

January 9, 1981

PRESIDENT: Will there be further discussion on LR 1. Senator Landis, you may close. No close, all right. The question before the House is the adoption of LR 1 found on page 82 of the Journal. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record the vote, Mr. Clerk.

CLERK: 30 ayes, 1 nay on adoption of the resolution, Mr. President.

PRESIDENT: The motion carries. The resolution, LR 1, is adopted. Anything further, Mr. Clerk, before we ...?

CLERK: Mr. President, yes, sir, I have a new resolution offered by Senators Goll and DeCamp. (Read LR 2 as found on pages 96-97 of the Legislative Journal.) Mr. President, pursuant to our rules, that resolution will be laid over.

PRESIDENT: We are ready then for the introduction of new bills. I would hope that all of you who have bills ready for introduction will get them up to the Clerk's desk so that we can expedite the reading in and introduction of new bills. Proceed, Mr. Clerk, with the reading of the new bills.

CLERK: Read LB 52-60 by title for the first time as found on pages 97-98.

Mr. President, if I could interrupt for just a moment, Senator Landis would like to have a meeting of the Urban Affairs Committee underneath the North balcony now for purposes of organizing, Urban Affairs Committee under the North balcony right now, Mr. President.

Read LB 61-65 by title for the first time as found on page 99 of the Legislative Journal.

Mr. President, Senator Lamb would like to have the Reference Committee of the Executive Board meet underneath the North balcony right now, that is Executive Board underneath the North balcony.

Read LB 66-67 as found on pages 99-100 of the Legislative Journal.

Mr. President, the Reference Committee would like to meet in the area where Senator Lamb is standing for purposes of referencing bills, Reference Committee over in the area where Senator Lamb is.

Read LB 68 by title for the first time as found on page 100 of the Legislative Journal.

February 11, 1981

LB 54, 110, 154, 205,  
275, 288, 409, 459.

SPEAKER MARVEL: Four excused. Have you all voted?  
Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I guess numerically it  
is possible so I will ask for a Call of the House and  
a roll call vote, unless a couple of people would like  
to.....okay, I give up.

SPEAKER MARVEL: Okay, record the vote.

CLERK: 17 ayes, 22 nays, Mr. President. I have nothing  
further on the bill, Mr. President.

SPEAKER MARVEL: Senator Schmit. Senator Schmit, we  
are about to close up shop for noon. Your light is on.  
Senator Wagner, do you wish to close on your bill?

SENATOR WAGNER: Mr. Speaker, I think enough has been  
said. I would just kind of like to move the bill and  
make it go on. Thank you.

SPEAKER MARVEL: Senator Schmit, did you wish the floor?  
The motion is the adoption of the Wagner...let's see,  
LB 110 as amended. All those in favor of that motion  
vote aye, opposed vote no. This is the advancement of  
the bill. Have you all voted? Record the vote.

CLERK: 29 ayes, 5 nays, Mr. President, on the motion  
to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is  
advanced. Do you have some items to read in?

CLERK: Yes, sir. Mr. President, your committee on  
Retirement Systems whose Chairman is Senator Fowler  
instructs me to report LB 288 to General File with  
amendments. (Signed) Senator Fowler. (See pages 503  
and 504 of the Legislative Journal.)

Your Committee on Banking whose Chairman is Senator  
DeCamp instructs me to report 275 to General File.  
Retirement reports 459 to General File with amendments.  
Banking, 154 to General File with amendments. Banking,  
409 to General File with amendments. Judiciary, LB 54  
to General File with amendments, and Judiciary, 205  
to General File with amendments. Signed by the res-  
pective Chairs. (See pages 504 through 507 of the  
Legislative Journal.)

Mr. President, Senator Warner wants to note that the

that they hear of them and there goes a thousand or two thousand dollars. This is unfortunately too common a practice and especially in the rural areas of the state where we have had a lot of farmers in western Nebraska in particular who have fallen prey to this practice and this bill would not allow any further the opportunity for these people to get a front end fee without delivering for their services. We still, with the amendments from the committee, would not harm those people, that loan broker out of banks or real estate companies or what have you, so there is no problem there and the bill is supported by now those individuals that are concerned, the banking interests, the real estate interests and what have you that were concerned about the fact that they were already being regulated. In the packet of materials which I sent to you there is a letter from Dave Pierson from the Realtors Association endorsing the bill which is an indication of that support. Also in that packet of materials is a memorandum from Barry Lake in the Banking Department. The Banking Department has been receiving a lot of complaints about this practice and this memorandum will give to you an idea of exactly what the problem is and how it has been abused and why there is a need for a change. The Department of Banking does strongly support this bill as does the Attorney General's Office of Consumer Affairs. The third page of the packet of materials has a headline which says, "Be Careful About Paying an Advance Fee for Loans." What I would like to say to you is that with your support of LB 154, no longer will we have to resort to articles like this in hopes that people will not be bilked by these practices. We will forever eliminate this practice and the abuse that has resulted from it from the State of Nebraska with the passage of the bill and I think that I can say no more than that the passage of the bill is important and your support would be appreciated.

**SPEAKER MARVEL:** The motion is the advancement of LB 154 as amended. Is this a good bill, Senator Wesely?

**SENATOR WESELY:** It is all right.

**SPEAKER MARVEL:** All those in favor of advancing the bill vote aye, opposed vote no. Record the vote.

**CLERK:** 28 ayes, 0 nays on the motion to advance the bill, Mr. President.

**SPEAKER MARVEL:** The motion is carried and the bill is advanced. We are going to pass over 409 and go to LB 54.

CLERK: Mr. President, LB 54 was introduced by Senator John DeCamp. (Title read.) The bill was read on January 9. It was referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, this particular proposal or variations of it have been before the Legislature for just about more years than any legislator with the possible exception of Senator Marvel. What we are talking about here is the repeal of what is known as the "guest statute". So first of all, what is the guest statute? Well let me use an example and then explain a little more detail. This is an honest example, an actual example and the Judiciary Committee met the principles in it. The girl that testified before the Judiciary was a blind girl who not too many years ago climbed into a car that she normally always rides to school or wherever. The driver happened to be a different one than the normal driver. It was a brother or cousin or friend or whatever. They took off in what turned out to be a blinding snowstorm and somewhere between Beatrice and here the driver attempted to pass a big semi going up a hill at an excessive rate of speed in a blinding snowstorm and he hit head on another vehicle and the girl was one of the seriously injured ones. Others were killed. She received about every injury possible and one of them resulted in her being blind. Though she had in excess of \$50,000 so far in just medical expenses, she has yet to collect the first penny from the insurer of that car and that is the state of the law in this state and about four other states in the United States at this time. It is something called the guest statute and it is a fact not known by probably 1% or maybe even one-tenth of 1% of the population. It means that when Senator Haberman and I walk out of this building and I climb into his car to drive over to the Nebraska Club or wherever and Senator Haberman runs a red light, goes at an excessive rate of speed, does any other wild acts of negligence and injures me, I can't collect a thing because I am a guest and the law says that a guest in the car, which amounts to just about everybody who is riding in a car, a guest cannot collect damages except for something called gross negligence. Gross negligence has been defined by our Supreme Court as being essentially a complete and total lack of even a slight amount of care. The guest statutes were written into the state laws of almost all the states, some forty or more, back in the depression. The insurance companies

were very strong at that time. They didn't want to pay claims for whatever reasons and they were able to get through into law a provision that said guests were not allowed to collect damages for injuries done to them except for gross negligence. Almost all those states that put it in during that time, including Connecticut, the insurance capital of the United States, have repealed their guest statutes as being unconscionable, improper, wrong and unfair. This year, working with the insurance industry and the various others involved in the legislation, we have fashioned what I hope will be acceptable to the body and has been accepted by the insurance industry for the first time, a proposal to repeal the guest statute in about 90% of the cases. The committee amendments make it so that in cases of certain relationships, and I can be more specific on that, it would be like grandmother, grandfather, daughters, sisters, this kind of thing, it would not apply, but to the general public or 90% of the cases, it would indeed apply and we would be repealing this guest statute. So, I would urge adoption of the committee amendments and then I would urge you to advance the bill to Select File and I will repeat, this has been attempted in here I guess twenty-six separate times under one form or another. It has always failed. I promised I would make a very strong attempt this year and try to work out something, working with the insurance industry. They have agreed this year to accept this repeal. I urge adoption of the committee amendments.

**SPEAKER MARVEL:** Before we proceed, underneath the South balcony it is my privilege to introduce Mike and Donna Peterson, the son and daughter-in-law of Senator and Mrs. Richard Peterson. Will you please stand so we can say good morning to you. Senator Haberman.

**SENATOR HABERMAN:** Mr. President, members of the Unicameral, may I have a question of Senator DeCamp? Senator DeCamp, the opponents who appeared against the bill are now in favor of the bill? Is this what you said, the Nebraska Insurance....(interruption)

**SENATOR DeCAMP:** I don't think that is a completely accurate statement. The opponents of the bill have withdrawn their opposition. I think that is a fair statement. That they would ever be in favor of it, I think is really pushing the matter too far. They are neutral, let's say.

**SENATOR HABERMAN:** It would sure be and, thank you, it would be interesting, that is all the questions I have, to know how you got to be, them to be neutral, but that is another thing...

**SENATOR DeCAMP:** That....

SENATOR HABERMAN: Now, just a minute, I didn't ask you a question, Senator DeCamp. I have been told that this has been called the trial attorneys retirement bill, that there will be so many law cases, that you won't be able to keep up with them, what this is going to do to car pools, what is this going to do with people who pick up the elderly and take them downtown shopping or take them to another down for dentists or take them down to get their mail. Why was this, I wonder, fellow senators, taken out of the Insurance, Banking and Commerce Committee and put over into Judiciary? Maybe that is because it could not get out of the Insurance, Banking and Commerce Committee so they decided to try a different committee this year and when we have here, Nebraska Insurance Information Service, Lincoln attorney, Farmer's Mutual Insurance Industry, American Insurance Association, Manager of City of Lincoln, when all of these people oppose it, it doesn't look too good to me. There is Larry Frazier and Ted Frazier and the proponents are trial attorneys that want this bill. So that just kind of substantiates, keep your notes there, John, that this is the trial attorneys bill. So I would have to say that I have heard no hue and cry to change this. As you said before, John, it has been tried and tried and tried and it can't get passed but now that you have got everybody silenced maybe this is the year. So I say to you, senators, beware, watch what you are doing. We've gotten along with the guest statute just fine. Let's leave it the way it is. Why fix something that isn't broke? I have laid myself open to some good questions now and I feel it coming from Senator DeCamp but I am a big boy. So I just ask you to oppose LB 54 and the amendments. Thank you.

SPEAKER MARVEL: Senator Kremer.

SENATOR KREMER: Mr. Chairman, a question of Senator DeCamp.

SENATOR DeCAMP: Yes, sir.

SENATOR KREMER: Senator DeCamp, as you have said, this issue has been before us for many, many years and as you well know I have always opposed it and I'm not saying I am going to now but I would like to draw an analogy like you quite frequently do and I will say, well, Johnny, I am really hard up and I assume you are too. Maybe we both are really. And I will say, Johnny, let's get in your car and we will take a little spin around the section and we will set up a little accident of some kind and boy, I am going to get it in the neck and I am going to have a pain in my neck for the next forty years, and unless I collect a considerable amount of money, that I have sustained an injury that may be permanent and it causes me to not being able to carry out my responsibilities. What kind

of protection do we have for that kind of a thing, John?

SENATOR DeCAMP: Okay, Senator Kremer, what you have raised was one of the major objections always raised to the bill and that was that it would provide or allow collusion. As a practical matter, quite the opposite is true. In other words, to presume that you are going to go out and injure yourself deliberately, wreck a car, to set up a potential insurance claim really almost is ridiculous with the standards that are in existence today of investigation by the police, investigation by the insurance company, the litigation process but more important than all these, which is just conversation, is the experience of all the states that have repealed it which gets to some of the questions that Senator Haberman raised for example. Florida repealed the guest statute. They have the largest amount of car pools, transportation of the elderly of any state in the United States. Repeal of the guest statute has made their system function better. From their Insurance Commissioner we have letters that show no insurance cost increases and, in fact, a system of less rather than more litigation.

SENATOR KREMER: Senator DeCamp, why then was the family taken out? Why the compromise?

SENATOR DeCAMP: Because to remove even the vestige of a possibility of say, alleged collusion, between a father and a daughter or whatever, I accepted that as the compromise necessary to sell the insurance companies or one of the many elements I utilized in dealing with the insurance companies because that was the necessary final piece, very simply.

SENATOR KREMER: Now you have sold to insurance companies? I mean they have accepted it?

SENATOR DeCAMP: Yes, they have, sir.

SENATOR KREMER: They have.

SENATOR DeCAMP: I am not saying they did it eagerly but I am saying they have accepted it.

SENATOR KREMER: Okay, Senator DeCamp, with the cattle market coming down I may arrange something like this with you. Okay?

SENATOR DeCAMP: Pardon?

SENATOR KREMER: If the cattle market keeps coming down I may arrange some little trip around the section with you.

SENATOR DeCAMP: If the cattle market keeps going down, I will go around the section with you.

SENATOR KREMER: Thank you.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I wonder if Senator Haberman is in the Chamber and if he might yield to a couple of questions since he volunteered to do that a second ago?

SPEAKER MARVEL: Is Senator Haberman in the room? There he is. Senator Haberman, Senator Cullan has a question. Do you yield?

SENATOR HABERMAN: Yes.

SENATOR CULLAN: Senator Haberman, I appreciate the fact that you have been on the Banking, Commerce and Insurance Committee and that you have a good understanding of this issue. Since you volunteered to respond to a couple questions I thought I might be willing to, thought I might take you up on that request. Senator, could you tell me what really is negligence? Because it appears to me that the real issue here is what is the difference between negligence and what is the difference between gross negligence? Now I wonder if you could tell me, Senator Haberman, what really is negligence?

SENATOR HABERMAN: Senator Cullan, I see that you are putting part of your law education to work and being not a lawyer, I would say that that is an arguable definition. Some courts would say negligence is one thing and some courts would say negligence is another and I cannot answer your question as what is negligence, but I can answer what is gross negligence.

SENATOR CULLAN: Okay, so you are really not sure what the definition of negligence is?

SENATOR HABERMAN: Nope.

SENATOR CULLAN: Just for your own benefit, a common accepted definition of negligence, although it is often a question of fact as to whether a specific incident is negligence or not, that is a question for the jury to determine, but a general definition of negligence is what an ordinarily reasonable, prudent person would do under like circumstances. What then, Senator Haberman, is gross negligence?

SENATOR HABERMAN: Well the way it has been explained to me, gross negligence is that you have to be intoxicated and you can't hardly ever prove gross negligence. That is why they



wish to remove it from the bill, however, when you go to court on a negligence matter, I believe the judge could rule, different judges would rule different ways or you wouldn't have a court case on negligence. Is that correct, Senator Cullan?

SENATOR CULLAN: I guess I don't understand your question. I am just trying to get at what the distinction is between negligence and gross negligence and I think you probably answered my question very well and I appreciate that. You said it is almost, using your own words, it is almost impossible to prove gross negligence. Senator Haberman, would you consider an individual who is violating the law who ran a red light while speeding and that results in an accident that severely injured another person, considering the fact that this individual violated two laws, would you consider that gross negligence?

SENATOR HABERMAN: Where they deliberately ran a stoplight?

SENATOR CULLAN: An individual ran a stoplight and the individual was speeding and that resulted in an individual being very severely injured, a passenger, being very severely injured. Do you think violating those two laws is enough to constitute gross negligence?

SENATOR HABERMAN: Well, personally I would have to say so. What the court would say, that is something else.

SENATOR CULLAN: Okay, thank you, Senator Haberman. I appreciate that. Senator Haberman just tells us that he thinks violating two different laws is an example of gross negligence but there have been decisions which indicate that running a red light while speeding is not gross negligence. So you can see that Senator Haberman is correct to this extent. It is very, very difficult to prove gross negligence. I think this is a very simple fundamental question. What is negligence? Negligence is a failure to meet a standard of what an ordinary reasonable prudent person would do under like circumstances. I don't think it is too much to ask the drivers of this State of Nebraska to be liable financially if they fail to meet that standard, if they fail to do what an ordinary reasonable prudent person would do. That is really the issue and to set up a standard that Senator Haberman just admitted a couple moments ago is simply impossible to meet, it is just ridiculous. If we are going to have protection for the public it appears that the negligence standard is a reasonable one and I would hope that you would reject Senator Haberman's arguments because as you can really tell, he really hasn't, apparent to me at least, he hasn't given the human side of this much thought at all.

He has just looked at how the dollar is affecting insurance company and consumers and I think we need to be concerned about the person that is injured and I don't think it is too much to ask drivers to exercise reasonable caution and to hold them liable when they fail.

SPEAKER MARVEL: Before we continue, it is my privilege to introduce to the Legislature, under the South balcony, from Washington, D.C., Dr. Marlene Young-Rifai who is the president of the National Organization for Victims' Assistance and Mrs. Shirley Cooley of Lincoln, Nebraska, who is on the board of the National Organization for Victim's Assistance. Will you ladies please stand so we may say good morning to you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I wish Senator Haberman had been at the committee hearing for this bill although it may not have impacted on his mind, but there was a young woman who was blind. She was in an accident. The car was driven by a friend of hers. He tried to go around the truck and another car happened to be coming in the other lane and there was a collision. She had multiple fractures, her pelvis, her arms, lacerations and she is now totally blind. The young man had insurance. He wanted to be responsible for that accident but because of the guest statute, and she had not paid him to give her a ride, there was no way that his insurance could cover that injury. So, her father had to pay, I think, over \$50,000 out of his pocket and they are probably still in debt now and there are ongoing expenses. People buy insurance to cover accidents to pay the damages from those accidents. It shouldn't matter, the circumstances of the individual in the car whether the person is paid or not, when we are talking about private individuals. Now, this bill I think is very reasonable because if it is passed it is not going to raise insurance rates. I went through this with the insurance company last year, and whenever I begin to interrogate them and ask for specifics, do you know what they will wind up saying? That is an actuarial problem and we are not able to determine specifically at this time the answers to the questions you are asking. However, prior to my putting specific questions to them they will say it is going to raise rates by 12%, by 7% and I tell them percentages don't mean anything. Tell me how you arrive at it and they can't. And in other states it has been demonstrated that the rise in rates, if any occurs, is negligible. In other states there has been no increase in rates. It is a vestige from the past which ought to be done away with. Not only do most people have auto insurance now but some people are trying to get bills through various legislatures requiring insurance of certain varieties as a condition to having a license. Now when Senator Kremer mentioned collusion,

I think, Senator Kremer, any situation where insurance is involved there can be collusion so why should we pick out the one where somebody can suffer a devastating personal injury and say there can be no coverage because of the possibility of collusion, yet where property damage is involved, nobody talks about that. This is a matter of the insurance companies saying that no inch of territory that we have already gained will we give up no matter how many arguments or how much equity would justify changing the law from what it is. So, I think this bill ought to pass. The only thing I am concerned about is that family members are excluded. Family members are the ones you might be most likely to have in the automobile with you. I have a ten year old son. What I have got to do is tell David, David, give me a dollar every time I drive you to Lincoln and you have got to understand, when you give me this dollar, you are paying me to drive you to Lincoln. And David is going to look at me like I am crazy because I don't make him pay me for anything. And he will say, why? I will say so if I run into one of these trucks or one of these trucks runs into me and you have to go to the hospital, then the insurance that I pay for will cover your injury. That would be hard for him to understand but this is the kind of turn we are trying to reduce people to. Senator Kremer, don't worry about collusion. Look at me and you have known me for eleven years now and you have seen my children here on various occasions. Do you think, and I want to personalize this as various senators will do, that I would have my child tell a lie so that we could recover some insurance from an insurance company? If he got a fractured skull, how can I fake it? I don't have that kind of ability and I certainly wouldn't strike my child on the head with a hammer, then lay him out in the car and then run the car into a tree so that he can get some insurance money. I want my children healthy. I want the people who mean something to me to be in good health. If paying insurance had some magical ability to prevent accidents then I would pay insurance, not only what I am paying now but even more. I think all of rationality cries out that this bill be passed. Remember the states that originally brought up this vicious idea at the instigation and under the pommeling of greedy, grasping, conscienceless insurance companies, have come back to sanity and rejected those kind of inhumane, unjust propositions. Nebraskans like to ask, how many other states have done this?

SPEAKER MARVEL: You have thirty seconds.

SENATOR CHAMBERS: Most other states don't have this type of anachronism on the books. I would rather see Senator Peterson's creationism bill than this one because at least his bill would

not result in people who are seriously injured being unable to recover from the insurance that we pay to have in just such contingencies. I am for the bill.

SPEAKER MARVEL: There are twelve students from Sacred Heart in Lincoln, Nebraska, up in the North balcony and their teacher is Kay Kletchka. Will you raise your hands and show us where you are so we can say good morning. Senator Haberman and then Senator Sieck.

SENATOR HABERMAN: Mr. President, members of the Legislature, will Senator Cullan please yield to a question?

SENATOR CULLAN: Go ahead, Senator Haberman.

SENATOR HABERMAN: Senator Cullan, if we pass this bill and there are accidents or an accident, is it a possibility, a great possibility that it will have to go to court to prove negligence?

SENATOR CULLAN: Senator, you always have to go to court to prove negligence.

SENATOR HABERMAN: Fine, and there is a possibility that there is a difference the way some courts would rule or juries and the way some other courts and juries would rule. Is that correct?

SENATOR CULLAN: I can't understand your question. Of course, in response...(interruption.)

SENATOR HABERMAN: Negligence cannot be defined so that it is accepted by all juries and all judges. You would have a court trial or a settlement in case of most of the accidents. Is this a possibility, yes or no?

SENATOR CULLAN: Well, Senator, most, as I understand it...

SENATOR HABERMAN: Is this a possibility, Senator Cullan, or isn't it?

SENATOR CULLAN: It is a question of fact as to whether there is negligence but most issues are settled out of court.

SENATOR HABERMAN: Now, Senator Cullan, to your experience or to your knowledge, are most of these cases taken on a percent of the settlement or are they taken on a flat fee?

SENATOR CULLAN: I would think that most are taken on a percentage settlement on a contingency basis.

SENATOR HABERMAN: Okay, thank you very much. Senator DeCamp, would you yield to a question?

SENATOR DeCAMP: Sure.

SENATOR HABERMAN: Is this going to raise insurance rates in the State of Nebraska?

SENATOR DeCAMP: Well, that is a good question, Senator Haberman.

SENATOR HABERMAN: Yes or no, please.

SENATOR DeCAMP: I won't answer yes or no.

SENATOR HABERMAN: Okay, will you answer another question? Do they have higher insurance rates in Missouri than we do where they have no guest statute?

SENATOR DeCAMP: If he wants answers to the questions, I will be happy to answer the questions. If he wants to play games about yes or no, up and down, this kind of stuff, he can talk to somebody else.

SENATOR HABERMAN: Okay, I will answer a question and then I will ask you a question. They do have higher insurance in Missouri because they have guest statutes.

SENATOR DeCAMP: That is an absolute lie.

SENATOR HABERMAN: The question is this, will this raise our insurance? I will listen to your explanation.

SENATOR DeCAMP: The guest statute has been repealed in state after state. Had you taken the time to come to the hearing on this, had you also taken the time when you were on the committee to look at the interim studies, you would have learned that claim after claim by insurance company that this was going to increase the rates was completely disproved once the guest statute was repealed. We had letter after letter from commissioner after commissioner and state after state completely rejecting that but let us accept the fact that it could raise rates. What we are talking about is about five dollars by the testimony of the insurance companies themselves on a policy in a year to provide coverage that should be there.

SENATOR HABERMAN: Thank you, Senator DeCamp. I went out and talked to one of the insurance representatives, Mr. Prazier, and it is true. They are not actively fighting the bill so under those conditions, I will support the amendment and the bill.

SPEAKER MARVEL: Senator Higgins. Senator Higgins is not present. Senator DeCamp, do you wish to close now?

SENATOR DeCAMP: Mr. President and members of the Legislature, I want to tell you just briefly how serious this bill is and how significant it is. First of all, I realize I could have never passed the bill with all the effort in the world unless I faced up to the fact that the insurance companies are going to call the shots. They have always won on this particular issue. It has been their prime issue over the years and I was convinced they would continue to win. For that reason I spent the last six or eight months in very intense negotiations with them trying to document in every way possible why this is fair and why they should go along with it. You cannot doubt that they finally went along with it unless they sincerely believed and had proved to them that it was fair and good and that it wasn't going to be as costly as everybody claimed. That they have withdrawn their opposition, that they have accepted this form is as Senator Haberman indicates, extremely significant because he was ready to listen to them completely on the other side. I repeat, not one of the senators in here probably really realizes the significance of this whole picture, including myself, until you can see additional evidence which unfortunately I cannot present on the floor. We do have a video tape of the hearing on this particular bill. I would specifically make my office available, the video tape machine there for any senator or senators at any time that want to watch this particular hearing and the most important parts of it. When you listen and learn exactly how this particular law functions and how it has been abused, you have to declare yourself, it is an unfair law, it is an unknown law, it should be repealed and we should have a system of insurance exactly as the public out there thinks does exist. I urge you to adopt the committee amendment and then advance the bill.

SPEAKER MARVEL: Okay, now the Chair got a little bit ahead of himself. So, I will recognize, first of all, Senator Higgins and then Senator Sieck and then Senator Nichol and then Senator DeCamp to close. So, Senator Higgins, do you wish to be recognized on the bill?

SENATOR HIGGINS: Mr. President and Senators, I have been a licensed real estate...excuse me. I was a real estate agent at one time but I have been a licensed insurance agent for fifteen years and I think something that you are not thinking about on this bill is that many insurance companies when they allow you to buy medical insurance on your automobile policy, a lot of times they won't allow you more than five

hundred dollars coverage on a teenager and if you think about your teenagers getting in a car and driving around after a party and you don't know who they are with and there is a terrible accident, because your children are in that car with someone driving whom you don't know, under our present law, you would not be able to sue for damages. Now I know as an insurance agent I ought to be against this bill but I think this is a good bill because I have seen too many claims where people were injured and they did not have enough money to take care of the injuries to their children. They did not work for employers that offered group insurance that would take care of such large claims and usually your biggest medical claims come from automobile accidents, and when you get into the idea of collusion, Senator Chambers made a good point that if he had his own child in the car, he would not ever endanger his child's life. But let me tell you about the cases where there are adults who have relatives in the car and they have a minor fender bender and then they get to thinking, hey, how much insurance have you got? Well, listen, I can always say I got a backache. They can't ever prove, you know, back problems so why don't I sue you and we will split whatever I get and you will have to testify at the hearing that, yes, you were a little bit negligent. Believe me, collusion does occur very often in insurance claims and it isn't easy for an insurance company to prove it. So, sticking my neck way out as an insurance agent, I have to say as an individual, I am going to support this bill because I think it is good for the people in my district. Thank you, Mr. President.

**SPEAKER MARVEL:** Senator Sieck.

**SENATOR SIECK:** Mr. Chairman, members of the body, I was proud to be on the Judiciary Committee to be able to get this bill out of committee. It was a pleasure for me and I think it was my actions that did get this bill out of committee. I took some research on this particular bill and I found that several states around Nebraska do have the guest liability or guest statute repealed and in every state that I have contacted the insurance rate went up very, very minor that they can't hardly tell whether it is inflation or whether it was because of the repeal of the guest statute. So I can say and I can read you several topics and several letters that I have received but I do feel that we have spent enough time on this bill and that we need to advance it forward. I vote for the committee amendment. Thank you.

**SPEAKER MARVEL:** Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, I just want to say a thing or two on the amendment, not on the bill, but on the amendment. Up until this year we have been unable to get out a guest statute bill or if we have it was killed on the floor murderously at the very beginning. What was the reason for it? I think that the reason for it was that we had wife suing husband or vice versa, parents suing children or children suing parent, grandparents suing son or daughter or grandchildren suing grandpa and so forth. So, what has happened this year in regard to consanguinity we have said, husband and wife, you are not covered against each other and we have stipulated as to what, who the people are who cannot sue and those people are these: The parents of a driver, the grandparents, the children, the grandchildren and the brothers and sisters. Beyond that, yes, they can sue under the ordinary negligent portion of the law and recover. Beyond that, those that I have named would have to prove gross negligence or intoxication to recover. Now may I say this, I think that up until this year most of the people in the State of Nebraska thought that they were covered by merely proving ordinary negligence for passengers in their car or the negligence that passengers must prove in behalf of the driver and it is amazing how many people have come forward this year thinking and saying, I thought I have always been covered. As far as the increase in premium, yes, there will be an increase in premium. How much is it? Nobody knows. The insurance companies operate on spread of risk of course and their experience would dictate after a year or two how much they should raise their premium. The insurance companies are not allowed to lose money in the State of Nebraska. They should make a little money, at least a little, and we don't want a company operating that loses money. So they would figure it out actuarially as to what the premium would be. Senator DeCamp offered a figure of five dollars. Perhaps this is in the realm of reasonableness and I think it would be. So, I do support the amendment to the bill.

SPEAKER MARVEL: Senator Koch. Is Senator Koch in the room? Senator Hoagland. The question has been called for. Do I see five hands? Okay. Shall debate cease? All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 29 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Okay, debate ceases. Senator Nichol, do you want to handle the committee amendments? Close on them.

SENATOR NICHOL: Mr. Chairman, I think we pretty well handled it. I would suggest that my last was my closing.



SPEAKER MARVEL: All those in favor of the committee amendments to LB 54 vote aye, opposed vote no. Record.

CLERK: 34 ayes, 0 nays on adoption of committee amendments, Mr. President.

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

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

SPEAKER MARVEL: The motion is to advance LB 54 to E & R for review. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 36 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. LB 205.

CLERK: Mr. President, LB 205 was introduced by Senator Dave Newell. (Title read.) The bill was read on January 15. It was referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, this just tightens up as to who the authorized arson investigators are. I move for the adoption of the committee amendment.

SPEAKER MARVEL: Senator Chambers, do you want to speak to the committee amendments? Okay. The motion is the adoption of the committee amendments to LB 205. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 31 ayes, 0 nays on adoption of committee amendments, Mr. President.

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, LB 205 is a bill that authorizes arson investigators in the cities of metropolitan class or Omaha to have the authority to make arrests, carry weapons and allowed subpoena powers. As we all know there is a great problem with arson especially in our large urban centers. There has been a number of news articles and television clips in recent months and years indicating the problem with arson. This bill authorizes

February 26, 1981

LB 54, 150, 154, 274,  
275, 288, 329, 459

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Pastor Roland Hanselmann of Southwood Lutheran here in Lincoln.

PASTOR HANSELMANN: Prayer offered.

PRESIDENT: Roll call.

CLERK: Mr. President, Senator Beutler and Senator Vard Johnson until they arrive. Senator Fitzgerald would like to be excused for the day. Mr. President, Senator Sieck and Pirsch would like to be excused until they arrive.

PRESIDENT: Have you all registered your presence?

CLERK: Mr. President, Senator Labedz would like to be excused until she arrives.

PRESIDENT: Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

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

CLERK: Mr. President, I have no corrections this morning.

PRESIDENT: The Journal stands correct as published. Are there any messages, reports or announcements?

CLERK: Yes, Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 150 and recommend that same be placed on Select File with amendments; 288 Select File with amendments; 275 Select File; 459 Select File with amendments; 154 Select File with amendments; 54 Select File, (Signed) Senator Kilgarin, Chair. (See pages 672-673 of the Legislative Journal.)

Mr. President, your committee on Banking whose chairman is Senator DeCamp to whom is referred LB 329 reports the same back to the Legislature as advanced to General File and 274 General File with amendments. (See page 673.)

Mr. President, your committee on Revenue gives notice of executive session for Monday, March 2, from 12:00 until 1:30 p.m., (Signed) Senator Carsten, Chair.

Mr. President, LR 20 and 22 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable

March 2, 1981

LB 154, 54

Any discussion? All those in favor of adopting the E & R amendments on LB 154 signify by saying aye, opposed nay. The E & R amendments are adopted on LB 154. Senator Kilgarin.

SENATOR KILGARIN: I move LB 154 be advanced to E & R for engrossment.

PRESIDENT: Motion to advance LB 154 to E & R for engrossment. Any discussion? All those in favor of advancing LB 154 signify by saying aye, opposed nay. LB 154 is advanced to E & R for engrossment. LB 54.

SENATOR KILGARIN: I move LB 54 be advanced to E & R for engrossment.

PRESIDENT: Motion to advance LB 54 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 54 is advanced to E & R for engrossment. LB 205.

SENATOR KILGARIN: I move the E & R amendments to LB 205.

PRESIDENT: Do I understand you don't have it in your book? There is a continuation of Select File as listed on the work sheet is the way the agenda for today reads and that is why the Speaker requested that we continue with the list on the work sheet. Now there is a work sheet which would allow any bill on Select File to be treated, as I understand. Any bill that is on Select File can be taken up with that notation. Yes.

SENATOR LANDIS: (Microphone off) tomorrow morning at nine o'clock.

PRESIDENT: All right, it takes precedence. So the question is, and we will go to the board for this vote, all those in favor of adjourning until 9:00 a.m. tomorrow morning signify by voting aye, opposed nay. Record the vote.

CLERK: 17 ayes, 0 nays to adjourn, Mr. President.

PRESIDENT: Motion carries. We are adjourned until 9:00 a.m. tomorrow morning.

Edited by:

*Marilyn Zank*  
Marilyn Zank

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

March 3, 1981

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

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

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

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

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

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

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

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

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

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

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

SPEAKER MARVEL: The Chair recognizes Senator Fowler.

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

SPEAKER MARVEL: All those in favor of the Fowler amendment

March 10, 1981

LB 24, 38, 54, 275

Reading. As soon as all legislators are at their desks we will commence with Final Reading. If all legislators would get to their desks we will commence. We are waiting, valuable, valuable time. We are waiting for Final Reading, Senator. We want to get started. We've been too busy. All right then, Mr. Clerk, we will begin Final Reading with LB 24.

CLERK: (Read LB 24 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 24 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 824-825 of the Legislative Journal.) 39 ayes, 5 nays, 4 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 24 passes with the emergency clause attached. The Clerk will now read on Final Reading LB 38.

CLERK: (Read LB 38 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 38 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 824-825 of the Legislative Journal.) 37 ayes, 6 nays, 4 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 38 passes. The next bill on Final Reading, Mr. Clerk, LB 54.

CLERK: (Read LB 54 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 54 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 825-826 of the Legislative Journal.) 45 ayes, 0 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 54 passes. The next bill on Final Reading is LB 275, Mr. Clerk.

CLERK: (Read LB 275 on Final Reading.)

March 11, 1981

LB 4, 9, 22, 24, 34, 38,  
54, 124, 171, 178, 275,  
276, 288, 292, 345,  
368, 460, 475, 517

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Pastor David L. Erdman, Plains Baptist Church.

PASTOR ERDMAN: (Prayer offered.)

SPEAKER MARVEL: Record your presence.

CLERK: Mr. President, Senator Vard Johnson would like to be excused until he arrives; Senator Goll, Barrett and Waitala until they arrive.

SPEAKER MARVEL: Have you all recorded your presence? Record the vote. Yes. Senator Marsh, for what purpose?

SENATOR MARSH: I ask for this to be a recorded vote for those who are here at 9:05 a.m.

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

SPEAKER MARVEL: Do you have some items to read in?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 475 and recommend that same be placed on Select File with amendments; 171 Select File; 22 Select File with amendments. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Government reports 292 to General File with amendments; LB 460 to General File; LB 276 Indefinitely postponed; 517 Indefinitely postponed. (Signed) Senator DeCamp, Chair.

Mr. President, LB 288, 275, 54, 38, and 24 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 24, LB 38, LB 54, LB 275, LB 288.

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LB 9, 34, 124, 178 and 345.) (See page 844, Legislative Journal.)

Two Attorney General's opinions, a first to Senator Koch regarding LB 368. The second to Senator Beutler regarding LB 4. They also will be inserted in the Journal, Mr. President.

Finally, Mr. President, Senator Maresh asks unanimous consent

March 11, 1981

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

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

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

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

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

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

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

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

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

Senator Koch offers explanation of vote.

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

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

Senator Warner would like to print amendments to LB 198.

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

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

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

March 12, 1981

LB 54, 139

CLERK: Mr. President, communication from the Governor regarding a certain gubernatorial appointment. (See page 883 of the Legislative Journal.) A communique addressed to the Clerk. (Read communique as found on page 884 of the Legislative Journal regarding LB 54.)

Finally, Mr. President, your Committee on Banking reports LB 139 to General File with amendments. (See page 884 of the Legislative Journal.)