

March 24, 1981

LB 551, 552, 553, 554

all voted? Record the vote.

CLERK: 30 ayes, 0 nays on the introduction of the new bill, Mr. President.

SPEAKER MARVEL: The motion is carried.

CLERK: Mr. President, Senator Hefner moves for the introduction of Request 928 by the Miscellaneous Subjects Committee.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. Chairman and members of the body, I move for the introduction of Request #928. This is for the State Board of Education districts, and it is for the same reasons that I gave you in the previous three. This is the last one. I urge you to vote for this motion.

SPEAKER MARVEL: The motion is the adoption of 928 as explained by Senator Hefner. All those in favor vote aye, opposed vote no. Record.

CLERK: 31 ayes, 0 nays on the introduction of the new bill, Mr. President.

SPEAKER MARVEL: The motion is carried.

CLERK: Mr. President, new bills. LB 551 introduced by the Miscellaneous Subjects Committee. (Read title.) LB 552 by the Miscellaneous Subjects Committee. (Read title.) LB 553 by the Miscellaneous Subjects Committee. (Read title.) And finally LB 554 by the Miscellaneous Subjects Committee. (Read title.) (Journal pages 1108-1109.)

Mr. President, Senators Wiitala, Newell, Higgins, Vard Johnson, Fenger, Beyer, Pirsch, Labedz and Kilgarin move to suspend Rule 5, Section 5 to permit the introduction of new bill Request #937.

SPEAKER MARVEL: Senator Wiitala.

SENATOR WIITALA: Mr. Speaker and members of the body, I move to introduce Request 937 on behalf of the Falstaff Brewery, the employees of that company and also for the general welfare of Nebraska. The amended language of this request addresses the problem that Falstaff Breweries is presently having in Omaha. This is a problem that while situated in Omaha could happen about any place in the state, but since Falstaff is the only remaining

LB 118, 129A, 165, 181, 224, 234, 234A,
273, 273A, 303, 326, 336, 360, 394,
396, 411, 459A, 485, 551 - 554

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favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on the adoption of the committee amendments? Once more, have you all voted on the adoption of the committee amendments. Record the vote.

CLERK: 27 ayes, 4 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. Now on the bill itself, Senator Maresh.

SENATOR MARESH: Mr. Chairman, I move that LB 118 be advanced to E & R Initial.

SENATOR CLARK: Is there any discussion on the advancement of the bill? If not, all those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 1 nay, Mr. President, on advancement of the bill.

SENATOR CLARK: The bill is advanced. The Clerk wants to read some things in.

CLERK: Mr. President, new A bill, 129A offered by Senator Nichol. (Read LB 129A for the first time.)

Mr. President, Miscellaneous Subjects gives notice of hearing for Tuesday, May 19 on LB 551, 552, 553 and 554. And that is signed by Senator Hefner as Chair.

Mr. President, I have a reference report from the Executive Board referring legislative resolutions for interim study. That will be referred to in the Journal. (See pages 1966 through 1973 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 165 and find the same correctly engrossed; 181, 224, 234, 234A, 273, 273A, 303, 326, 336, 360, 394, 396, 411, 459A, 485, all those reported correctly engrossed, Mr. President. (See pages 1974 through 1977 of the Legislative Journal.)

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LB 406, 551

to be sure that we are correct. I am not objecting, Senator Hefner. I am only raising the question to be sure that we don't error in the final analysis. Thank you, Mr. President.

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

SENATOR HEFNER: Mr. President, I will be brief in my closing. I would just like to say that if you find any errors again in your legislative district, be sure to let us know. We will check it and I will offer an amendment on Select File but we do need to move these reapportionment bills on and I am going to ask the body here permission to expedite this particular bill.

SPEAKER MARVEL: The motion at the moment is the adoption of the committee amendments as amended. All in favor of that motion vote aye, opposed vote no. Have you all voted? Clerk, record the vote. Record the vote.

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER MARVEL: Motion is carried. The motion before the House is the advancement of LB 406. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 35 ayes, 0 nays, Mr. President, on the motion to advance the bill.

Mr. President, LB 551 was a bill introduced by the Miscellaneous Subjects Committee and signed by its members. (Read title.) The bill was first read on March 24 of this year. It was referred to Miscellaneous Subjects for hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move the adoption of the committee amendments. The committee amendments now become the bill, and if you want to follow along with me, I handed out a map to you a short time ago with the Public Service Commission districts on the map. As you know we have five districts. The committee held a hearing on it the other night and moved it out to General File with the committee amendments. I believe that I will not say any more about it. I think that most everyone is in agreement with it, and if you have any questions, I would

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be real happy to answer them.

SENATOR NICHOL: The question is, shall the committee amendments be adopted? All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR NICHOL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move the advancement of this bill, LB 551, to E & R Initial.

SENATOR NICHOL: The question is, shall 551 be advanced to E & R Initial? All those in favor signify by voting aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Record, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the motion to advance 551.

SENATOR NICHOL: LB 551 is advanced to E & R Initial.

CLERK: Mr. President, 552, LB 552 was offered by the Miscellaneous Subjects Committee and signed by its members. (Read title.) The bill was first read on March 24, referred to Miscellaneous Subjects Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SENATOR NICHOL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move for the adoption of the committee amendments. The committee amendments now become the bill, and as you know, we have six Supreme Court Judicial Districts in Nebraska, and the way this bill reads, we locate two of those in each Congressional District. I have also passed you out a map showing you the location of these Supreme Court Districts and also another sheet that gives you the population variance, and if you will notice that we range from a plus two point four percent to a minus three point one percent or a total deviation of five point five percent and this is certainly

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LB 551

SPEAKER MARVEL: Motion is carried. The bill is advanced. Now before we go to the next item, underneath the North balcony, it is my privilege to introduce a boyhood friend of Senator Sieck, former Los Angeles Juvenile Judge Roy Borchers and wife, Ruth, also son, Tom, and wife and Gary Wischbaum and wife. Where are you folks located? Welcome to the Unicameral. There is a request to temporarily hold up 551. If there is no objection to that, we go to 552. Senator Hefner, do you want to take up 552?

CLERK: Mr. President, there are E & R amendments to LB 552.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, I would just ask why we are holding up LB 551.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: I would like to pass over 551 until we get these other reapportionment bills taken care of. I am getting an amendment drawn.

SENATOR CULLAN: What is the purpose of passing this bill up?

SENATOR HEFNER: I am waiting for an amendment.

SENATOR CULLAN: Which bill is this? This is on Supreme Courts. I guess I would object. If Senator Hefner has an amendment ready, we could take it now.

SPEAKER MARVEL: Do you want to take up the bill now, Senator Hefner?

SENATOR HEFNER: I thought we was on 552. Didn't you make that announcement a little while ago that we was on 552?

SPEAKER MARVEL: No, I indicated 551. Is that the bill you want? Senator Kilgarin, the E & R amendments to 551.

SENATOR KILGARIN: I move the E & R amendments to LB 551.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The E & R amendments to 551 are adopted.

CLERK: Mr. President, Senator Hefner now moves to amend the bill.

SPEAKER MARVEL: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I am having some maps passed out to you. I am also having an amendment passed out to you and in this proposed amendment, and like I told you before, I didn't support the committee's action on LB 551, I think I have come up with a better plan. For one thing I don't change near as many counties. I only change, in this proposed plan, I only change two counties in District #4 and part of one county in District #2. In the passout that I gave you, the first page we have the districts, the Public Service Commission Districts as they currently are, and I would like to have you take a good look at that. On the second page is my proposal, and if you notice, there is very little deviation, just changing two counties and part of one other county, and, of course, the last page is as the districts are drawn as they are now in 552, and, of course, the committee's plan was to change eight counties in District #4 and three counties in District #3. There are four commissioners that are supporting this plan, and during our hearing when this one commissioner said that he supported this particular plan, I asked if there was anybody that opposed it and there was no opposition to it, and so I am offering this proposed plan in good faith, and I would urge you to support this.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Koch.

SENATOR KOCH: A question of Senator Hefner. Who was the commissioner that said they had no problems with it?

SENATOR HEFNER: Harold Simpson.

SENATOR KOCH: Which commissioner? Pardon?

SENATOR HEFNER: You mean of this proposed plan that I am presenting?

SENATOR KOCH: The commissioner you just mentioned that had no problem with it.

SENATOR HEFNER: With this plan that I am presenting?

SENATOR KOCH: Yes.

SENATOR HEFNER: Mr. Simpson.

SENATOR KOCH: Where were the other commissioners?

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SENATOR HEFNER: There were four commissioners that support this plan.

SENATOR KOCH: Four commissioners supported the plan you just handed out to us?

SENATOR HEFNER: Yes.

SENATOR KOCH: Thank you. Mr. Chairman, another question of Senator Hefner. Senator Hefner...

SENATOR HEFNER: Yes.

SENATOR KOCH: Senator Hefner, what was your position on crossing county lines?

SENATOR HEFNER: We didn't...am I on...we didn't try to cross county lines no more than we had to.

SENATOR KOCH: The question then is, is it absolutely necessary to cross a county line this time?

SENATOR HEFNER: I think it is in this plan because if we adopt this plan we are not changing too many counties. We are only changing two counties and a part of another one.

SENATOR KOCH: Well, thank you, Senator Hefner. That is rather interesting. Now I haven't had a chance to talk about Legislative District 12 but I am going to because I was one of those Senators who had surplus people, and so the first thing was since we were going to hold county lines sacrosanct that we would try to make that boundary solid. So I gave up the City of LaVista which I have served during my legislative career which was set in 1972. So as a result, my district changed rather dramatically, but I did that because of the interest of other legislators in that area, and for me to allow this to happen today, even though I know there is some gerrymandering going on here for the purpose of trying to make certain that your turf will be protected to the greatest degree you can protect it, it is obvious that this body when now, after the other day's decision, are going to change considerably. The other day we decided when we debated this that it was appropriate that we should try to preserve county lines when absolutely necessary and feasible. So I find this a very interesting change. So I suspect that I possibly will want to go back and consider legislative district so I can get LaVista again, therefore, I will not be doing anything that is changing a precedent and, therefore, I can give back to Senator Wiitala some area that was really in his legislative district where

he just recently won that by a fairly good majority and therefore I can get back some precincts that I was winning by 70% in previous elections and taking on some unknown ones in my new district. So if we are going to try to make everyone safe then lets get the whole issue back before us and make sure that we are all safe, at least to the point we know it until the next time we run again. So I find it rather unusual that the chairman who has always talked about the difficult work of his staff trying to reserve under Constitutional rights and other guidelines that we preserve certain boundaries. So I suggest to you that if we are going to open this one up, we can go back and open up a number of others as well and try to make certain that all of us preserve a certain safety that we have had in the past or a safety blanket which we want. You know that is how an infant is they use a safety...they have a safety blanket and they usually use it all up some way or other trying to go to sleep at night. I suggest we should not do this.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, this whole thing caught me a little bit by surprise. Initially Senator Hefner wanted to pass over the bill, Senator Hefner indicated at that point in time the reason he wanted to pass over the bill, he said he didn't have the amendments prepared. Now miraculously enough we have the amendments on our desks with maps and it appears that Senator Hefner prepared those amendments very quickly and we certainly compliment him on his speedy job in getting those amendments out to us. A couple of points I would like to make. First of all, the plan that the committee adopted, as the committee has tried to do on many, many occasions crosses fewer county lines than other plans that have been submitted to the committee. I think that is sufficient justification for us to stick with the plan that the committee adopted. Secondly, after the discussion that the committee had and after the floor action on General File, so far as Congressional Districts were concerned the Chairman of the Miscellaneous Subjects Committee came back to the committee when we voted on these issues, always ask us, will the committee stick behind us on this, will the committee stick behind us on this, and I think the committee pretty much since the congressional plan was discussed on the floor of the Legislature. Now the Chairman of the committee who was on the losing side of this particular issue decides that it is not, since he lost that one, I guess, that maybe it is not such a good idea for the committee to stick together any more. Well, Mr. Chairman, I guess if you would expect us to support the committee when we adopted your point of view, maybe you should stick with the majority

of the committee when we adopt a point of view that you don't totally concur with. We can spend a lot of time on reapportionment. We can spend a tremendous amount of time if we want to. I think the committee has tried, in good faith, to follow the recommendations set down by the committee. I think that it is extremely unwise of us to start to change the committee plans and all of these lines now. The recommendation that the committee adopted and sent to the floor of the legislature crosses few county lines, I think that it is a better plan. It doesn't meet the political desires of one individual on the Public Service Commission, that is unfortunate, but it is still a logical consistent plan. We shouldn't change it because one member of the Public Service Commission isn't thrilled about it and that is what we are talking about doing. I urge you to reject the Hefner motion.

SENATOR CLARK: Senator Newell. Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I arise very strongly to object to the Hefner proposal. In fact I find it kind of interesting that the Chairman, that the Chairman asked the committee to, once we worked this out and I want to give you a little bit of a scenario. We had a very difficult time on legislative districts. We had some problems on Public Service and Supreme Court and we had some problems on the Regents. We finally worked it out. The Chairman at the exec session where we kicked these bills out said, now will the committee support me? On General File the committee stood with the chairman to amend. In fact there was no debate. I would say that the committee supported the chairman in that regard. But now we have a chairman who for his own reasons, and I don't want to speak for him, is offering an amendment. an amendment that makes no other sense than the fact that "A" commissioner is asking to do this for "the" commissioner's own personal political reasons. We talk about the commission being solidly in favor, in private conversations saying, one says he would rather stay totally in Douglas County as he always has been and sees no reason for going into Sarpy County. Another commissioner says it doesn't make much sense to me but I'm not going to fight it and the other three commissioners, the other two commissioners I have not talked to because it changes one of their districts not at all and obviously doesn't make any difference to the others. So frankly what we have here is a little accommodation. I guess what exercises me the most is this accommodation was very similar to one that the Douglas County delegation asked in other regards in terms of legislative districts. The committee on a five to two vote voted to disregard Douglas County legislators requests to cross the Sarpy County line.

Now there is no reason to cross the Sarpy County line here. In fact, it really means one county less in terms of total change. Because you are changing...you are crossing into Sarpy County, that is one county and two counties remain in the district under this proposal of Senator Hefner's. So one county fewer is what change they are talking about. We are going to make one small county less. Now the efficacy of keeping the committees plan is very simple. It does not cross county lines. It is within the guidelines. It is tight. It is rationale. It is reasonable and it was a staff recommendation. It was not made for any political purposes. This amendment is offered for political purposes only. I think the chairman who asked the committee to stay with him ought to have egg on his face at this very moment when he proposes for political expediency or for whatever reasons to change the committees amendments. I urge this legislature not to do this. It is wrong, it is the height of political "bagony", yeah, and I think that there is no justification whatsoever for this change.

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Thank you Mr. President. Senator Hefner, would you yield to a question? I wasn't listening but I do want to know for myself, was this amendment brought up or this plan brought up in committee?

SENATOR HEFNER: Yes, we discussed it.

SENATOR LABEDZ: And how was the vote on it?

SENATOR HEFNER: I think that there were three or four votes for it.

SENATOR LABEDZ: Out of seven?

SENATOR HEFNER: Out of seven.

SENATOR LABEDZ: Okay.

SENATOR HEFNER: Or maybe eight, out of eight I believe.

SENATOR LABEDZ: So the motion did fail whatever it was... whoever made it. Okay. As I said before when we were discussing the other bill it didn't do me any good and I was very unhappy about taking a cut in my district from 33,000 as most of you have, going down to 30,000 because I felt that it would do no good to bring it on the floor and argue it back and forth. We went along with the committee and cut myself down about 3,000 people, put me down to 30,500

only because they didn't want me to cross the Sarpy County line. Now if this amendment does go through, I will have to, on Final Reading, bring back the other bill and try to get myself back the 3,000 or at least 2,800 people that I volunteered to cut myself down in order not to cross the Sarpy County line. I urge the members of this body to reject this amendment.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: Mr. President and members of the Legislature, I think all of you are aware of some of the problems we had when we were discussing Omaha and Douglas County boundary lines for the state Senators. We had a plan worked out where Bernice would go a little bit into Sarpy County but the Miscellaneous Subjects Committee said, "No, we don't want you crossing county lines". I know it is hard to be consistent in this body all the time but I think this is an obvious inconsistency, one that is not warranted, and really has no justification. I would urge you not to adopt Senator Hefner's amendment to 551 and that way we will avoid any amendments on Final Reading that I can guarantee you will be offered if this amendment is adopted. Thank you.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, members of the Legislature, I rise to support Senator Hefner's proposal. Laying aside for a minute the question, procedural questions about whether it had a public hearing, laying aside for a moment the question of the committee sticking together, laying aside the question of the Sarpy County line which I think Senator Koch and Labedz have a legitimate point on and that we should, if we adopt this amendment, reconsider their boundaries. But I think as the perspective of a Lincoln Senator the Hefner proposal and that which I think is strongly supported by Public Service Commissioner and former Senator Simpson has a lot of logic to it. Sarpy County really does not belong with Lincoln. It really belongs more with Omaha. I mean any district, any area that would send us George Fenger really doesn't belong with Lincoln, it belongs with the Omaha delegation, and for that reason I think that Sarpy County and places in Sarpy County should be attached to Omaha, and counties such as Richardson, Southeast Nebraska, should be tied back to Lincoln and that way Lincoln can dominate this Public Service District without conflicting with another urban area. Now there are many greater ties, I think, and the Platte River is a natural boundary between Lancaster and Sarpy County and there are many ties between Lancaster

County, between Lincoln and Falls City and areas like that. My wife's family even comes from down in Falls City so I think even personally I feel a certain attachment to that part of the state. So I think although it is a political proposal by former Senator Simpson to keep that tie, it is not simply to serve Senator Simpson that this should be done. I think it is to the advantage of anyone in Lincoln for this Public Service Commission District to give as much of Sarpy County as possible up, to get it out of our area, so it can work with Omaha, and to try to tie in with Southeast Nebraska, which as I indicate, there is a natural affiliation between Lincoln and Southeast Nebraska. So I think for that reason, even though it is a political proposal, if you will, I guess all reapportionment is, and even though the committee, it breaks the unanimity of the committee, I would support this. I think that the Sarpy County line is an arbitrary line anyway and I think that Senator Labeledz and Koch and Witala have a justified point that if we adopt this amendment and throw aside that arbitrary boundary and recognize that Bellevue is more part of Omaha than part of rural Sarpy County, and certainly more part of Omaha than part of Lincoln, that we can go back and look at some of the legislative districts. So although Senator Hefner I guess has taken a somewhat unprecedented stance here in defecting from his own committee, as a Lincoln Senator and one who is interested in Lincoln having adequate representation on the Public Service Commission, strong representation, I certainly would support his proposal.

SENATOR CLARK: Senator Fitzgerald.

SENATOR FITZGERALD: Mr. Speaker and members, I would like to tell Senator Fowler that we have a gentleman from Columbus comes down and represents Omaha. He has the western part. So we have nothing...we don't think he has anything in common with us as Senator...Commissioner Simpson with Lancaster County and Sarpy County. I stand up here to oppose this. I think myself, personally, all the people, forty-nine senators, voted and we worked hard to get where we are today. The Board of Regents, the Board of Education, we all agreed on everything. Are we going to let one man come in here and take all the work that we have done over a period of months, one individual and Service Commissioner, we will have him come in here and tell us what to do? I think you fellows have a little more backbone to get out here and vote your convictions because I think this is the most asinine thing I have heard this year. Everybody agrees and everything down here on this and one individual

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is coming in here and he is going to just mess up all of the work we have done. So that is all I have to say and I hope all of you people vote against this amendment.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Members of the Legislature, I move the question.

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

CLERK: 26 ayes, 5 nays to cease debate, Mr. President.

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

SENATOR HEFNER: Mr. President, members of the body, I just figured in all good conscience I have to offer this amendment to the body. I believe it is a more simple plan. It changes only two counties and a part of another one whereas the other plan changes quite a few more counties and I don't remember any deals being made of the legislative districts or the Public Service Commission Districts. I think that the Sarpy County Senators, the Douglas County Senators acted in good faith. All I did was call them together and told them that we had to reach a decision on the legislative districts which they did and I appreciate that fact, and now they are trying to say that maybe I reneged. I don't believe I did. I offer this plan to you in good faith. If you don't like it, vote no, and if you do like it, well, vote yes and that is all there is to it. I just say to you again, we held a hearing on the Public Service Commission districts and there was one commissioner that opposed the plan that we had and he told us why and I thought we should have considered his statements a little more carefully. However, the committee felt that they didn't want to do it and I think there was three of us on the committee that voted against the plan that would be put to the floor. The reason that I didn't offer these amendments any sooner, I didn't have them ready and this is certainly the truth. At the present time there are four Public Service Commissioners that support this plan and so, therefore, I would certainly

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urge you to vote for this plan.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Once more, have you all voted, all those that wish to vote? Senator Hefner.

SENATOR HEFNER: Mr. President, how many are excused today?

SENATOR CLARK: Four. You have got ten not voting.

SENATOR HEFNER: I will ask for a Call of the House. I will take call in votes.

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

CLERK: 14 ayes, 2 nays, Mr. President, to go under Call.

SENATOR CLARK: The House is under Call. All Senators will check in please. He didn't ask for a roll call vote. Do you want one?

SENATOR LABEDZ: Yes.

SENATOR CLARK: All right. We have got Senator Warner, Senator Kremer, Senator Schmit, Senator Beutler, Senator DeCamp, Senator Cullan, Senator Landis. They are all here. The Clerk will call the roll. Can we have it a little bit quiet please so the Clerk can hear the response. Senator Fitzgerald, for what purpose do you rise?

SENATOR FITZGERALD: Mr. Speaker, I was just reading this amendment to 551 and this amendment did not go six miles into Sarpy County. This amendment is entirely wrong. Will you have the introducer check on it?

SENATOR CLARK: I will do that because I don't know anything about it.

SENATOR FITZGERALD: I mean when we are voting on something, I want to be voting on something correct.

SENATOR CLARK: Senator Hefner.

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SENATOR HEFNER: Mr. Chairman, members of the body, this is correct. Senator Fitzgerald, you are correct and I do have a corrective amendment up there, after we pass this.

SENATOR FITZGERALD: (Mike not turned on.) I want to know what I am voting on. I mean I'm voting six miles and, my golly, I will be going down into some other county.

SENATOR HEFNER: Okay, the amendment changes this to three.

SENATOR FITZGERALD: Oh.

SENATOR CLARK: The Clerk will call the roll.

CLERK: (Roll call vote taken. See pages 2263 and 2264, Legislative Journal.) 24 ayes, 19 nays, Mr. President.

SENATOR CLARK: The motion failed. What else is on the bill? Any other motions?

CLERK: Senator Hefner, do you want to offer that? No. I have nothing further on the bill, Mr. President.

SENATOR CLARK: The question before the House is the advancement of the bill. Is there any discussion? All those in favor vote aye, all those opposed vote nay. Record the vote.

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

SENATOR CLARK: The bill is advanced. LB 552.

CLERK: Mr. President, Senator Stoney would like to be excused Friday, June 5.

Mr. President, I have an Education Committee report regarding gubernatorial appointments. (See pages 2264-2265 of the Legislative Journal.)

Mr. President, your Enrolling Clerk has presented to the Governor the bills that we read on Final Reading this morning. (Re: LB 134, 224, 326, 360. Page 2264 of the Legislative Journal.)

Mr. President with respect to 552 I do have E & R amendments.

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LB 321, 243, 551-554

SENATOR CLARK: The motion is withdrawn. We go to LB 321.

CLERK: Mr. President, if I may right before that, read some material in. A new resolution LR 189 by Senators Newell, Wiitala, Higgins, Vard Johnson. (Read LR 189 as found on pages 2282-2283 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, your committee on Enrollment and Review respectfully reports it has carefully examined and engrossed LB 243 and find the same correctly engrossed, 551, 552, 553 and 554, all correctly engrossed.

Mr. President, with respect to LB 321 I do have E & R amendments pending.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 321.

SENATOR CLARK: You have heard the motion. All those in favor say aye, opposed. The E & R amendments are adopted.

CLERK: Mr. President, Senator Koch would now move to amend the bill.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. Mr. Burnett has notified me that we have a problem in the bill on page 30 and this is a reference problem, a sectional problem and so in order to correct this and not have to bring it back from Final Reading then once it has been approved, I move that this technical amendment be adopted so that it harmonizes with the section and would not be inappropriate at a later time. I ask for the adoption of the amendment.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The Koch amendment is adopted. Senator Koch, what do you want to do with the bill? Do you have anything else on it?

CLERK: No, sir, nothing further.

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LB 352, 551

CLERK: 33 ayes, 3 nays, Mr. President, to return the bill.

SENATOR CLARK: Senator Carsten.

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

SENATOR CLARK: The motion before the House is the adoption of the amendment which is the emergency clause. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 33 ayes, 2 nays, Mr. President, to adopt the amendment.

SENATOR CLARK: The amendment is adopted. Senator Carsten.

SENATOR CARSTEN: I move the bill be advanced to E & R engrossing.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. A machine vote, all right, all those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 32 ayes, 2 nays, Mr. President, to readvance the bill.

SENATOR CLARK: The bill is readvanced. LB 551. Senator Remmers.

CLERK: Mr. President, Senator Remmers would move to return LB 551 to Select File for a specific amendment.

SENATOR CLARK: Senator Remmers.

SENATOR REMMERS: Mr. President, members of the Legislature, I am asking that this be returned to amend the Hefner amendment to change the six miles to three miles, reference to the six miles to three miles and the southern boundary, change it from the Missouri Pacific to the Union Pacific in that area. I am asking that it be reconsidered. During the discussion on LB 551 yesterday on the Hefner amendment I heard all the repeated accusations about this being special

legislation for one public service commissioner. I had my light on to speak but the question was called for before I had an opportunity to talk. I supported the Hefner amendment and I ask for reconsideration of the corrected amendment. As far as the lobbying, I am not asking this for Mr. Simpson. I am asking this for my personal wishes in this matter. I was never contacted by Mr. Simpson at any time and have not been contacted up to this time. I have not been lobbied by anyone other than my constituents that called me yesterday morning. In fact, I have been ignored. I was not asked about the change even though it involved about two-thirds of my legislative district. I am asking that this be reconsidered and that the Hefner amendment, in effect, be adopted because the individuals in my district, in Nemaha and Richardson County, have had good working relationship with the commission. They feel the First District would be more responsive to their problems than the Fourth District. I think if you will look at the map you can see that the Fourth District is a rather painfully distorted district. While the Hefner amendment does make a much more compact district out of both four and one and it does not change as many counties as LB 551, we would like to remain in the First District because of the proximity of the Nemaha and Richardson Counties to the other counties in the First District and the great distance in some of the other counties. We also have had historical ties in the past. Nemaha and Richardson County have been historically tied to districts involving Otoe and Cass County in that area. I think it would make a much better district. The lines would be drawn on a much more compact basis and I urge you to vote to return this bill for an amendment.

SENATOR CLARK: Senator Fitzgerald.

SENATOR FITZGERALD: Mr. Speaker, I oppose it. I thought we had this settled. Could I ask you a question, sir? Mr. Clark, could I ask you a question?

SENATOR CLARK: Yes.

SENATOR FITZGERALD: I brought up this issue on the three miles and six miles to Senator Hefner. I asked him what we were voting and I wanted a proper amendment to vote on and it was six miles and he changed it to three. Now, Pat, did we get the corrected amendment up there when we were voting or were we voting in error?

SENATOR CLARK: No, this is three miles. This is a reconsideration.

SENATOR FITZGERALD: From six miles to three miles is the consideration?

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LB 551

SENATOR CLARK: It is a reconsideration.

SENATOR FITZGERALD: From the amendment?

SENATOR CLARK: It is a reconsideration of what we took up yesterday.

SENATOR FITZGERALD: Well he said that we had it wrong at six miles to three miles and I wanted to make that correction.

SENATOR CLARK: He has it at three miles now, I believe.

SENATOR FITZGERALD: Well we had it at three miles yesterday.

SENATOR CLARK: I don't care what you had it yesterday.

SENATOR FITZGERALD: Well what I am getting at, how can he bring up a reconsideration when he voted?

SENATOR CLARK: I don't know how he voted.

SENATOR FITZGERALD: Would you please check the record, Pat?

SENATOR CLARK: We will. The Clerk informs me that yesterday it was on Select File. Today it is on Final so it is all right.

SENATOR FITZGERALD: Then you can put up...you can have a reconsideration on the same amendment that was put yesterday?

SENATOR CLARK: That is what the Clerk tells me. It is a different stage.

SENATOR FITZGERALD: According to parliamentary procedure, Clerk, can you do that or have you been doing it all year under not according to the rules and regulations? Have you been doing this in error?

SENATOR CLARK: We have been doing it all year, he says.

SENATOR FITZGERALD: Is it in error or is it in the rules and regulations?

SENATOR CLARK: I don't know. You will have to ask the Clerk that.

CLERK: Senator, it is simply the way we have done business all year.

SENATOR FITZGERALD: Did we do it in previous years?

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CLERK: Yes, sir.

SENATOR FITZGERALD: Well I stand up here to oppose his amendment and we do not want to leave our Railroad Commissioner leave Douglas County. History, he has been in Douglas County and I just can't see our commissioner leaving Douglas County and Mr. Gay, which is a fine commissioner, I have nothing against the gentleman, coming down from Columbus and taking half of Douglas County and putting us into Sarpy County, so I oppose this reconsider motion.

SENATOR CLARK: Before we call on the next person I would like to introduce Mr. and Mrs. John Redman from Boulder Creek, California. They are guests of Senator Rex Haberman. They are under the South balcony. Will you stand and be recognized please. Welcome to the Nebraska Legislature. Senator Newell is next.

SENATOR NEWELL: Mr. President, I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those wishing to cease debate will vote aye, opposed vote nay. Voting aye, Mr. Clerk.

CLERK: Senator Clark voting yes.

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

CLERK: 26 ayes, 4 nays, Mr. President, to cease debate.

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

SENATOR REMMERS: Only to correct part of the or in answer to part of the question that I did amend the amendment. The amendment in the Journal does say six miles and mine refers to three miles. So I think there is a change, so I feel that the motion is in order, even if we were proceeding wrong under the other impression. I just say again...

SENATOR CLARK: I rule your motion in order.

SENATOR REMMERS: ...I just say again that I think this will make a much better district out of both number one and number four and there will be fewer changes, county changes, in this plan than there is in the present 551.

SENATOR CLARK: The motion before the House is the return of the bill for a specific amendment. All those in favor vote aye. All those opposed vote nay. Senator Chambers, from

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LB 551, 523

what point do you arise or are you just tired of sitting down? Fine. We are voting on the return of the bill for a specific amendment by Senator Remmers. Voting aye.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Senator Remmers, I am going to call the vote. What would you like?

SENATOR REMMERS: I would like to have a Call of the House.

SENATOR CLARK: The House is under Call. If everyone would check in please. Do you want a roll call vote? All right. If everyone will check in please. We have four of them excused so we are looking for fifteen. Burrows, Warner, Kremer, Kremer is excused, Schmit. Senator Fowler. Senator Barrett, Senator Wagner, Senator Landis, Senator Newell. We are looking for Senator Schmit, Senator Barrett. Senator Remmers, do you want to start the roll? We are short Senator Schmit and Senator Barrett.

SENATOR REMMERS: Let's just wait just a moment.

SENATOR CLARK: All right. Senator Schmit is out of the building and Senator Barrett just walked in.

SENATOR REMMERS: Okay, go ahead.

SENATOR CLARK: Mr. Clerk, would you tell them what we are voting on, please.

CLERK: Mr. President, we are voting on Senator Remmers' motion to return LB 551 to Select File for a specific amendment and, Senator, I believe you passed out copies of the amendment. Did you not? Did you pass out copies of the amendment? I believe you did. Yes.

SENATOR CLARK: All right, call the roll.

CLERK: (Read roll call vote as found on page 2337 of the Legislative Journal.) 18 ayes, 20 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: The motion failed. LB 523 of Senators Newell, Fitzgerald and Kilgarin and Hoagland. Senator Newell.

SENATOR NEWELL: Mr. President, it is with great reluctance and a little bit of anger that I want to withdraw this amendment now. That is probably all I should say and I think I will take my own best advice and just say that.

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LB 406, 551, 553, 554

and 2372 of the Legislative Journal.) 44 ayes, 3 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 406 passes. The next bill on Final Reading, Mr. Clerk, is LB 551.

CLERK: (Read LB 551 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 551 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on pages 2372 and 2373 of the Legislative Journal.) 45 ayes, 0 nays, 3 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 551 passes. The next bill on Final Reading, Mr. Clerk, is LB 553.

ASSISTANT CLERK: (Read LB 553 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 553 pass? All those in favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read the record vote as found on pages 2373 and 2374 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 1 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 553 passes. The last bill on this list approved for Final Reading today is LB 554. Mr. Clerk, you may proceed with the reading of LB 554.

ASSISTANT CLERK: (Read LB 554 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 554 pass? All those in favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 2374 of the Legislative Journal.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 554 passes. Do you have some things to read in, Mr. Clerk?

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LR 180

LB 320, 406, 551, 553, 554

present this information to you. We have known all along, of course, the importance of the dairy industry in Nebraska and it is a very vital part of agriculture, and we appreciate these Senators bringing this to you. Thank you.

PRESIDENT: Senator Koch, the Chair recognizes you.

SENATOR KOCH: Mr. Speaker, I know that Senator Kahle and I were caught unaware but in that vast District Senator Kahle represents in Red Cloud, Nebraska is an outstanding processor of cheese, so for the good City of Red Cloud we want them to be on the list.

PRESIDENT: And now I must recognize Senator Kahle, I guess, after that.

SENATOR KAHLE: Mr. President and members, not only do we have a cheese plant at Red Cloud, we also have one at Superior. It's been there for many years, and it is in the 37th District, and we certainly don't want to leave them out.

PRESIDENT: Thank you for the clarification and so that we get a travelogue of our great State of Nebraska. I would also at this time like to introduce from Senator Hoagland's District twenty-four 8th Graders from Louis Clark Junior High in Omaha, Ruth Owen, the teacher. They are up here in the north balcony. Do you want to wave to us up there, so we see where you are? Welcome to your Nebraska Legislature. Okay, while the Legislature is in session and capable of doing business, I propose to sign and I do sign LBs 320, 406, 551 and 553 and 554. Mr. Clerk, I guess we are ready then for agenda item #6, resolutions, and commencing with LR 180...Senator Wesely, if you want to read it for the record, Mr. Clerk.

CLERK: Mr. President, LR 180 offered by Senator Wesely. is found on page 1943. (Read LR 180.)

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Yes. Mr. President and members of the Legislature, this resolution has been pending now for a couple of weeks. It does support the service of the San Francisco Zephyr through Nebraska. I did have a handout that I passed out which shows that the San Francisco Zephyr has increased in ridership from 142,000 in 1978 to over half a million in 1980, which is a clear increase of strong support for the program. All we are asking for

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LR 189

LB 320, 406, 551, 553, 554.

people who are on the public payroll in Omaha. When he talks about these...I don't if he mentioned a George Garnett, but this man is on the federal payroll with an agency and their agency says whatever the city wants to have them say. So their interest is tainted. He may have mentioned a Mr. McVoy and I notice every time they give his name, they mention him as a member of the Omaha Board of Education but he is really a member of the Omaha Housing Authority, and he has an interest from the standpoint of the Housing Authority accumulating this land in other areas and that is why he is favor of letting them destroy the middle of a housing project development. There are many issues which need to be addressed. And Senator Newell's resolution is ill-advised and ill-conceived. So in order that the issue will remain where it ought to be, I am asking that you kill this resolution and not put the Legislature on record in favor of a project that it doesn't understand which can breed litigation and which could put the state in a very embarrassing position. Because I think if the Legislature pushes the Department of Roads forward, then there could be a type of liability that would accrue to the state as a result of that particular action. So I am asking that you put this matter to rest and vote in favor of the motion that I have up there.

PRESIDENT: The motion before the House then is the motion to indefinitely postpone LR 189. All those in favor vote aye, opposed nay. We are voting on the motion to indefinitely postpone LR 189. Well, Senator Chambers, what do you wish to do? Call of the House? Record the vote.

CLERK: 9 ayes, 17 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT: The motion fails. Now do you want to.... Mr. Speaker, do you want to recess now and take this up after lunch, or the resolution? I believe that is what you wanted. So, Senator Newell, do you want to... does anybody want to move to recess then until two o'clock? Yes, he wants to read some things in.

CLERK: If I may, Mr. President, very quickly, the Enrolling Clerk has presented to the Governor LBs 320, 406, 551, 553 and 554. That's all that I have.

PRESIDENT: Senator Newell.

SENATOR NEWELL: Mr. President, I move we recess until two o'clock this afternoon.

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

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

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PRESIDENT LUEDTKE PRESIDING

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

REVEREND SCHMELTZER: Prayer offered.

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

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

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

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

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

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

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

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

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

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

CLERK: I have nothing further, Mr. President.

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