

March 2, 1981

LB 31, 33, 85, 96,
120, 434, 547.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: (Microphone not on.)

DR. ROBERT PALMER: Prayer offered.

PRESIDENT: Roll call. Senator Cope, will you push your button. Thank you. Now we're....record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal stands correct as published. Any other messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 434 and recommend that same be placed on Select File. (Signed) Senator Kilgarin, Chair.

Mr. President, communication from the Governor addressed to the Clerk. Engrossed LB 31, 33, 85, 96 and 120 were signed by me on February 27 and delivered to the Secretary of State. Sincerely, Charles Thone, Governor.

Mr. President, I have an Attorney General's Opinion addressed to Senator Vard Johnson. (See pages 701 and 702 of the Legislative Journal.)

PRESIDENT: We are waiting for someone from the Agriculture Committee, Senator Schmit or someone to take care of Agenda Item #3, Motions, motion to introduce a new bill. The Legislature will be at Ease until Senator Schmit gets here to handle the first item on the agenda.

EASE

PRESIDENT: The Chair recognizes Senator Schmit for purpose of introduction of a new bill.

SENATOR SCHMIT: Mr. President and members of the Legislature, I ask the body to consider the introduction of this bill by the Committee on Agriculture and Environment. The bill was introduced last session. It was heard. It was, I believe, four bills down on the worksheet for about

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LB 547

twenty-one or twenty-two days last session, but because of the pressure and the priority system it was never acted upon. It is a noncontroversial bill, but representatives of the food industry from the City of Omaha have asked that we reintroduce the bill. I did contact the Department prior to the deadline for introduction and at that time they said they had not been contacted by the industry. Later on the industry did come to them and ask that the bill be introduced. So we drew the bill. It has been recommended by the committee that we introduce it, and I now ask that you consider its introduction.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Senator Schmit, I would like to ask one quick question.

PRESIDENT: Senator Schmit, will you respond?

SENATOR SCHMIT: Yes.

SENATOR NEWELL: I just read from your statement of intent that this bill would consolidate all statutes relating to food service vending, processing, storage, salvage, retail food in Nebraska into the Nebraska Pure Food Act and to increase fees. Now the key and operative word there is "to increase fees", and I am just curious, how do you increase fees in a noncontroversial manner?

SENATOR SCHMIT: The industry, Senator Newell, which is heavily represented from your part of the state has agreed to the increase in fees and it increases the fee from, for example, for a license from \$15 to \$35 but it consolidates the licenses into a single license and does not indicate as large an increase as you would think.

SENATOR NEWELL: Senator Schmit, I....that industry is to a large extent from my district and I haven't had any contact from them on this issue and I guess I am totally unaware of it at this point and so I am going to trust you and vote for your proposal but I sure hope that my faith is well placed.

PRESIDENT: Any further discussion on the motion to introduce a new bill by the Agriculture Committee? If not, Senator Schmit, do you have any closing on your motion? No closing. The question before the House is the introduction of the new bill by the Agriculture Committee. This will require 30 votes. All those in favor vote aye,

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LB 9, 34, 110, 124, 178,
214, 345, 547

opposed nay. Record the vote.

CLERK: 31 ayes, 1 nay, Mr. President, on the motion to introduce the bill.

PRESIDENT: The motion carries. The bill may be introduced. Read the bill.

CLERK: Mr. President, LB 547 introduced by the Ag and Environment Committee. (Read LB 547 for the first time.)

PRESIDENT: Senator Landis, did you wish to....thank you. I thought you might want to speak. Ready for agenda item #5, Final Reading. The Sergeant at Arms will see that all unauthorized personnel are off the floor of the Legislature. All legislators are to be at their desks. We are ready to proceed with Final Reading. As soon as everyone is at your desk we will commence with LB 110.

CLERK: Mr. President, while we are waiting, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 9 and find the same correctly engrossed; 34 correctly engrossed; 124 correctly engrossed; 178 correctly engrossed, and 345 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

PRESIDENT: All right, we are ready to proceed then with Final Reading. Mr. Clerk will proceed with the Final Reading of LB 110.

CLERK: (Read LB 110 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 110 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 704 of the Legislative Journal.) 35 ayes, 8 nays, 5 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 110 passes. The next bill on Final Reading is LB 214.

CLERK: (Read LB 214 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 214 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

April 8, 1981

LB 40, 105, 512, 547

cut bait. Now I would remind my colleagues from cities like Lincoln and Grand Island and North Platte and Hastings and Kearney and Fremont that as the Omaha city sales tax issue is used to whipsaw Omaha on issues like the distribution of the \$70 million in personal property tax exemption fund, why those cities are being hurt also, because those cities suffer proportionately like Omaha does when unfair distribution systems are set up by the Legislature. So it really doesn't help the taxpayers in those areas either to keep bringing this issue back session after session after session. Now, finally, let me bring to your attention an editorial that was in the Lincoln Journal on April 5th, and here is what the editorial writer states in the conclusion. He says, "One way or the other, however, this polka should end. Either the special taxing authority should be scratched or the Legislature should acknowledge that it has been permanently snookered and get on with it." Now one way or the other I would like to test this body and see whether or not there is not the sentiment for a substantial and lengthy extension of the Omaha sales tax because, frankly, as Senator Johnson has indicated and as Senator Landis has indicated, I am really tired of our getting whipsawed year after year after year. Now let's be fair to the City of Omaha. Let's vote it up or vote it down on the merits and not for other reasons. I urge you to adopt this amendment. Thank you.

PRESIDENT: The question is the Hoagland amendment to the DeCamp amendment. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 11 ayes, 25 nays, Mr. President, on Senator Hoagland's amendment.

PRESIDENT: The motion fails.

CLERK: Mr. President, if I may, right before the ceremony... yes, could I...

PRESIDENT: Go ahead, Mr. Clerk.

CLERK: Senator Howard Peterson would like to print amendments to LB 512. Your Committee on Ag and Environment whose Chairman is Senator Schmit reports LB 547 to General File with amendments and LB 105 as indefinitely postponed, both signed by Senator Schmit. (See page 1355 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Sergeant at Arms, Ray Wilson.

May 1, 1981

LB 172, 239, 346, 547

carriers. Other states require quarterly, Nebraska requires monthly, and they have simply ignored the monthly reporting and it does put us in uniformity so that everybody will be doing the same thing at the same time. It also does the setting of the variable motor and special fuel tax rates that was established in LB 722 in 1980 and is changed from adjusting it monthly to adjusting it quarterly also. That, Mr. President, in addition to defining a special fuel dealer more clearly, is what the bill in its totality does. And I would move for the advancement of LB 172 as amended to E & R Initial.

SPEAKER MARVEL: The motion is to advance the bill as explained by Senator Carsten. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 27 ayes, 0 nays, Mr. President, on advancement of the bill.

SPEAKER MARVEL: Motion is carried. The bill is advanced. Do you have some items to read in, Mr. Clerk?

CLERK: Yes, Mr. President, if I may, Senator Schmit would like to print amendments to LB 547, Senator Kahle to 239, and Senator Vickers to 346. (See pages 1693 and 1694 of the Legislative Journal.)

Mr. President, Senator Koch, rather than have the Omaha delegation meet at 3:30, will meet upon adjournment in Room 1517. Is that right? Okay.

SPEAKER MARVEL: Senator Goodrich, do you wish to be recognized?

SENATOR GOODRICH: Members of the Legislature, could we have your attention for a couple of moments. Now, you all know by now that the Senators played a ball game last night with the Pages. Ordinarily, Senator Fitzgerald would be up here making a presentation. However, Senator Fitzgerald being the poor loser has declined the duty to make this presentation. However, now that we got that clear, why I am here instead of Senator Fitzgerald, now would Kitty assemble all the Pages because we have a rather unpleasant task here to perform. Are they all together, Kitty? They are all present? Okay. We have prepared something for the benefit of the Pages and I will read it to the members of the Legislature. It says: In Memoriam. Whereas the 1981 class of legislative Pages had the chautzpah to heap ignominy upon the distinguished Senators of the Nebraska State Legislature, the Unicameral Legislature of Nebraska extends its sincerest

January 15, 1982

LB 36, 547, 402

CLERK: 26 ayes, 10 nays, 9 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. The next bill is 547 by the Agriculture Committee.

CLERK: Mr. President, I think Senator Schmit would like to pass over 547.

SENATOR SCHMIT: (Mike not on)...is a bill which is presently in litigation and a piece of legislation we advanced last year and we would like to pass over that bill at this time to see if there might be a decision on the bill in several weeks time, and if not, we will come back and deal with it at that time. If the bill is resolved in the courts, then we won't need the bill. If it is not resolved, then we will need the bill. Thank you very much.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: You are asking unanimous consent to pass over 547. Okay. So ordered. What is the next one? LB 402.

CLERK: Mr. President, LB 402 offered by Senator Nichol. (Read title.) The bill was read on January 20, referred to the Judiciary Committee for public hearing. The bill was advanced to General File. Mr. President, there are Judiciary Committee amendments pending.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, the Judiciary Committee considered several amendments to LB 402. The amendments are essentially technical in nature in that they supply procedural standards for the bill. I would ask for the adoption of the committee amendments and I will discuss them in more detail within the context of the bill.

SPEAKER MARVEL: Your motion is the adoption of the committee amendments. Are there any other discussion? All those in favor vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: Senator Nichol, do you wish to explain the bill?

February 17, 1982

LB 358, 547, 571, 595, 626, 634

CLERK: Mr. President, an announcement from the Speaker regarding LB 547 being moved from Passed Over to General File.

Senator Koch would like to be excused Thursday morning.

Senator Clark would like to print amendments to LB 571; Senator DeCamp amendments to LB 358. (See pages 722-723 of the Legislative Journal.)

Your committee on Banking, Commerce and Insurance whose chairman is Senator DeCamp instructs me to report LB 626 advance to General File and LB 595 indefinitely postponed, both signed by Senator DeCamp.

Mr. President, LB 634 was a bill introduced by Senator Newell. (Read title.) The bill was read on January 6 of this year. It was referred to the Constitutional Revision and Recreation Committee for public hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Constitutional Revision and Recreation Committee.

SENATOR LAMB PRESIDING

SENATOR LAMB: Senator Labeledz, do you wish to handle the committee amendments?

SENATOR LABEDZ: Thank you, Mr. President. LB 634 was introduced by Senator Dave Newell and the committee amendments are just correcting some language. The insertion of "use by" was for grammatical clarity, the words, "or financing" were added so that property and blighted areas could benefit from the federal income tax exemption on bonds without the requirement that the municipal corporation own the property. If there is further explanation of the bill I'm sure Senator Newell will be able to do it. I move for the advancement of the committee amendments on LB 634.

SENATOR LAMB: The motion is to adopt the committee amendments. All those in favor vote aye, those opposed vote no.

CLERK: Senator Lamb voting yes. 28 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR LAMB: The committee amendments are adopted. Senator Newell, do you care to explain the bill?

SENATOR NEWELL: Mr. President, members of the Legislature, LB 634 is a constitutional amendment which would authorize the bonds, tax exempt bonds for the financing of business

LR 211, 224
LB 131, 192, 198, 211, 224, 231,
239, 263, 270, 274, 274A, 287,
314, 402, 440, 448, 450, 454,
465, 511, 547, 589, 592, 634,
646, 649, 669A, 672, 827

February 22, 1982

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The prayer will be delivered by the Reverend Palmer.

REVEREND PALMER: Prayer offered.

SPEAKER MARVEL: Record your presence, please. While we are waiting for a quorum, underneath the South balcony from Scottsbluff, Nebraska, Audrey Towater is the guest of Senator Nichol. She is the one that has that large object there she is working on. I suggest that at your convenience you take a look at it. It is very interesting. Record, Mr. Clerk.

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

SPEAKER MARVEL: The Clerk has got some items to read into the Journal.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 634 and recommend that same be placed on Select File with amendments; 672 Select File with amendments and LB 827 Select File and 669A Select File, all signed by Senator Kilgarin. (See pages 790-791 of the Journal.)

Your Enrolling Clerk respectfully reports that she has presented to the Governor on February 19 at two-fifty, bills passed on Final Reading that day. (Re: LB 131, 274, 274A, 287, 314, 402, 440, 454 and 589.)

Mr. President, I have communications from the Governor. The first is addressed to the Clerk. (Read communication re: LB 239 as found on page 791 of the Legislative Journal.) The second communication is addressed to the Clerk. (Read re: LB 192, 198, 231, 263, 270, 448, 450, 465, 511, 592, 131, 274, 274A, 287, 314, 402, 454 and 589.)

Mr. President, your committee on Urban Affairs whose chairman is Senator Landis reports LB 904 as indefinitely postponed. That is signed by Senator Landis as Chair.

Senator Schmit would like to print amendments to LB 547 in the Legislative Journal. (See page 792 of the Journal.)

Mr. President, LR 211, 224 and LB 646 and 649 are ready for your signatures.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and do sign LR 211, LR 224, engrossed LB 646, LB 649. (See page

CLERK: 35 ayes, Mr. President, on the advancement of 834.

SPEAKER MARVEL: Before we proceed it is my privilege to introduce underneath the North balcony 9 guests from Blair and Arlington, guests of Senator Goll. Would you folks please stand so we may welcome you to the Unicameral. There is a request to temporarily pass over 383 so we honor that request and now we go, Mr. Clerk, to the next item.

CLERK: Mr. President, LB 5...Senator Beutler, you had a request on 547 to pass over. Do you want to do that? That was previously filed. Yes, well it was dated earlier. Okay. Mr. President, in that case LB 590 offered by Senators Kilgarin and Beutler.....

SPEAKER MARVEL: The Legislature will be at ease for a few moments.

CLERK: Mr. President, I'm sorry, LB 547 offered by the Ag and Environment Committee and signed by its members. (Read.) The bill was first read on March 2 of last year, Mr. President. At that time it was referred to the Ag and Environment Committee for public hearing. The bill was advanced to General File. There is a committee amendment pending by the Agriculture and Environment Committee, Mr. President.

SENATOR SCHMIT: Members of the Legislature, the amendment which the...

SPEAKER MARVEL: The committee amendment.

SENATOR SCHMIT: ...Ag and Environment Committee has offered appears to be extensive but it is actually not that extensive of an amendment. I would just like to call your attention to a little of the history that has gone along with this bill and if you will recall last year the Legislature enacted LB 487 and under that bill there were sections of the law dealing with innkeeper liability which were stricken from the statute. Senator Wagner then came back this year with LB 897. And actually the amendment which I offer you today, Sections 1 through 14, is Senator Wagner's bill, 897, which reinstates those provisions of innkeeper liability and it also adds the emergency clause. Section 15 of the amendment which we have offered incorporates the provisions of LB 593 which was introduced by Senator Remmers and Senator Richard Peterson. Those provisions exempt the temporary food handlers from the fee required by the Department of Agriculture for the inspection services performed for such occasions as the church dinners, the occasional food sale.

SPEAKER MARVEL: Senator Schmit, I erred in not taking up first of all, the committee amendment...

SENATOR SCHMIT: I'm on the committee amendment, Mr. President.

SPEAKER MARVEL: ...Can we take that up and then come back?

SENATOR SCHMIT: I am on the committee amendments.

CLERK: Senator, if I may, there is a committee amendment that was submitted with the bill. It is a one line committee amendment. It was page 8, line 9, after "religious" insert "charitable and fraternal." That is a committee amendment that came out last year. I think the one you are addressing is one that you brought up this morning.

SENATOR SCHMIT: Yes, would you strike that amendment and I'm on the one that was brought up this morning.

SPEAKER MARVEL: He wants unanimous...

CLERK: I think, Senator, we're going to have to dispose of the committee amendment, okay?

SENATOR SCHMIT: Okay. Just a moment.

SPEAKER MARVEL: Okay, the motion before the House is to adopt the committee amendment. In order to clarify this you are requested to vote red. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 3 ayes, 21 nays, Mr. President.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, Senator Schmit would now move to amend the bill and it is Request #2679.

SPEAKER MARVEL: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Thank you, Mr. President, and thank you, members of the body, for disposing of the previous committee amendment which is no longer needed. I have explained I think basically the Wagner proposal which is included in Sections 1 through 14. I have also attempted to explain Section 15 which is Senator Richard Peterson and Senator Wiley Remmers' amendment which exempts from the inspection fee the charitable organizations such as the church dinners. Now I would like to offer on this floor some discussion and

I would hope that some of the rest of you would join in and emphasize our concern that the Department of Agriculture not be...well then, I guess you would say have better things to do perhaps than go out to Bruno, Nebraska, and inspect the duck dinner that has been served out there every year for eighty years to determine whether or not my constituents know how to prepare those ducks. We've never had any problem with those annual festivities. They have been a sort of a historical event. They have taken place throughout the State of Nebraska for many years. We've never had any problem and we would have just as soon exempted the entire inspection proceeding frankly if we could have done it but there are times when a church will, for example, have a stand at the Wilber Czech Days where the food is not prepared and served within the facility. Under those conditions the Department felt that they needed to have the ability to perform those inspections. The Department agrees with us that there is very little if any reason for them to inspect the food in the facilities that are being prepared on site of the church or the charitable organization. I wish that we could just exempt them totally. If you can find a way to do it as we proceed in this area I will be glad to look at it but we know some of the problems that we would run into. But Senator Remmers and Senator Peterson thought this was probably about as good as we could do. We also under Section 17 is the repealer and Section 18 adds the emergency clause. It is important that we have that. At this time, Senator Remmers, would you care to comment on your section of the bill? Then I would ask Senator Peterson and Senator Don Wagner to comment also.

SPEAKER MARVEL: The Chair recognizes Senator Remmers.

SENATOR REMMERS: Mr. Speaker and members of the Legislature, the section that Senator Peterson and I were particularly interested in pertained to the inspections of the food stands that were promoted by the church groups or band parents organizations at county fairs. I do not agree with the Department of Agriculture that they need the kind of inspection they think they need in regard to the food stands as far as the food not being prepared on the grounds. For instance last year the people were told that they could no longer bake their pies at home. Those of us that have attended county fairs, church suppers and the like realize that this is rather ridiculous. I think all of us would feel a lot safer eating a pie that is prepared by a church group or the members at home than we would feel in any commercial restaurant. As far as the cases of food poisoning we've had in the State of Nebraska, I don't know if any of them have been connected to this type of an activity. The food poisonings that we have

had generally result from some careless practice in a restaurant and to subject these groups to that kind of regulation I think is not reasonable. I don't think that they need the power at all but at the present time we have agreed to that part of it but at least the fees will not be a commercial fee and I think we've had some agreement from the Department of Agriculture that maybe they were a little too aggressive in their inspections. I'm afraid that anybody that has the power to regulate is somehow feels that they must regulate and I guess we're all inclined to exercise power and I'm afraid this many times happens with these inspectors that come out to these stands. Again, I say I don't think that the regulation is at all necessary but this time this is probably the best we can get and we have had some assurances that probably the pies would be allowed to be baked in the homes. I urge you to support this bill.

SPEAKER MARVEL: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. President, members, I wonder if Senator Schmit would respond to a question, please.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Yes, we yield.

SENATOR VICKERS: Yes, Senator Schmit, I'm trying to frantically look through this. As I understand the committee amendments, does it apply to...would there be a permit required from a fraternal organization like an Elks Club that had a food operation within its organization that operated on a continuous basis? Would there be a permit, as a restaurant, would there be a permit required for that?

SENATOR SCHMIT: Well, Senator, if they are in Lincoln or Omaha they would. I'm not sure if they would outside the state or not, in outstate Nebraska. I believe they would though.

SENATOR VICKERS: Well as I read the language and it is in the existing statutes as I understand it, they undoubtedly on page 12 of Request #2679 at the top of the page, subsection 6, it would seem to indicate that schools, hospitals, nursing homes, our own cafeteria here in the capitol perhaps, wouldn't require a permit. Would that be correct? Is that correct?

SENATOR SCHMIT: That exempts them from the fees, Senator Vickers, but they still have to have the permit.

SENATOR VICKERS: Oh, they do? They still have to have their license

SENATOR SCHMIT: That's right.

SENATOR VICKERS: ...for the inspections and so forth at least?

SENATOR SCHMIT: That's right, the exemption from the fee. This is what I was referring to earlier when I said that I wished that there were some way we could just even exempt those church dinners, those charitable dinners from the inspection but we can't really do it without limiting in all the rest of them and I didn't want to do that.

SENATOR VICKERS: Oh, I see. Okay, well thank you very much, Senator Schmit. As I read through this very quickly I was concerned that we wouldn't have any inspections for some of those schools, hospitals, nursing homes and so forth and I was very concerned about that but I have no more problem with eliminating the permit fee if, in fact, they are inspected. That seems to me to be the real key. I would also...I would have to study this a little more later on but I appreciate your answers, Senator Schmit.

SPEAKER MARVEL: The Chair recognizes Richard Peterson, Senator Peterson.

SENATOR R. PETERSON: Mr. Speaker and fellow colleagues, I would echo what Senator Remmers and Senator Schmit had to say and, Senator Vickers, I think this applies to just food stands as I.... The intent of this is temporary food establishments from state regulation. Since the term temporary food establishment is such an ambiguous term many groups and individuals are...not originally intended to come under the Nebraska Pure Food Act, are in fact, being forced to what I feel is an unnecessary state regulation. I know up in my area there has been some concern and I have had several calls as several others, as Senator Remmers and I have too, that they are falling under state regulation, these churches with their stands and they are kind of getting up in the air and feel that they shouldn't be. So this is our intention to get them out and it is our intention to exempt those temporary food stands operated by charitable, educational, religious and fraternal organizations. We are not attempting to exempt those stands that are in the professional food services, businesses such as Kentucky Fried Chicken or McDonalds. So it is in my opinion that you adopt the amendment and pass the bill as it is. Thank you.

SPEAKER MARVEL: Senator Wesely and then Senator Wagner. Senator Wesely.

SENATOR WESELY: Mr. Speaker, members of the Legislature,

at this time I think I am going to oppose the amendments proposed by Senator Schmit although I know there is some validity to some of them. I do oppose the efforts to try and incorporate LB 593 into this bill at this time, however, because I think it epitomizes the problem to this whole issue that we've had over the course of the past year. What I think you need to know is the history involved with this legislation and the issue and let's start back with last year. Actually we can start two years ago when a bill was introduced on behalf of the Ag Department, I believe it was two years ago, to try and adopt the Pure Food Act. It had the elements of LB 547 in it and it died at the end of the session two years ago. So last year the bill was introduced in the form of LB 547, was again developed by the Ag Department, was introduced by the Ag Committee and then was heard and held and was advanced and everybody was for it and we found the end of the session approaching. So what happened? Senator Schmit and I talked it over and with Senator Johnson who was a cosponsor of LB 487 we decided to incorporate the elements of 547 into LB 487 in order that that bill could be passed in its entirety and that last year we could deal with the question of the Pure Food Act and without waiting yet another year it looked like 547 was not going to pass. So we did pass that legislation. It has been good legislation. It has served the state well in the year it has been in effect. However, we did have a controversy last summer with the food booths at the fairs and then we also found that the bakeries in the homes that are of concern also came up as a controversy and all of a sudden Governor Thone started attacking the bill and the lousy legislation we passed last year and how terrible legislators we were for voting for that bill which I think was almost unanimously adopted last year and we found out pretty quickly what it is like to be out of session and not be able to defend yourselves under those circumstances because in the end what we were doing was carrying for the Governor and for the administration and for the Ag Department, legislation to adopt the Pure Food Act and if there were concerns about the elements to that bill those concerns should have been expressed to the Ag Department which had developed the legislation and not the Legislature which took that bill, which expedited its passage last year and I think did a good job in dealing with the issue. But then we were the scapegoats and we were the fall guy last summer when all this controversy came out where we weren't, in fact, the fall guy. We were not the people that should have been held responsible. We took the Ag Department at its word and I think their word is good that they worked on this issue, that they worked with the different interests and developed legislation that was in the best interest of the public of the State of Nebraska and I do believe the elements of that bill that are now being attempted to be amended

nave a good faith effort to try and deal with the public interest and my concern is that it is not really fair for us to once again get involved in this issue and not remember the fact that we got chastized all of last summer and fall for something that we weren't responsible for and I think that the Ag Department did try and do what was right. Now in further retrospect, after that initial reaction, in reviewing what the Ag Department did, it seems like it was a fair proposal. I realize that when you increase fees at any point everybody objects. Senator Warner knows that with his fee increase bill. Everybody doesn't like to pay more fees but if it serves a purpose and if it covers the cost of the inspections and it protects the public from unsafe food, and is that unfair? And I wonder if it is. I think what we are trying to accomplish in this bill is that we raise fees on people for food inspections to cover basic costs of providing those inspections. The public is then protected through these inspections that the food that they are eating is safe. Should we not protect the public at the state fairs and the county fairs and the food that they have on a temporary basis at these, should we not ask those people that provide the food at the fairs to pay an adequate amount of money to cover the cost of those inspections would then protect the public. I think policywise it makes sense to keep the bill as it was passed last year. I understand the concerns and understand the heat that you are all feeling from your county fairs and from your local people. Nevertheless, if you will really review the situation and not just react to the pressures we had last summer....

SPEAKER MARVEL: You have one minute.

SENATOR WESLEY: Thank you, Mr. Speaker, I think you will have to agree with me that the basic premise of the policy is a good one and that the concepts involved with the bill were a good one and that we were right to pass the bill last year and it was wrong for the Governor to get on our backs for the legislation and for the fall out that he received. I think there should have been a standing up and saying this is the right thing to do and we worked on this several years before it was even introduced and several more years in developing the legislation before it passed and it seems to me that it is a ~~very~~ ^{very} ~~important~~ ^{important} bill for the State of Nebraska. I still believe that and I would ask you to carefully consider this amendment before you vote for it.

SPEAKER MARVEL: Senator Wagner, then Senator Schmit to close.

SENATOR WAGNER: Mr. Speaker, members, my portion of this bill is actually, it is a bill I had, 897, and 897 is a bill that

is trying to put back into statutes some of those things we struck when we passed 487 last year and simply this bill just does is to put these sections back in and we had a series of meetings with the Department of Agriculture, Department of Health, the Fire Marshall, instead of bringing something like this on the floor for a lot of debate we've had those series of meetings with these people to make sure we got these sections that are agreeable with them and if you notice, maybe this is not in the bill book yet, but when we had the hearing on 897 there was nobody opposed to this bill and that is from Sections 1 to 14 and I would encourage the adoption of these sections.

SPEAKER MARVEL: Senator Schmit, do you wish to close on the motion to advance the bill?

SENATOR SCHMIT: Mr. President and members of the Legislature, I would have to agree with much of what Senator Wesely says relative to what took place last year but I would of course oppose any attempt to amend this amendment. I believe that first of all the Department of Agriculture last year rather erroneously in a few instances took it upon themselves to attempt to inspect some of these charitable dinners and in effect, they could if they wanted to, they could pursue right now the lunch stands that are served at a farm sale, many of them sponsored also by churches. I think we all know well enough that that was not the intent of this legislation. It is not our intent nor does anyone ever intend to try to protect the public by inspecting the pie and coffee stands served by St. Joe's church at someone's farm sale. I think there is one other discrepancy in this fee procedure which I would like to call your attention to. The small restaurant in Bellwood, Nebraska, which serves a few dinners a day, a few lunches a day, pays exactly the same fee as does the largest restaurant in the State of Nebraska. I wish that there were some provision and some mechanism and there may be sometime that we could devise that would provide for a graduated scale of inspection services. I think it is absolutely ridiculous that a restaurant which serves thousands of meals weekly pays the same inspection fee as does one which may serve only a dozen or two. And when you stretch that to the extreme you find that inspectors spending their time investigating the food service facilities at an annual church bazaar. Well I would suggest as I said earlier that we have better ways of utilizing the resources of our department inspectors. I think that we do not intend, I do not intend and I want the record to show that, I do not intend that the Department of Agriculture shall send the inspectors out to investigate a one occasion soup supper or a one occasion annual dinner. Now someone says, well you serve hundreds or maybe thousands of people and you can poison the whole

State of Nebraska. I ask you if it has ever happened? It has not. It absolutely has not and I would suggest that I mentioned to my good friend, our former colleague, Senator Maresh, that if they insist upon inspection I am going to ask Mr. Bert Garvin to send Senator Maresh out to inspect my dinners in my Czech parishes out there. I think he will soon find them all qualified but the point I want to make is this, that when we leave the inspection fee in there for these institutions it is somewhat of an incentive perhaps for inspections to be carried out where the Legislature does not intend inspections to be carried out. Now if there are members here who think differently, now is the time to speak because I think the legislative intent is of utmost importance here to the Department of Agriculture. I believe we owe the Department that much. We must convey to the Department our concern that the health and safety of the people of Nebraska be protected to the maximum extent possible. But as some of their department personnel have told me, there isn't any way you can get enough personnel to inspect every single lunch stand, every single hot dog stand, every single farm sale stand. Theoretically I guess actually under the bill if my children, my grandchildren did what they had done over the years, set up a little lemonade stand along the highway, they'd have to be inspected and pay the \$45 fee.

SPEAKER MARVEL: You have one minute.

SENATOR SCHMIT: That is not my intent and I would hope that if they want to have any objections to my explanation of the bill they will express themselves at this time and if not, that we will not be disturbed by this problem again. Thank you very much.

SPEAKER MARVEL: The motion is the adoption of the Schmit amendment as explained by Senator Schmit. All those in favor vote aye, opposed vote no. Have you all voted? Okay, record the vote. A record vote has been requested.

CLERK: (Read record vote as found on pages 793-794 of the Legislative Journal.) 39 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Before we go to the next item I would like to introduce Jim Schaeffer (sp.) from Chadron State College visiting the Legislature today with twenty students and Jim has made the same trip with students yearly for approximately twenty years. Jim, where are you located? Underneath the North balcony. Welcome. Okay, the first motion is the advancement of LB 547. Senator Schmit, do

you have any additional comments before we vote to advance the bill?

SENATOR SCHMIT: Mr. President and members of the Legislature, the amendment is the bill. I believe it has been adequately explained and as I said earlier if anyone disagrees with my belief, my concern and my interpretations of the bill and the intent that I have placed upon it then I wish they would express themselves at this time. I think that the way that the amendment was adopted with a strong support, I believe the Legislature agrees with me, I move the bill be advanced.

SPEAKER MARVEL: Okay, the motion is the advancement of the bill. All those in favor of that motion vote aye. Senator Wesely.

SENATOR WESELY: Mr. Speaker, members of the Legislature, I'd like to explain why I almost voted against those amendments. I think it is important to keep in mind one thing when we talk about legislation like this. When you try to work with different groups and come to a compromise and then that compromise is abrogated later on by those who would have you believe they are trying to be fair, I think that what we are trying to do is an attempt to correct a problem that has come to our attention, nevertheless, we have to keep in mind how the bill was formulated and that was to sit down with different interests to come to a conclusion that they needed that one act rather than a number of acts dealing with the area of safety and food handling and preparation. At the same time fees were increased substantially. Several hundred thousand dollars more now paid in fees by restauranters and others who handle food in the State of Nebraska, fees to cover the cost of inspections, a fair rate increase in fees in exchange for some standards that were equalized and consolidated and that were applied fairly across the board in the State of Nebraska and now we're saying that we've got an exemption and we're going to try and cut back on some of the compromises that we reached several years ago and I don't think it is really very fair at this point with the restaurant people. I think that it is clear in my mind that they feel a little bit cheated and they've come to me and talked to me about this issue and I think that they have a legitimate concern, that they had an agreement that this is the way it was going to be, that they were going to stick together on this and they were going to take the increase in fees in exchange for the betterment of the laws and the codes that they would receive and here today we are trying to turn back an agreement that I thought everybody had agreed to several years ago. I'm just pointing out that I think it is not very fair although I understand

the concerns involved I think you have to know the background of the bill in dealing with the issue.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor vote aye, opposed vote no. A record vote? Okay, a record vote is requested. All those in favor of advancing the bill vote aye, opposed vote no. Okay, record.

CLERK: (Read record vote as found on page 794 of the Legislative Journal.) 35 ayes, 0 nays, Mr. President.

SPEAKER MARVEL: The bill is advanced. Okay, we are going to revert back to LB 383.

CLERK: Mr. President, LB 363 offered by Senator Warner. (Read.) The bill was read on January 19 of last year. It was referred to the Public Works Committee for a hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Public Works Committee.

SPEAKER MARVEL: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this bill is essentially as I understand it to correct a failure to clarify the law that we passed a number of years ago and basically the law that we passed a number of years ago said that for those truckers that were involved in interstate commerce, that a new system would be set up but whereby they could allocate fees according to mileage. There would be a per ton fee for the mileage that they drove in Nebraska and then the remainder of their taxes would be allocated to other states on the basis of how many miles they drove in those states. At the time that we did that everybody thought that the allocation system applied to power units and also to the trailers and semitrailers that they drag along. The law was followed in that manner for a number of years but recently there has been an Attorney General's opinion which says that the trailers and the semitrailers do not fall or are not part of that allocation system. So this bill goes back and clarifies the law and says that the trailers and the semitrailers will be treated like the power units and be a part of that allocation system. So it is technical in that sense. Now the committee amendments, I explained this to you because the committee amendments really do nothing other than facilitate that concept. We had to change a few words for technical reasons though basically nothing in the bill is changed by the committee amendment except for a couple of items which will be in one minute, amended out of the committee amendments and I will explain that when I explain the amendments to the committee amendments but if I haven't confused you thoroughly

February 24, 1982

LB 383, 547, 590, 598, 702,
736, 863, 892, 895

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Prayer by Reverend Bruce Currier of the Second Baptist Church, Lincoln.

REVEREND CURRIER: Prayer offered.

SPEAKER MARVEL: Roll call. Record your presence, please. Will you please check in so we can proceed with the business at hand? Okay, record.

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

SPEAKER MARVEL: Items in number 3.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 547 and recommend that same be placed on Select File with amendments, 383 Select File with amendments, 590 Select File with amendments, 598 Select File and 702 Select File with amendments, all signed by Senator Kilgarin. (See pages 825-826 of the Legislative Journal.)

Your committee on Education whose Chairman is Senator Koch reports LB 892 advanced to General File, 895 General File with committee amendments attached and LB 736 as indefinitely postponed. All signed by Senator Koch. (See pages 826-827 of the Legislative Journal.)

Your committee on Judiciary offers a report on a gubernatorial confirmation hearing, signed by Senator Nichol. (See pages 827-828 of the Legislative Journal.)

Senator Kremer and the Public Works Committee offers a gubernatorial appointment confirmation report. (See page 828 of the Legislative Journal.)

Your committee on Public Works gives notice of hearing for March 10, Mr. President.

I have a reference report from the Reference Committee referring LB 967 to the Public Works Committee.

I have an Attorney General's Opinion addressed to Senator Cullan regarding 863. (See pages 828-829 of the Legislative Journal.)

Senator Koch would like to be excused Thursday, February 25 and Monday, March 1.

March 1, 1982

LB 383, 547, 659, 854A

PRESIDENT: Before we get back into the agenda and taking up the agenda on Select File the Chair would like to announce that, some other birthdays. We have Senator Remmers. Senator Remmers, I believe you have a birthday on March 1 too, that you're trying to hide from us. We want to say happy birthday to you and to Senator Sieck whose birthday is the 29th day of February. You're one of those guys. You have a few birthdays so it is very important that we congratulate Senator Sieck on his birthday and Senator Remmers. Happy birthday. The Legislature will come back to order. Mr. Clerk, do you have some matters to read in at this time?

CLERK: Mr. President, very quickly, Senator Barrett would like to print amendments to LB 659. (See pages 904-905 of the Legislative Journal.)

Mr. President, a new A bill, LB 854A offered by Senator Fowler. (Read. See page 903 of the Legislative Journal.)

PRESIDENT: Alright we do have one more group. Oh, they have gone. We had a group from Senator Schmit's district from Wahoo. They were here during the ceremony. We will just note them for the record. We will go ahead then with Select File. The first bill is LB 547, Mr. Clerk, and Senator Kilgarin.

CLERK: E & R amendments, Senator.

PRESIDENT: E & R amendments, Senator Kilgarin, if you want to proceed.

SENATOR KILGARIN: I move the E & R amendment to LB 547.

PRESIDENT: The motion has been made to adopt the E & R amendment on LB 547. Any discussion? All those in favor signify by saying aye, opposed nay. The E & R amendment is adopted to LB 547. Do you have any further amendments, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: Senator Kilgarin, do you wish to move the bill?

SENATOR KILGARIN: I move we advance LB 547.

PRESIDENT: Motion to advance LB 547. Any discussion? If not, all those in favor signify by saying aye, opposed nay. LB 547 is advanced to E & R. We will now go to LB 383.

CLERK: There are E & R, Senator.

March 3, 1982

LR 222

LB 547, 590, 590A

how is this resolution going to hurt anything? All that it says is that the money is not guaranteed by the federal government. Well, if they guarantee the money, then you go ahead with construction unless I can find another way to stop them...

PRESIDENT: One minute, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. Chairman. So I think that you ought to look at this resolution, see how reasonable it is and here is one of the WHEREASES, toward the bottom. WHEREAS no construction will be commenced at a Regional Veterinary College unless and until adequate federal and private funds shall be available to assure completion. Now if you are not going to start building that until you have got the money guaranteed, why are you going to do this on the Freeway? Maybe if somebody told me there is a coming together of an urban fantasy and a rural fantasy on the discussion of this issue, the urban fantasy is an unneeded Freeway which serves no transportation purposes and has never been justified. The rural fantasy is the Veterinary College. So maybe that is why the unholy alliance has occurred, but whatever has brought it into existence, I have got to fight it. There is no other choice for me, but if you want some peace on the North Freeway issue this session, adopt this resolution. It is a good compromise. You don't take anything away from those who want to destroy my community and you don't really give me anything but it does restore to the Legislature a small measure of consistency which certainly does not exist now.

PRESIDENT: The motion before the House is the adoption of LR 222. All in favor vote aye, opposed nay. Have you all voted? Yes, Senator.

SENATOR CHAMBERS: I want a roll call vote

PRESIDENT: A roll call vote has been requested. The Clerk will proceed with the roll call vote.

CLERK: (Roll call vote taken. See page 934 of the Legislative Journal.) 9 ayes, 28 nays, Mr. President.

PRESIDENT: Motion fails. Do you have some matters to read in, Mr. Clerk, and then we will proceed to the General File.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports it examined engrossed LB 547 and find the same correctly engrossed; 590 correctly engrossed; and 590A correctly engrossed. All signed by Senator Kilgarin.

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LB 417, 547

Journal.) 43 ayes, 2 nays, 1 excused and not voting,
Mr. President, 3 present and not voting.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read LB 547.

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LB 547

CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return LB 547 to Select File for a specific amendment. The amendment reads as follows: (Read the Chambers amendment as found on page 1117 of the Legislative Journal.)

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I will read the language that I would like to see stricken. "With intent to deceive", this is dealing with false advertisements relative to food. Now the existing law says that it has the word "knowingly" and they want to add "with the intent to deceive" which means that you can lawfully know...I mean, you can know that an advertisement is false but argue that you disseminate it as false advertising without an intent to deceive. And I suppose that the idea is that you would have to prove actual intent which could be very difficult because all the person who disseminated the advertisement would have to say is that, I didn't intend to deceive, yes, I knew it was false. To me, if it is known by the one disseminating the advertisement that it is false, there can only be an intent to deceive. I don't see why you would disseminate something knowing that it is false if your purpose is not to mislead those who read the advertisement. So that is the purpose of my amendment. And for those of you who may not have located it yet, it is on page 13, lines 19 and 20, and the words would be, "with intent to deceive". So it would leave the law as it stands and the current law says this: "It shall be unlawful for any person engaged in the sale, merchandising or distribution of food to knowingly cause the dissemination of a false advertisement regarding a food." Remember, you have to knowingly cause the dissemination, and I think that should be sufficient for an unlawful act to have occurred especially when we are dealing with food. This is something which is consumed not only by grown people who might be able to read and make a judgment but by children, even infants. So I think it is not a good thing to add this element of a specific intent when I think knowledge can carry the notion of intent. Because criminal statutes are construed narrowly, if you have the word "knowingly" and the word "intent", the court will say that something in addition to mere knowledge is required. And I don't think anything in addition to that knowledge should be required. So that is why I am asking you to return the bill to strike that particular portion that I have mentioned to you.

SENATOR CLARK: Senator Schmit.

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LB 547

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise to oppose the Chambers motion for the reason that if you were to strike the language as suggested by Senator Chambers, it would be necessary for a newspaper, for example, to verify the accuracy, the authenticity and the integrity of every single ad that they would run. For example, I could print an ad that says I am the greatest Senator in the State of Nebraska and they would have to prove it before they could print it. I might know it to be false and I am the one who would have to be responsible for it and I should be held responsible. But it should not be the burden of the media, the vehicle to approve the accuracy of those ads. The burden still falls back upon the individual who is responsible for the drawing of the ad. It is not for the purpose of allowing someone to knowingly distribute false information, but I think you can see what I am trying to get at and that is that a newspaper has no way, there is no way that the media can verify the accuracy of a grocery ad, for example. Now if the firm that places the ad, knowingly with intent to deceive places the ad that is one thing, but for the newspaper to be called upon to verify the accuracy of all of those ads is a totally different matter. I think you can understand the problem that you have, and I would hope that you would understand there are two separate areas here, and I am sure Senator Chambers understands the difference, but I believe that you can see it as absolutely impossible, totally impossible for the media to perform under those functions if they had to verify the accuracy of each individual ad that were placed in their newspaper. Now if the automobile company, and the food company, the clothing company, place the ad knowingly, they have to have the intent in there also, but the newspaper should not have to be the one that verifies that and I would hope that you would not support the Chambers motion to return the bill.

SENATOR CLARK: Senator Chambers, do you wish to close?

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I hope you will read the law with me. Senator Schmit, I believe, is sincere, but Senator Schmit has been misled. Senator Schmit, I would like to ask you a question or two about the specific provision we are dealing with, if you will answer, to show that you and I have the same concern and that the news people have misled you. Now, reading the provision that we are dealing with, it says, "It shall be unlawful for any person engaged in", and I am going to ask you these questions. Are newspapers engaged in the sale of food?

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SENATOR SCHMIT: They could be construed to be engaged in the sale by virtue of the fact that they carry the ad, Senator.

SENATOR CHAMBERS: Are they engaged in the merchandising of the food?

SENATOR SCHMIT: That is the language we are trying to clear up because there were people who a year ago felt that by virtue of the fact they carry the ad they are involved in the merchandising.

SENATOR CHAMBERS: Senator Schmit, how many news people were able to come to you....oh, Senator Pirsch has pointed something out in addition, you know, below this, but here is what I want to ask you.

SENATOR SCHMIT: I can answer Senator Pirsch's question directly.

SENATOR CHAMBERS: Okay, so I am not going to ask her a question. How many news people came to you and established that under the law as it is now they were found to have done something unlawful by running an advertisement that somebody thought was false?

SENATOR SCHMIT: I visited with several news people after the bill passed a year ago, Senator. But they did not ask me to correct the bill. I drafted that myself.

SENATOR CHAMBERS: But how many told you that they were found to have done something unlawful for running ads that people considered to be false?

SENATOR SCHMIT: At the present time, Senator, there has not been a situation where they have been taken to court.

SENATOR CHAMBERS: Members of the Legislature, it is my feeling that with the amendment that Senator Schmit is adding to this bill, you are not talking about newspapers, you are talking about those who sell merchandise or distribute food. They can know that what they are saying about the food is false. They can take this formula that is being discouraged for sale throughout the Third World countries, condemned by every nation in the world except America because Nestle, an American corporation, is putting it out, and they can bring that product to this country and falsely advertise it in the State of Nebraska and it is not an unlawful act, unless you can prove a specific intent to deceive. Now, if knowledge of the falsity is not enough,

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then I don't know what is. Senator Schmit is complicating a situation by saying that all of these people can know these statements they are making about the food product is false. If you go into a restaurant, they could sell you horsemeat as hamburger....

SENATOR CLARK: You have one minute left.

SENATOR CHAMBERS:and know it is false, and simply say, well, my intent was not to deceive anybody. And mere knowledge under this law is not sufficient to prove an intent to deceive because intent has been made distinct from knowledge. So I hope you will return this bill, strike that portion because it will not hurt anybody in any way but it will indeed protect the public and it will not allow those who sell, distribute and merchandise food to knowingly give false advertisements about that food product.

SENATOR CLARK: The question before the House is the return of 547 for a specific amendment. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting no.

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

SENATOR CHAMBERS: I would like to be sure that everybody is in our seat and then I will ask for a roll call vote.

SENATOR CLARK: Well, everyone will check in, please. We are under Call anyway. We have fourteen 4th Graders from Immanuel Lutheran School at York. I think they are in the north balcony. The teacher is Mrs. Jones. Will you stand and be recognized, please. Welcome to the Unicameral. Senator DeCamp, will you check in, please. Senator Wiitala. Senator Kremer. All right, they are all here. The Clerk will call the roll.

CLERK: (Read the roll call vote as found on page 1117 of the Legislative Journal.) 18 ayes, 29 nays, Mr. President, on the motion to return.

SENATOR CLARK: The motion lost. The Clerk will read 547.

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

SENATOR CLARK: Read the motion.

CLERK: Senator Fowler would move to return LB 547 to Select

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LB 547

File for specific amendment. The amendment being to strike Sections 12 and 13 of the bill.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, I apologize to Senator Schmit for not having noticed these sections sooner but I guess I was somewhat surprised to find that I guess although the agenda says we are dealing with the Nebraska Food Act, the sections of most of the bill deal with things with regards to negligence in hotels and motels. In fact I don't think we have the Nebraska Food Act in front of us at all any more. If you would turn to the bill, pages 8 and 9, discover that we are not talking about food at all. Rather we are talking about negligence in hotels and motels and it seems to me, and I guess I introduced the motion to try and get some light and information on this, that we are talking about cases of negligence in hotels and motels introducing a concept where you have to file the value of your property as you go into the hotel. You have to fill out a form and say what your property is if you want to recover the full amount unless it is under a certain amount of money. Now let's look at Section 13 on page 9, it says, "For any loss of or damage to the property brought into any hotel, restaurant, apartment house, motel, or rooming house, arising out of the negligence of the proprietor or his or her agents or servants, the proprietor thereof shall not be liable for an amount in excess of one thousand dollars unless such guest shall have declared a greater value upon the property in writing and delivered such declaration, while a guest thereof, to the hotel, restaurant...", and then it provides posting of fine print on the hotel door, I am sure you have all seen the fine print on the hotel doors, and forms at the desk. Now let's talk about the Hilton Hotel in Houston and let's say you were a guest there like the wedding party that was there, and let's say there was a fire there, and let's say that the clerk shut off the fire alarm, an act of negligence, and let's say that all your property was destroyed, and let's say your property, say you had some cameras there, a variety of things, clothes, certainly more than a thousand dollars worth of property, and let's say that you were guests from out of state and this law was in effect and you never knew that you had to fill out a little form down at the hotel desk to declare the value of the property. In spite of the fact that all your possessions there were destroyed in the fire, as I read this bill, it says all you can get back is a thousand dollars. Now this isn't the Nebraska Food Act as far as I can tell. We are not talking about bad food in hotels, we are talking about negligence and we are putting a burden on a person that comes into a hotel, or a motel, or a rooming house to read the print on the door,

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to fill out a form at the hotel clerk, and then, only then, would you be able to recover damages. Now it seems to me a strange burden to put on someone, particularly when we have seen some of the examples of negligence in the hotel industry, not in Nebraska, but around the country, and for that reason I filed the motion to return to try and get some light on this. In fact I would be very pleased if the bill was passed over today because the agenda said we are dealing with the Nebraska Food Act, and by the time we get to reading the bill, we are talking about creating a whole new standard of reporting on guests in hotels as to the value of their property that they are going to try and recover against the negligence of the owner. We are talking about the owner is clearly negligent and you still have to fill out this form, declare the value of all your property in your room, leave that with the clerk which I think a lot of people would be very nervous about declaring the value of all your property anyway and filing that with the clerk, if you want to try and recover because of negligence. So I filed the motion to return because I think that there is more to this bill than the Nebraska Food Act. In fact if you look through it, the first fourteen sections deal with nothing but liability in hotels, motels, and so on, and create this new standard, and that was not the bill as originally introduced. It is only until you get to this last part of advertising is food even mentioned, and for that reason I move to file this motion to strike those two sections although I think the whole bill, there is some doubt about the whole first fourteen sections.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: I would like to rise in support of Senator Fowler's motion. I would urge you all to read carefully Sections 11, 12, and 13 of this act. Section 11 says that if you leave your bags at a hotel without filing the written declaration and those bags are lost due to the negligence of the proprietor, all you can collect is \$250. Section 12 says if a hotel owner loses your bags while transporting them, even if he is negligent, all you can collect is \$500 unless you had filed the long written statement indicating how valuable they are ahead of time. Section 13 says that while the bags are in the hotel, they are lost or damaged, like in a fire as Senator Fowler indicates, all you can collect is \$1,000. Section 14 says that if your bags are lost, you had better get the information back within 72 hours or you can't collect anything. This is like passing a bill saying if the airlines lose your bags, all you can collect is \$250. This doesn't apply to airlines, it applies to hotels, but how would we feel about a bill like that? I just don't

think this makes any sense and I think if we thoroughly understand what this bill does we wouldn't support it, so I am supporting Senator Fowler's motion to return.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, I am kind of glad Senator Maresh isn't here this morning or he would point out the value of Final Reading again. I think it is important that this bill has been around as long as it has and finally Senator Fowler and Senator Hoagland finally read it. I want to point out, last year LB 487 was drafted and it was my fault that we inadvertently struck some language which we are reimposing today. Number two, Senator Hoagland always makes his little speech and then he cuts and runs. It would do him some good if he would listen once in awhile. He wouldn't be asking stupid questions on Final Reading. There are limitations on many kinds of liability. When you buy airline tickets, read the back of the bloomin' thing, you will see what it says insofar as limits of liability. When you park your automobile in a garage, if it is a \$1000 clunker like mine or a \$25,000 vehicle like some people drive, there are limits of liability. It happens all of the time. What we are saying here is if you have certain amounts of value, you can specify that and you can protect it but it is reimposing upon some regulations. Now if you don't pass this bill, you have no regulations. If you follow the Fowler and Hoagland principle, there will be no regulations of hotels and motels. We are reimposing that kind of regulation, and you can nit pick any bill you want to and I have told you a few times about that on this board. It is amazing to me that people who decide we need to progress and show progress and move rapidly can take a bill on Final Reading and begin to pick it to pieces. Senator Chambers had some legitimate arguments and I think they were answered. I do not think that you understand the provisions of this amendment of Senator Fowler or you would not vote for it, and I hope you will not vote for it. The bill as drafted reimposes controls, regulations upon the hotel-motel industry. They were inadvertently stricken. Some of the Senators who are opposing this have done the same thing and I stand here covered with chagrin and say that I did it myself last year. I am asking you to reimpose those regulations and I would hope that Senator Hoagland, wherever he is at today, is listening to what I am saying so he does not have to come back in here, reimpose his position upon the floor, and once again make an inaccurate statement. So I would ask that you would vote against the Fowler amendment.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, Senator Schmit talked about the fact that Senator Fowler and Senator Chambers and Senator Hoagland are now asking questions about this bill on Final Reading. Well, I raised questions on the bill back on General File about some other provisions and I was concerned about these as well, and I guess that it is clear that we need some legislation passed in this area having worked with Senator Schmit last year in passing LB 487 that cleaned up the lodging legislation that we were talking about and did a number of things that were beneficial to the lodging industry, but as he said, we did eliminate statutes that are now present in LB 547 and we need to reimpose some sort of limitations. I think that is probably reasonable that we should do that. Nevertheless, I think Senator Fowler is correct in pointing out the fact that perhaps we are being too restrictive on what liability we ask of lodging establishments. I was talking to some individuals who just recently traveled to Atlanta, and they were telling me that in the hotel down there, I don't know which one it was, they told me that they had their cleaning people come through their rooms and just basically wiped out anything that wasn't nailed down of all the guests that were there, and when they'd come back to their rooms, they'd find nothing that they had before, and they claim absolute no liability whatsoever for the fact that their employees ripped off and stole from their guests, and evidently the law down in Atlanta and in Georgia does not protect those individuals. Now that is not the case here in Nebraska but, nevertheless, we have to be aware of the fact that perhaps there will be instances where theft and loss of property may take place. We have to have reasonable limitations so that people are not in a situation such as I just described that this individual found himself in in Atlanta with no recourse. So I think when we talk about limitations, they have to be reasonable. Now I am not sure exactly what would be the case in this instance to be reasonable and I am not sure that we want to totally wipe out the legislation that we have before us but I do think it would be nice if some of those individuals pushing this bill would be willing to sit down with some of us who are concerned about some of those provisions and talk about where that line ought to be drawn between the liability that we are talking about here and I still think Senator Chambers' amendment was a wise amendment and had merit. Yet that was rejected. And I still think some of the other provisions of this bill dealing with some exemptions that had been agreed to previously ought to be looked at as well but those in support evidently want to push it right through and see this legislation pass without too much discussion, without too much question, but I think there ought to be question about some of the provisions in this bill. Now as it stands

now, and I would like to try and make this as clear as possible, there is no statutes that I understand dealing with the liability of lodging establishments, thus they are absolutely liable depending on court decisions for losses that are incurred by their guests, as I understand the situation. For instance, if you would go to a hotel in Omaha or what have you and you would lose your luggage and clothes or whatever, you could go to court and at that point the court would decide what liability the hotel had that you were staying at. There would be no statutory guidelines or restrictions that would be in place, as I understand the present situation, because we repealed any sort of reference which as I understand it increased and broadened the liability of lodging establishments. What Senator Schmit is trying to do is put back in the statutes those sections that have been repealed last year to try and limit to a degree, some degree, the liability that lodging establishments have. So they would still be liable but to a lesser degree and with certain restrictions than they are right now which is pretty much an absolute liability depending on the court. So what you are doing with this bill is basically restricting liability and the question then is, how much do you want to restrict the liability of the lodging establishments. You have to do that very carefully depending on what you see as being proper. So in my estimation, I think absolutely we should pass some form of this legislation but I also absolutely feel that some discussion that is taking place this morning is needed on this legislation. It is important and it should be questioned and discussed.

SENATOR CLARK: We have twenty-five minutes left on Final Reading. We have seven speakers left on this. We have two more motions after this one. You can judge yourself accordingly. Senator Higgins is next.

SENATOR HIGGINS: Mr. President, so far the only people that have spoken about this bill is Senator Schmit and the attorneys on the floor and the attorneys have addressed themselves repetitiously to liability which I think is their favorite subject because, let's face it, that is their income, that is their money. In the first place, if you go to a motel and you have got a thousand dollars worth of luggage, clothing and what have you, five will get you ten you have got an insurance policy at home that is going to pay you a lot more than a thousand dollars. I have never seen a claim across my desk where everything stolen at the motel was brand new, brand new luggage, brand new clothes, everything was brand new. Now for the benefit of the attorneys that are talking about liability and the fact that you have got to be able to tell a motel exactly what you lost, I would like to ask

any of you attorneys if you know how you are going to settle the claim with your insurance company if you have your personal property stolen? Do any of you know how it is settled? Any of you want to jump up and answer that? All right, I will tell you how it is settled. First of all, the insurance companies, and this is a law you ought to look at except there aren't that many Senators in here that would vote against the insurance companies, the insurance company is going to say what year did you buy that dress or pair of pants? Where did you buy it? How much did you pay for it? How old is it? And then they are going to depreciate it. Now that is what the insurance company that you are paying a premium to is going to demand of you when you make a claim. I am going to tell you something. When you make that claim, they aren't going to buy you a brand new dress or a brand new suit. They are going to take what you paid for it three years ago and depreciate it and you are going to get actual cash value unless you pay an additional premium and then you will get replacement cost but that costs you a little extra. So here you are talking about a hotel or a motel requiring you to list the values and you are paying them maybe forty or fifty bucks to stay there, and your insurance company is charging you four, five, six, seven, eight hundred or a thousand dollars a year for your homeowner's policy is going to make you tell them where you bought it, when you bought it, and what you paid for it. So I think this liability talk that we have been hearing this morning is typical attorney's talk. I can see the dollar signs going around and around when they say let's bring this bill back. If you want to really do something for the people, you look into the insurance policies and then I want to see how many of the 48 others here will vote against the insurance companies and change those laws. Thank you, Senators.

SENATOR CLARK: Senator Beutler. Senator Wagner.

SENATOR WAGNER: Mr. Speaker, members, the language you are talking about is like Senator Wesely indicated was stricken inadvertently last year and the only thing we are trying to do is put some of that language back into the bill again. And we had some meetings with the Department of Health, Department of Agriculture, and Wally Barnett, he had some problems with it, and essentially sat down and worked out that language and the hearing we had on the bill, and so forth, why there wasn't any opposition to it and it would be my thought at this time, it is on Final Reading, and I would hope that we would just go ahead and move the bill, read the bill and vote on it today. I would oppose any of the amendments there or anything to strike the language out of any of these sections and so forth.

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SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, and particularly Senator Higgins, I would just say this, if Senator Fowler or Wesely are attorneys, I sure as heck don't want to be one.

SENATOR CLARK: Touché. Senator Vard Johnson.

SENATOR VARD JOHNSON: Mr. Speaker, members of the body, I hope the point has been made that LB 487 that Senator Wesely and I carried last year which dealt with a little different subject matter got amended as a courtesy to Senator Schmit who very simply wanted to put into place the recommendations made by the Governor's Task Force on Governmental Improvement and that simply was to eliminate the Department of Agriculture's inspections of hotels and inns. And along the way the Department of Agriculture said, you know, these statutes dealing with innkeeper liability are really archaic. We don't think they are of much value and why don't we just repeal those as well, and so that was included in the repealer for 487. So what clearly has happened since we did that is that the hotel folk and the innkeepers have come back and said they weren't really quite as archaic as the Department of Agriculture led you guys to believe and we ought to reinstate the statutes but we would like to at least...we will at least raise the old ceiling on innkeeper liability which used to be \$250, we will raise it to \$500. So that is what Senator Schmit has done with the bill. I think what he has done is fair. It simply reinstates a statute that we thought was archaic and out of place and out of date. We have folk coming back in and saying, no, it is really not and we need to have it, and we have lived with this system in Nebraska since like 1925, and, frankly, I don't see any big demand to change. So for that reason I would reject whoever's amendment this was and go ahead and read the bill on Final Reading.

SENATOR CLARK: Senator DeCamp. The question has been called for, do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 28 ayes, 0 nays, to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator Fowler, do you wish to close?

SENATOR FOWLER: Mr. President, I introduced the amendment to get some discussion and we certainly got that. I have been maligned by being called an attorney and then accused by Senator Cullan that he wouldn't want to be an attorney if I was an attorney and, Senator Cullan, I guess I could say I am not going to law school and you are and I don't intend to. Senator Schmit and everybody seems to act like we should have been much more alert on this bill and perhaps, but if you look at the committee statement on the original bill, LB 547, the committee statement says is to adopt the Nebraska Food Act. If you flip through the bill, the sections that are on Final Reading that we are talking about were not in the original bill. They are in amendments. The summary of purpose in the committee statement says LB 547 was introduced by the Ag and Environment Committee to update and consolidate all statutes dealing with the manufacturing, sales, distribution, handling, storage, and serving of food for human consumption. So these sections that were introduced to restore things in fact did not have the committee hearing. They were not introduced as the bill. Now, let's see what the description of committee amendments, if any, it says an amendment was adopted to add charitable and fraternal organizations to those not required to get a permit under the act. That is the committee statement on 547. That is the amount of information we were provided. I would think that any reasonable person, attorney or not, could get the misconception that this bill has nothing to do with motels and hotels and be somewhat surprised on Final Reading to find sections dealing with liability. Now if they were repealed last session, certainly that bill had an opportunity for full discussion, and if the industry felt in fact that these statutes had value, they could have introduced a bill rather than get them reinstated through an amendment, and there could have been a public hearing. Now if, in fact, we are updating the dollar amounts, that is probably healthy. \$250 obviously is too low, but then \$500 for the value of your possessions also seems low. Additionally if this was the law in the State of Nebraska, I cannot recall ever knowing of any forms that anyone ever filled out to declare the value of their goods in hotels and motels or any printing on the walls indicating what your liability was or wasn't under the law. Senator Johnson said that it was an archaic law as viewed by the Department of Agriculture. That may mean it was a law that people weren't notified about. It may be a law that in fact was not really in place, a law that should have been repealed and we should go to another concept of negligence. So I guess I would say that the bill and the reason for the motion to return is that I think that what is offered in Final Reading is not what was offered in the original bill. The committee statement is weak in explaining it. In fact it doesn't explain it at all, these sections of

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bill in front of us, and that I think that although I am not an attorney...

SENATOR CLARK: You have one minute left.

SENATOR FOWLER: ...but I think that this question of liability deserves fuller discussion than it received in the process and for that reason I would move to return the bill, strike those sections, and let's take another look at this question of liability. I doubt that there is any harm, given again the circumstances like we saw in Houston with the Hilton Hotel, any harm in reevaluating these in light of current conditions. So I would move to return the bill to strike these two sections.

SENATOR CLARK: The question is to return LB 547 for specific amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote.

CLERK: 17 ayes, 25 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: Motion lost. Next motion.

CLERK: Mr. President, Senator Beutler would move to return LB 547 to Select File for specific amendment, that amendment being to strike Section 14 from the bill.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I have no particular reason to pick on this bill and I don't know whether this represents existing law and simply corrects a mistake. All I know is when I am called upon to read it, I think it is my obligation to read it as best I can and I think that whether it was existing law or not the bill has a problem, and if you would just follow me through one hypothetical, I think I can illustrate for you the harshness of this particular law as it may be applied. Up in Section 8 of the bill it talks about taking things down to the motel safe and it says that there is no liability on the part of the proprietor for loss or injury to such property ~~because~~ negligence or dishonesty. Okay let's say I have a couple of rings and I take them down to the safe and they are receipted for and they are put in the safe but the night clerk fails to close the safe. He is negligent.

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Under this law within the limits of liability, there is the possibility of recovery, but over here back in the bill a ways, there is Section 14. Section 14 says there shall be no liability on the part of the proprietor for loss unless within 72 hours following the loss it is reported in writing to such proprietor. Let's say they are negligent, the safe is left open, somebody steals my rings. Well, in the first place, I may not be aware of the 72 hour notice, written notice provision which is going to cut off liability, even though it is printed in the room along with six other long sections of this bill, I think that you can see that the average person might not pick that up. Not very many of them are going to be lawyers, but if they fail to file that written notice of loss within 72 hours, they are cut off even though the motel was negligent. Now that is one possibility. The second possibility, it says that it has to be filed 72 hours following the loss. Now what if I am in a rooming house or a boarding house for a week, I am a traveling salesman, I go off for a few days, I am back in five days. I discover my rings are missing through negligence of the motel. I file my notice. It is too late because it hasn't been filed within three days of the loss. It happened that the loss occurred the first day I left. I don't even get back for five days but it is too late. Liability is cut off because of the 72 hour notice rule. Senator Higgins, I would ask you, I don't know honestly, but I don't think any insurance company has a 72 hour notice cut off. I think that is perfectly ridiculous. Usually it is in terms of years, is that not correct?

SENATOR HIGGINS: That is incorrect, Senator.

SENATOR BEUTLER: What is the notice in claim rule?

SENATOR HIGGINS: Depending on what kind of a policy it is, it can be as little as 30 days.

SENATOR BEUTLER: 30 days anyway but I would think (interruption).

SENATOR HIGGINS: If you had rings like you are talking about, you know, you have probably got them insured so you wouldn't put them in the motel safe anyway.

SENATOR BEUTLER: Okay, 30 days is a lot longer than 72 hours but on most policies I assure you it is not cut off on 30 days either. So what I am seeking to strike is this Section 14 which provides for the 72 hour liability cutoff for failure to give written notice of the loss. Remember that this doesn't say anything about the motel having knowledge of the loss. They may have knowledge of the loss, but if you fail to give them the written notice, they are still not liable even

though, one, they were negligent; two, they had knowledge of the loss. Whether it is existing law or whether it is new law it is bad law. Thank you.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I will be brief because I feel sorry for the people that have bills on Final Reading that we aren't going to get to because of all the amendments. The only thing I can say is I am not an attorney but I am smart enough to know that when I go someplace and they say, Not Responsible For Lost and Stolen Articles, that doesn't even hold water, and every attorney here knows it, and they just go to court and they sue. As long as you are paying somebody for a service, they are going to be liable for your lost or stolen articles. Even I think in this bill they are still going to be liable if you want to take them to court and sue them, and again, you keep talking about these people that are going to put their jewelry in the motel safe, I wonder how many collect from the motel, and then turn around and file a claim with their insurance company, because if it is that valuable, I will guarantee you it is insured. I just can't believe that you are going to put something in a safe that you haven't already got insured but I don't want to talk any longer so that hopefully some of the other Senators who have bills on Final Reading will actually get to hear them today.

SENATOR CLARK: Senator Chambers. Senator Wesely.

SENATOR WESELY: Yes, Mr. President, I will be very brief as well. I think that the discussion we have had on this bill points out a couple of things, number one, the advantages of Final Reading. I know Senator Beutler doesn't like that but I do see once again the advantages of Final Reading. Number two, I think we are also seeing today the advantages of a rule change that was defeated earlier this session which would require a summary of bills on Final Reading. Clearly this bill has had two other pieces of legislation amended into it on General File. I don't know if you even know that they are LBs 593 and LB 897. If you want to look back at those two bills, you will see that they are both into this bill. I think that it is clear that it is hard for us to know exactly what is in and what is out of some legislation when it comes to Final Reading and the discussion today points that out, and once you start drawing attention to legislation, you can ask some of the questions that I think are pertinent questions that Senator Beutler, Senator Chambers, Senator Fowler have all been asking. I think the intent of the bill is quite fine and

I certainly support that intent but I think it is true that we need to discuss it further and I would again point out the advantages of the rule I proposed and the idea that Final Reading does serve a purpose.

SENATOR CLARK: Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, this bill did have a hearing and it was, as Senator Wesely indicated, it was 897 and the bill was incorporated into 547. But again I would state that we got together with the Department of Agriculture, Wally Barnett, and other people who had concerns and basically the Section 14 that Senator Beutler is talking about is the section of law we struck last year, and the only thing we are trying to do is put it back in again, and for that reason, I would oppose this motion of Senator Beutler's and do away with it and read this bill on Final Reading.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I think Senator Higgins has made some very good points. Number two, I believe that Senator Beutler brings out a point, he said the item may have been lost for a period of time before it was knowledgeable, before the individual even knew it. The safe door was left open inadvertently and someone pilfered it and 72 hours went by and you would not have knowledge. I would suggest that if you are going to pursue that theory far enough, you are going to have to have the thief leave a note there as to the time and place and date and hour that he pilfered the bloomin' thing so you can tell exactly. We know that is not true, Senator Beutler. You are a better lawyer than that. The time that would be pursued would be from the time of discovery of the loss, not the time that the actual burglary took place or the loss of it would take place. I know that you can argue this point time after time. The point I am trying to make on this floor is this, number one, this is not a court of law, this is a Legislature. You lawyers are accustomed to picking things apart because that is the way they make their living. You can take the most innocuous bill across this floor and you can nit pick it to death. Now if you want to do that, we won't even complete the bills on Final Reading here before the 20 days are up or the 18 or 19, whatever they are, but if the point I want to make is this, you know we have a lot of people who stand up on this floor and they want to defend business. They say we are going to cut the corporate income tax rate or we are not going to have an increase in corporate taxes because I am for business. We are not going to do this to business. We

are not going to do that to business. You know what drives the businessman up the wall and out of business is the nit picking kind of nonsense you are talking about here. Let the Red Lion descend upon my friends from Omaha and let the Hilton Hotel descend upon my friends from Lincoln and they will explain the "why", why some of these things are in the statutes. The language we are putting in here is standard language in most states and all of you who are discussing this know it. You know it. Now there may be some nonattorneys on the floor who do not know it but the rest of you know it. And I would suggest you do this body a disservice to harangue about language which was accepted across the fifty states and try to make an issue of it on this bill. Now you can pick it to death. I have as much time as you do. I will be back home planting corn in a few more days and I will be happy but I am not going to make any big case about the bill. All I am saying is that do not stand on this floor and cloak yourselves sanctimoniously as a defender of the consumer or anything else in an attempt to pick this bill apart because it is not going to work. I suggest that you defeat the Beutler amendment.

SENATOR CLARK: I would like to announce before they leave, there is 12 sixth to eighth grade students from Berwyn. The teacher is Mary Ellingson. They are in the North balcony. Will you stand and be recognized please. They are in Senator Lamb's District. Also in Senator Wagner's District we have 22 students from North Loup. The teacher is Arden Svoboda. They are in the North balcony. Will you stand and be recognized please. Welcome to the Unicameral and the boys basketball tournament. Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, before I address Senator Beutler's amendment, I would like to apologize to Senator Fowler and to Senator Wesely. The comment I made earlier was not intended as an insult to either one of those gentlemen but merely to point out that there were not simply attorneys that were addressing the issue. If I insulted those gentlemen, I certainly apologize for that. Secondly, I would support Senator Landis or Senator Beutler's amendment. The situation occurs to me where and which would be difficult would be in the case of a fire or personal injury that were involved, an individual might not be able to assert his rights for a period of time, and perhaps if an individual were in a hospital or an individual were in a coma or were incapacitated for some reason and lose the ability to assert those rights, so I certainly think the 72 hour period which Senator Schmit's bill contains is unreasonable. I think Senator Beutler's amendment is not harassing and I would urge you to support Senator Beutler's amendment.

SENATOR CLARK: Senator Beutler, do you wish to close?

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I hope you will think about the possible situations that can come up under this bill and react in what I think is a reasonable manner by striking Section 14. There have been some things said on this floor that are simply not true, said in kind of a bullying manner, if I may say so. First of all, Section 14 is new in the law according to Senator Johnson who just looked it up. It is not existing law. Secondly I don't think that anybody on this floor can show that this is the law in all fifty states. I doubt that very seriously. Thirdly, the time of losses by and large can be established within a reasonable time period. Thirdly, it is incorrect, it is just flat out incorrect to say that the period runs from the time that the loss is discovered because that is not what the language of the statute says. It says you have 72 hours following such loss or damage, following such loss or damage, not following knowledge or discovery of the loss or damage, but following loss or damage. And if you pass this law, it will certainly come to pass that certain innocent individuals will be cut off from recovering despite dishonesty and despite negligence on the part of the hotel or motel. We didn't even talk about dishonesty. If you take the same example I gave you before and the night clerk stole the rings out of the safe, and 72 hours passed before you knew it or you knew you had to give a written report, you would be flat out of luck, just flat out of luck. Senator Cullan's example is another perfect example. There are a number of hypothetical situations that you and I both can think of and the time will come next year or the year after we will be back in here with another bill modifying this situation because some poor fellow or some poor woman got completely ripped off by the 72 hour notice provision. And then they are going to be blaming the Legislature, blaming the lawyers for all these complicated laws. The 72 hour notice provision is simply a trap for the unwary. It is as simple as that and I urge you to think about it and to send the bill back to get rid of Section 14 and bring it back to us in a form which I think would be much more reasonable. Thank you.

SENATOR CLARK: The question before the House is the return of the bill. All those in favor vote aye, opposed vote nay. This will be the last vote on the bill on Final Reading today. Have you all voted? Have you all voted? I am going to call the vote. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, how many are excused?

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LB 547, 824

SENATOR CLARK: One. I think Senator Warner is the only one excused.

SENATOR BEUTLER: Let it go.

SENATOR CLARK: Record the vote.

CLERK: Mr. President, Senator Cullan requests record vote. (Record vote read. See page 1118, Legislative Journal.) 19 ayes, 26 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: Motion lost. That completes Final Reading for today so we leave six bills on Final Reading. We will now take up LB 824.

CLERK: Mr. President, Senator Labedz would...first of all, I have a request from Senators Nichol, Haberman and DeCamp to add their names to Senator Labedz' motion. Mr. President, they would move to place LB 824 on General File pursuant to Rule 3, Section 18(b).

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Mr. President, first before I start my ten minutes, I would like to have a ruling from the Chair in order to be fair. I passed out to each member of the Legislature a three page explanation of the rules and hopefully the Senators had time to read it. So I would like to ask at this time whether the Chair would rule whether I need 25 votes or 30 votes and I believe the President also received a copy of my questions on why, and then, of course, it was in the newspaper that I needed 30 votes and I was under the assumption that I needed 25 because my motion to bring LB 824 to the floor notwithstanding the committee's action was done on the 20th day. On the 21st day the committee sent the form to the Clerk and said that the LB 824 had been indefinitely postponed. I would like a ruling from the Chair.

SENATOR CLARK: Senator Labedz, this is a very, very gray area as you very well know. However, I do not want to set a precedence from the Chair by saying that the committee action was wrong so I am going to have to rule that it will take 30 votes, that the committee action did take place on the 20th day and it will take 30 votes. Now if you would like to challenge the Chair on that, that is fine but I don't want to set a precedence from the Chair.

SENATOR LABEDZ: Mr. President, I understand how you feel and

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LB 824, 547, 870

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Senator Labedz.

SENATOR LABEDZ: Mr. President, I will take call ins and I will have a Call of the House.

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

CLERK: 23 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will return to their desks and check in please. Mr. Sergeant at Arms, will you get them all back to their desks? She says she will take call ins.

CLERK: Senator Nichol voting yes.

SENATOR CLARK: We have not all checked in. Senator Schmit, will you check in please? Senator Kilgarin. We are just short one.

CLERK: Senator Kahle voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 10 nays, Mr. President, on the motion to raise the bill.

SENATOR CLARK: The bill is on General File notwithstanding the action of the committee. This is not a record vote. We will now go to item #6, LB 870. The Clerk would like to read in.

CLERK: Mr. President, Senator Chambers would like to print amendments to LB 547 in the Legislative Journal.

Mr. President, Senator Goll would like to be excused Monday, March 15.

SENATOR CLARK: No objections, so ordered.

CLERK: Senator Koch would like to print amendments to LB 824.

SENATOR CLARK: We are ready for 870.

CLERK: Mr. President, LB 870 was a bill introduced by Senator

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LB 547

CLERK: Mr. President, Senator Chambers you had had one previously printed and I understand you wish to withdraw that. Mr. President, Senator Chambers would move to return LB 547 to Select File for a specific amendment. (Read Chambers amendment as found on page 1187, Legislative Journal.)

SENATOR LAMB: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, what I am doing with this amendment is stating in an affirmative fashion what the law would state as Senator Schmit has amended it. What my bill, what my amendment will do is exactly what is allowed to be done with the bill as amended but it states it very clearly so the public is aware of what is being done to it by the Legislature. My amendment which merely restates or states in the alternative what is being said by Senator Schmit's amendment is this: It shall not be unlawful if you do the following things. If you engage in false advertisement of food, it is lawful to do that, if you do it knowingly, and that includes false or misleading information in any form. You can advertise your food as being that of another and know that that is false and it is not illegal. You can give advertisements likely to produce confusion and misunderstanding as to the source, sponsorship, approval or certification of such food. You can certify that your food is that of another and that is not illegal. You can misrepresent the geographical origin of the food knowingly. That is not illegal. Subdivision (e), you can misrepresent the sponsorship, approval, characteristics, you can even misrepresent the ingredients, benefits or uses of the food. The qualities of the food can knowingly be misrepresented and that is not unlawful. If you get to line 16 through 18 this is really significant. The advertisement of food by way of a representation that the food is of a particular standard, quality or grade when it is not, you can knowingly misrepresent the standard. You can knowingly misrepresent the quality. You can knowingly misrepresent the grade of the food and that is not illegal. You can disparage lawfully the food of others with misleading and false statements and that is not illegal. You can advertise food with an intent not to sell it as advertised or an intent to sell an alternative without letting the people know that that is what your intent is when you give your advertisement and that is done by offering one item and when people come into the store you don't give them that, you give them something else. You trick them in other words and that is your intent. That is not unlawful. Here is a provision in lines 25 through 27 on page 14. The advertisement of food with the intent not to supply a reasonably expectable public demand, you can do that and you are not unlawful. What I am stating in my

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amendment is what would be the case with the bill as Senator Schmit has amended it. He said his only intent was to prevent newspapers from being held liable for false advertisements if they ran those advertisements with no intent to deceive the public. But on the other hand, everybody who deals with food, whether their purpose in dealing with it is to sell it, merchandise, or distribute it, they may knowingly misrepresent their product in all of the ways that I mentioned and simply declare that their intent is not to deceive and they can get away with it. The law is affirmatively approving of that kind of misrepresentation. I want it crystal clear in the record that I made an attempt to bring this matter to the Legislature's attention; that the Legislature having knowledge of it chose to disregard it. That being the case in the record, it means the Legislature is affirmatively approving of false and misleading advertisement with reference to food whether it deals with the origin, the quality, the uses, the standard or anything else pertaining to it; that the Legislature is affirmatively approving of one person disparaging another's product with knowingly false and misleading advertising. That indeed boggles my mind. I think if the Legislature would take the time to read this provision that is in the bill as it exists now, you would want to do something to correct it. My amendment does not correct that situation. My amendment simply states unequivocally so that it is clear to the public what the Legislature is doing to it, what will be done by Senator Schmit's amendment to the bill. So I am offering that amendment and by now maybe those of you who are interested have had a chance to pick up your bill book, in the Final Reading copy of the bill on page 13 at line 17, after the word "shall", you would insert the word "not", so it would read, "It shall not be unlawful for these various things to be done. Then in lines 19 and 20, you would strike the new language that Senator Schmit has offered because all that Senator Schmit's language does is exactly what I am saying, that it shall not be unlawful to engage in false misleading advertisement knowingly with reference to food. So I am asking that we adopt this polygraph amendment and tell the public what we are doing and establish for the record that we know what we are doing and choose to do it anyway.

SENATOR LAMB: Before we proceed, I would like to introduce Cecelia Knutson of Bellevue, Nebraska, Senator Fenger's District. She is the mother of Page, Brenda Knutson. Would you step out and be recognized please. Welcome to the Legislature. Also in the South balcony, we have a number of guests of Senator Goll, 42 eleventh and twelfth grade students from Tekamah-Herman High School at Tekamah, Nebraska.

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Would you make yourselves known so we can welcome you to the Legislature. Senator Schmit, on the Chambers amendment.

SENATOR SCHMIT: Mr. President and members of the Legislature, I would like to read to you the language which I referred to the other day. It has to do with the dissemination of a false advertisement regarding a food. That is what the bill was intended to refer to in this area. I do not have a problem with it but if Senator Chambers and Senator Chambers does have a problem with it, I would like to meet with him. I would like to ask permission to pass over the bill. Senator Beutler also has some questions on the bill. I would like to pass over the bill and I will meet with Senator Chambers and with Senator Beutler and we will resolve those problems because I, as much as anyone else, do not want any ambiguity in the law and we certainly have no intention of allowing anyone to purposefully deceive the public. So with your permission, could we pass over the bill, Mr. President?

SENATOR LAMB: Well, Senator Schmit, I guess it is okay. The only thing I wonder about, these things should be worked out ahead of time because we have wasted considerable time on the bill at this point, and with our time schedule, I hope this doesn't happen on every bill.

SENATOR SCHMIT: May I just say I agree with you Senator Lamb. I have no method of knowing in advance what is going to happen on these things and I want to say point blank that we have had several instances here, I take full responsibility for the misunderstanding in the language, but there should be no reason for every single individual legislator to have to read every single bit of language that comes back to that person once they have asked that it be drafted, and I want to emphasize once again that when a legislator asks for something to be done, it should read the way it is supposed to read, and if I have to read every single page of every single bill that moves across this board, it is going to take a much longer period of time than it is doing at this present time.

SENATOR LAMB: We will lay over LB 547 and proceed to item #6, General File, priority bills, consent calendar, fifteen minute limit. The first bill is LB 458. Senator Fowler.

SENATOR FOWLER: Senator Lamb, I would like to recognize in the admonition you just gave given the fact that this bill will take more than fifteen minutes debate hoping that maybe at some point we can work out...

would like to print amendments to LB 547 in the Legislative Journal. (See page 1630 of the Legislative Journal.)

SENATOR CLARK: The next bill is LB 378A.

CLERK: Mr. President, LB 378A is a bill on Select File, Mr. President. I do have an amendment from Senators Wesely and Warner to the bill.

SENATOR LAMB: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, Senator Warner and I are moving to amend this A bill because of the fact that in working with the fiscal office we felt that the present A bill did not adequately fund the added expenditures that LB 378 would result in. In working with the fiscal office, if you do look at the fiscal note on the bill you will see that the present A bill which allows for \$20,000 falls about \$22 some thousand short of what is estimated to be the cost of this legislation. Furthermore, the Health Department itself has said that an additional \$20,000 above that is even what is required but the fiscal office says \$40,000 is about what is needed, \$42,275. This A bill is now at \$20,000 and in trying to make up for that difference Senator Warner and I are proposing this amendment which would bring it up to where the fiscal note says the impact would be. That is the amendment.

SENATOR LAMB: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I would rise to oppose the Wesely amendment. I would point out that Nebraska is already, in my opinion, ridiculously overstaffed in the area of health planning and I see no reason to provide additional funds for additional health planners here in the State of Nebraska. I think the cash fund which is proposed in LB 378 is more than adequate. I would point out that currently the State of Nebraska has twenty health planners or one health planner for every 78,000 people. The State of Missouri which is about three times the population of the State of Nebraska has nine health planners or one health planner for every 546,383 people. So it is clear that even if our staff was cut in half we would be about twice as overstaffed as the State of Missouri. So I see absolutely no need for additional funds to be spent for additional personnel in the Department of Health. I know that the amendments which I proposed will more than adequately cover the expenses of travel and other expenses associated with carrying out the certificate of need program so I strenuously object to any additional funds being spent on certificate of need. Senator Wesely failed to

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CLERK: Do you want to offer your motion?

SENATOR GOODRICH: Yes.

CLERK: Do we have time or not?

SENATOR CLARK: The time is out on the bill. We are on 547.

CLERK: Mr. President, on LB 547 Senator Chambers had a motion on the bill to return it. I understand, Senator, I have a note here that you want to withdraw it.

SENATOR CLARK: It is withdrawn.

SENATOR CLARK: Mr. President, the next motion I have on 547 is from Senator Beutler. Senator Beutler would move to return LB 547 to Select File for a specific amendment.

SENATOR CLARK: Senator Beutler. Is Senator Beutler in the room? Oh, withdrawn? All right. The next amendment.

CLERK: Mr. President, the next amendment I have or the next motion I have is from Senator Schmit. Senator Schmit would move to return the bill for a specific amendment and the Schmit amendment is on page 1630 of the Journal.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I move for the adoption of the amendment. The amendment provides that...you will recall that on one of the previous motions there was some concern by Senator Beutler about the ability of a claimant to recover the value of property. I've tried to answer that problem for Senator Beutler by placing into law, language found on page 1630 which says that that shall be allowed not to exceed the actual value of such property. Also another concern of Senator Beutler's was the limitation of seventy-two hours. We have changed that to seven days from the time of discovery of damage and then Senator Chambers had some concern with some language and we tried to address that portion but I don't think Senator Chambers is satisfied yet. I'll let him speak for that but it was an attempt by myself to answer his objection that referred to the language of "knowingly" in the bill. We retained the language, "with intent to deceive." It has to do with false advertising of a product for sale. I would hope that the amendment would be adopted.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'll be as brief as I can. My concern is with this

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distribution and other handling of food products. What my amendment will do, it was the wrong one withdrawn I thought so it is back up there, is to strike Section 16 and leave the law as it is now which says that it is unlawful to "knowingly" distribute and do these other things with food products. I don't want to put the words "intent" because that changes the meaning of the law. It would mean with Senator Schmit's language that a store in the suburbs could "knowingly" distribute lower quality food to stores of its own branch in what they call poor neighborhoods, "knowingly" do it, but say their intent was not to deceive because anybody who would look at it could see that it is lower quality. So what I want to do is leave the law as it is where it does not allow a person "knowingly" to do these types of things. I'm trying to say it now so I won't have to take a lot of time when my amendment comes up.

SENATOR CLARK: Is there any further debate on Senator Schmit's motion to return the bill? If not, all those in favor of returning the bill vote aye, opposed vote nay. Record the vote.

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

SENATOR CLARK: The bill is returned. Senator Schmit, on the amendment.

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

SENATOR CLARK: Is there any discussion on the adoption of the amendment? If not, all those in favor vote aye, opposed vote nay. On the adoption of the Schmit amendment. Record the vote.

CLERK: 31 ayes, 0 nays, Mr. President.

SENATOR CLARK: The amendment is adopted. Now to readvance the bill. All those in favor of readvancing the bill say aye, opposed. The bill is readvanced. The next amendment.

CLERK: Mr. President, Senator Chambers would move to return LB 547 to Select File for a specific amendment. The amendment would strike Section 16 from the bill.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the only amendatory language you have in Section 16 is where they want to add the notion of "intent to deceive."

If I were to say strike that and reinstate the old language it would mean that the existing law is unchanged. So rather than have an entire section of statute printed which does not amend anything I would move to strike Section 16 and to make it clear again what I am talking about, if you say that all of these violations that exist with reference to food have to be done with the intent to deceive, it is difficult to establish intent. If you say that these people who handle these items and know their products "knowingly" distribute these products where they are misrepresenting the quality, the misrepresenting the prices or any other aspect of it, that would be made illegal. Actual knowledge would prevent a person from lawfully doing all of these prohibitive things. That is what the law says now. I want to leave the law as it is now. If you add the notion of intent, the court would say that you are requiring something more than mere actual knowledge. So it is not enough to show that the one dispensing this food knew that he was lying about how he represented it, knew all of these other things. If you cannot prove a specific intent then you cannot make out the offense. As the present law stands, knowing that these bad things exist with reference to food would prevent you from lawfully distributing, advertising it or whatever all those provisions are. So my amendment would strike Section 16 and leave the law as it is. And by the way, Senator Schmit nor anybody else has been able to present a single case of where a newspaper or anybody else was prosecuted or had run afoul of the law as it stands now.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I would have to oppose Senator Chambers amendment and that is all I will say on it. I'm not going to debate the issue at this time.

SENATOR CLARK: Senator Chambers, do you want to close? No closing. The motion is to return the bill for a specific amendment. All those in favor vote aye, opposed vote nay. Have you all voted on returning the bill? Once more, have you all voted on returning the bill? Record the vote. Senator Chambers.

SENATOR CHAMBERS: I'm changing to not voting and I'm going to put a reconsideration motion up there.

SENATOR CLARK: All right. Do you have anything further on this bill?

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

SENATOR CLARK: All right, the bill is where it is then. Now we have a reconsideration motion coming up.

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CLERK: Mr. President, Senator Chambers would move to reconsider the previous vote.

SENATOR CLARK: All right, Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'm going to try to be as brief as I can. I don't think...I hate to say this but I don't think you all understand what is involved in this motion. I don't think you understand what is involved in this bill. What you are saying, if you leave Chapter 16 in is that a person can knowingly do these things and not be illegal; can use false or misleading advertising; can falsely say that the food he is presenting is that of another; can create an intentional likelihood of misunderstanding as to the source, quality and other aspects of the food. The advertisement of the food can be deceptive as far as the origin, the quality, the characteristics, the ingredients, benefits, uses...all of these things. The dispenser can know all of these things are false and do them and not be illegal. If you leave the law as it is those things are illegal. I don't know what got into Senator Schmit and I don't know what his assistant told him but they are misleading you. If you think that by putting the term "intent" in place of "actual notice", knowledge, is helping the public, I've got to repeat it one more time. Then, Mr. Chairman, I'll let it go. Everything prohibited by the law right now is prohibited if these things are known to be the case by the distributor or handler of this food. What you are doing is saying that he can actually know it and do it and it is still not illegal. You can't prove a specific intent in the cases that we are talking about here so he or she is scot free. If you send stinking meat, if you send decaying produce from a suburban store to a store in a poor neighborhood the one who owns the store can say, sure I know it's bad but how is it going to deceive anybody? Anybody who can look at it or smell it can see it is bad. But the idea is that people in poor neighborhoods often have no choice about what they buy. This law originally was a consumer protection law. Senator Schmit is making it a destroyer of the rights and interests of those people who are not in a position to protect themselves. That is why I made the motion to reconsider. If understanding these things you still want to do what Senator Schmit is asking you to do, I've done all that is in my power to stop it.

SENATOR CLARK: Senator Schmit, did you want to talk on it?

SENATOR SCHMIT: I just want to say, Mr. President, that in my amendment we strike the language "knowingly" and retain the language "with intent to deceive," and I had hoped that

would take care of Senator Chambers' concerns. I know he has some very deep concerns and I don't argue with him on it. I believe the bill is still a good bill. It is a necessary bill and I would hope that you would not adopt the Chambers amendment.

SENATOR CLARK: Senator Chambers, do you have any closing? We have three minutes on the bill.

SENATOR CHAMBERS: And it won't take this long. Senator Schmit, I have to ask you a question. Then you are in favor of protecting a merchant who knows that food is bad but he says it is not his intent to deceive?

SENATOR SCHMIT: No, I am not in favor of that, Senator Chambers.

SENATOR CHAMBERS: But it is legal under the way you are amending the bill for him to do that. Is that your intent?

SENATOR SCHMIT: No, it is not my intent.

SENATOR CHAMBERS: But can you see that is where you have done it?

SENATOR SCHMIT: I don't think so, Senator Chambers.

SENATOR CHAMBERS: He can do everything in this law. All he has to do is say I didn't intend to deceive with what you put into it.

SENATOR SCHMIT: Well I disagree with you, Senator Chambers, but you may be right.

SENATOR CHAMBERS: I hope the rest of you paid attention and I hope you read the bill. That is all the closing I have. Thank you.

SENATOR CLARK: He was closing. The motion is a reconsideration. It takes 25 votes. All those in favor vote aye, opposed vote nay. Well the House is under Call. We will have them all check in. If everyone will check in, please. Did you want a roll call vote? All right. This is the last vote we will take before we recess between six and seven. Could we all check in, please. Senator Warner, Senator Kremer, Senator Schmit, Senator Lowell Johnson, Senator Carsten, Senator Clark, Senator Newell. I have a roll call vote on a motion to reconsider the return of LB 547 for a specific amendment by Senator Chambers. The Clerk will call the roll.

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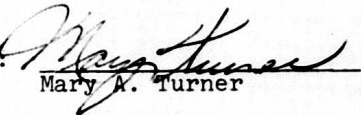
CLERK: (Began roll call vote as found on page 1886 of the Legislative Journal.)

SENATOR CLARK: We are all supposed to be in our seats, please. Senator Landis, will you get in your seat, please. Senator Chronister, will you get in your seat, please.

CLERK: (Continued roll call vote.) 17 ayes, 25 nays, Mr. President.

SENATOR CLARK: The motion lost. Senator Haberman, would you like to recess us until seven o'clock, please. You heard the motion. All those in favor say aye, opposed. We are recessed until seven.

Edited by:


Mary A. Turner

10777

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LB 212, 212A, 404, 404A, 488,
547, 626, 816, 816A, 933

SENATOR CLARK: All right. Do you want to read the bills in.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and re-engrossed LB 933 and find the same correctly engrossed; 547 correctly engrossed, 488 correctly re-engrossed; 816 correctly engrossed; 816A correctly engrossed; 404 correctly re-engrossed; 404A correctly re-engrossed and 212 and 212A both correctly re-engrossed, Mr. President, signed by Senator Kilgarin as Chair.

SENATOR CLARK: We are waiting on LB 255 and LB 255A. Are they on their way up? A motion to read in.

CLERK: Mr. President, Senators Hoagland and Wesely move that LB 626 become law notwithstanding the action of the Governor. That LB 626 become law notwithstanding the action of the Governor.

SENATOR CLARK: Any more motions on the desk? Who wants a point of order?

SENATOR DeCAMP: Mr. President, can this be taken up tomorrow? We're in session tomorrow, right?

SENATOR CLARK: That is right.

SENATOR DeCAMP: Is there any problem with taking the motion up tomorrow?

SENATOR CLARK: Which one, the one he just read?

SENATOR DeCAMP: The one he just read.

SENATOR CLARK: That will be taken up tomorrow. Wait a minute, wait a minute. Evidently this has to be considered today because this is the fifth day according to the Clerk.

SENATOR DeCAMP: Mr. President, and may I speak briefly? I'm the sponsor of 626. I personally have no intention of offering a veto override. I'm one of those that believes if you have the votes, you try it or reasonably have them. I don't have the votes. I think in the next six months people will learn the bill is necessary. I don't think that information is available today.

SENATOR CLARK: Well I didn't make the motion. Senator Beutler did and Senator Wesely I think, Hoagland and Wesely, I'm sorry. Senator Wesely, do you want to take it up?

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LB 520, 547E

CLERK: 21 ayes, 17 nays, Mr. President, to unbracket the bill.

SENATOR LAMB: That motion was adopted. If all senators will return to their seats and if we could have a little more quiet on the floor, we would proceed with reading the bill. Please read the bill.

ASSISTANT CLERK: (Read LB 520 on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? Those in support vote yes, those opposed vote no.

ASSISTANT CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Record.

ASSISTANT CLERK: (Read the record vote as found on pages 1986 and 1987 of the Legislative Journal.) The vote is 17 ayes, 30 nays, 1 present and not voting and 1 excused and not voting, Mr. President.

SENATOR LAMB: LB 520 fails on Final Reading. The next bill is LB 547E.

ASSISTANT CLERK: (Read LB 547E on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? Those in support vote yes, those opposed vote no. It takes 33 votes.

ASSISTANT CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

ASSISTANT CLERK: (Read the record vote as found on pages 1987 and 1988 of the Legislative Journal.)

SENATOR LAMB: The bill passes on Final Reading.

ASSISTANT CLERK: The vote is 41 ayes, 6 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR LAMB: LB 547E passes on Final Reading with the emergency clause attached. The next bill is LB 602.

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404, 404A, 488, 547, 602,
602A, 868, 761, 787, 799,
816, 816A, 799A, 412, 933

PRESIDENT: Go ahead Mr. Clerk.

CLERK: Mr. President, I would like to read a couple of items in if I may.

PRESIDENT: All right, go ahead and read some matters in.

CLERK: Senator Hefner offers explanation of vote.
(Regarding LB 868, see page 2017 of the Legislative Journal).

I have two notices of bills having been presented to the Governor. (Regarding LB 761 and 787. See page 2017 of the Legislative Journal).

Mr. President, Senator Fowler would move that the Legislature would override the line-item reduction that reduces the appropriation from the Highway Cash Fund to the Department of Roads Operation Cash Fund.

PRESIDENT: Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, if I could have some attention I'll briefly explain with the issue is in the veto here.

PRESIDENT: (GAVEL)...either they are all out or they are all paying attention so go ahead.

SENATOR FOWLER: Among the vetoes was three and a half million dollars in highway funds. Now, if there is anything I think that has been a priority in the Legislature, it has been and something that many people from outstate Nebraska said is a growing need is money for roads. Now the level of appropriation that we established is based on the Department of Roads request for what they felt was necessary and I think they cut that back from what they really feel is needed to build a good highway system in Nebraska. Now the Governor for reasons that I can not quite understand vetoed three and a half million dollars in highway funds. The only rationale that I can determine is that it is to maintain the gas tax at the current level. Now three and a half million dollars is a 3.2% cut in the state funds for the road construction program. The reason it was does is that revenues in the highway fund as revenues in all other funds in the state are low. What I do not understand is when we have raised every other conceivable tax and fee to make up for a lack of revenue suddenly when we get to the roads program and the gas tax and the variable gas tax that