, LR 196 offered by Senators Wesely, Hoagland, Fowler and Beutler. (Read. See pages 2388-2389.) Mr. President, finally LRs 146, 180, 188, 189, 191 and 194 are all ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 146, LR 180, LR 188, LR 189, LR 191, LR 194. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: We will proceed then with agenda item #4, Final Reading on this final day of the 87th Legislature, first session. The Sergeant at Arms will secure the Chamber.