

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, 552

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 552

within the guidelines that our committee adopted several months ago. Again, if you have any questions, I would be real happy to try and answer them for you, and if there isn't, well, then I would certainly move adoption of the committee amendments.

SENATOR NICHOL: Senator Wesely, did you have a question?

SENATOR WESELY: Yes, I do have a question of Senator Hefner.

SENATOR NICHOL: Senator Hefner, will you respond?

SENATOR WESELY: Senator Hefner, if you would yield please, I see...I do appreciate, I think that you are doing the right thing in splitting the Congressional Districts into two areas so that we can geographically spread those districts across the state of the Supreme Court. My question is this, I see that you split Omaha in the Second Congressional District. Had you considered the possibility of splitting Lincoln in the First Congressional District?

SENATOR HEFNER: Senator Wesely, this was not brought up at the committee hearing and if I recall the committee did not even discuss this. However, during the committee hearing I did ask the question about...if you notice that District #3 runs from the northern tip of Nebraska to the southern part of Nebraska and, of course, this would allow us to have a Supreme Court judge either from northeast Nebraska or the southern part of Nebraska and my question was, is this the way we want the Supreme Court to represent us, and I think it was the consensus that it wasn't all that bad.

SENATOR WESELY: Okay, I also see that you don't strictly follow Congressional lines but you follow them as close as you can, isn't that correct?

SENATOR HEFNER: Senator Wesely, we do follow Congressional lines.

SENATOR WESELY: See, like Thayer County is in the Third District, Congressional District on this map that would normally be in the First District so you couldn't have possibly followed them all, completely, you did it as close as you could, isn't that correct?

SENATOR HEFNER: Well, of course, now as the Congressional Districts stand, Thayer County is in the Third District so this map does follow the new Congressional Districts lines.

SENATOR WESELY: Oh, that is right. You changed that. That is right. Senator Maresh is going to talk about that. Thank

you, Senator Hefner. I guess I would suggest this. In splitting Omaha, I think the intent was quite clear. Most of the lawyers in the Second Congressional District area are found in Omaha and what we are trying to do, and we had this constitutional amendment last year to try to go to Congressional Districts and have two Supreme Court justices from each of those three Congressional Districts so that we wouldn't be bound so much by geographical lines and more bound by the intent of trying to find the best qualified people to serve on the Supreme Court. Well, I would submit to you that you will find most of the lawyers in the First Congressional District in Lincoln and that you will find the people that perhaps may be best qualified, in some cases you may have several in the case of Lincoln because it is the population center of the First Congressional District. So my suggestion is this, and I will look into it further, but I am intending at this point to try and develop a map which would split Lincoln, just as Omaha is split, on the Supreme Court Judicial Districts. I don't know if that can be accomplished easily or not but it would only make sense in my mind that if we do it in Omaha we should do it in Lincoln. Senator Fowler questions which boundary we might use within Lincoln, O Street or 48th Street or what have you. Considering the location of lawyers in the city, we will have to consider that as well. Nevertheless, it seems to me that we might be wise to look at that. I will be proposing something on Select File perhaps if I can work it out and I think it would make sense for the state to do that. I think that that would be a greater balance of Supreme Court Judicial Districts by doing it and so I just want to warn you that I am looking into it and I think it wouldn't be a bad idea to do.

SENATOR NICHOL: Senator Hefner, would you like to close?

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

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: Have you all voted? Record, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR NICHOL: Senator Hefner.

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LB 552, 553

SENATOR HEFNER: Mr. President, members of the body, I move for the advancement of 552 to E & R Initial, just say once again, if you have any questions, well be sure and come and see me or my staff and we will try to answer them for you. I believe that this here.....these new boundary lines are fair. The Nebraska Bar Association supports it and therefore I would ask you to support the bill.

SENATOR NICHOL: The question is shall 552 be advanced to E & R Initial. All those in favor vote aye, opposed vote nay.

ASSISTANT CLERK: Senator Nichol voting aye.

SENATOR NICHOL: Record, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR NICHOL: May I have your attention for just a second. Mr. James Delehant, father of Becky Delehant, legislative aide to Senator Wagner is under the south balcony. I understand he has just been made an Admiral in the Great State of Nebraska's Navy. Would you stand and be recognized, sir. Thank you. Mr. Clerk, shall we go on to 553.

CLERK: Mr. President, LB 553 offered by the Miscellaneous Subjects Committee, it is a bill (read title of bill). The bill was first read on March 24th, the Miscellaneous Subjects Committee conducted public hearings, Mr. President. The bill was advanced. There are committee amendments pending.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move the committee amendments to LB 553. Again, let me call your attention to the Board of Regents map that I passed out a little earlier. We have six Board of Regents and these follow the same lines that the Board of Education districts do. We feel that it simplifies it and if you want to follow along in your handout in comparing with the population variance you can see that we run from a plus 2.62 to a minus 3.07. Of course this is in variance of the guidelines adopted

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LR 188
LB 179, 181, 252, 273, 273A, 303, 322,
346, 376, 381, 384, 389, 441, 451, 470, 472A
485, 497, 501, 543, 512, 552, 545, 553, 554.

Senator DeCamp. All those in favor vote aye. All those opposed vote nay. It takes 30 votes.

CLERK: Senator Clark voting no.

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

SENATOR DeCAMP: How many are excused? Eleven?

SENATOR CLARK: Two.

SENATOR DeCAMP: Two? Okay, we still stand a shot, so I would ask for a Call of the House and take call in votes if that would be okay. But I would ask for a Call of the House first.

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

CLERK: 19 ayes, 3 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will return to their seats, and if all Senators will check in, please. The Clerk would like to read some things while we are trying to get everyone registered in here.

CLERK: Mr. President, while we are recording our presence, I have a communique from the Governor addressed to the Clerk. Engrossed LBs 181, 252, 303, 381, 441, 451, 470, 485, 497, 543, 179, 346 and 384, 273, 273A, 501 and 545 were signed by me May 22 and delivered to the Secretary of State. Sincerely, Charles Thone, Governor.

Mr. President, I have an Attorney General's Opinion addressed to Senator Barrett on 376; one to Senator Hefner on 552. (See pages 2228 through 2233 of the Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined 406 and recommend that the same be placed on Select File with amendments; 551 Select File; 552, 553, 554 all on Select File with amendments. (See pages 2233 through 2234 of the Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 322 and find the same correctly engrossed; 376, 389 and 512 all correctly engrossed.

Mr. President, new resolution, LR 188 by Senator Wagner.

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LB 552

SENATOR CLARK: Senator Kilgarin, E & R amendments to 552.

SENATOR KILGARIN: I move we adopt the E & R amendment to LB 552.

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

CLERK: Mr. President, I now have an amendment from Senator Hefner. (Read Hefner amendment as found on page 2265 of the Legislative Journal.)

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. Chairman, members of the body, I offer this amendment which was suggested by the Attorney General's opinion that we received, I believe it was last Friday. The Attorney General's opinion is on page 2231 in our Journal if you want to follow along with me a little bit. That is page 2231. The question that I asked was, whenever the Supreme Court is redistricted, the judges serving prior to the redistricting shall continue in office and the law providing for such redistricting shall, where necessary, specify the newly established districts which they shall represent for the balance of their terms. And of course with the plan that we now have going across the board in 552 it does redistrict two Supreme Court judges out of their particular district. And of course, here was the Attorney General's, it was quite a lengthy letter and here is what he would suggest. "Toward this end we would suggest that you simply add after the present language for the balance of his or her term the language or so long as he or she shall be retained in office." And so this is what we are doing with this amendment and I am sure that this will answer some of the questions that have been asked of me and also other members of the committee. I would, therefore, ask you to support this amendment.

SENATOR CLARK: Senator Koch, did you want to talk to this amendment? Is there any discussion on the amendment? If not, all those in favor of the Hefner amendment vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 29 ayes, 0 nays on adoption of the Hefner amendment, Mr. President.

SENATOR CLARK: The amendment is adopted. Do you have anything further on the bill?

CLERK: Mr. President, Senator Wesely would move to amend the bill. (See Wesely amendment on page 2265 of the Legislative Journal.)

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, I don't have a handout because you probably could not tell from it exactly what we are talking about anyway but if any of you are interested I do have a number of copies of the map which would change the Supreme Court judicial districts. Essentially what we are doing is this. The present map has a district 3 figure which goes from the northern boundaries of Nebraska clear down to the southern Kansas boundary and if you want copies just come on over. I have got extra copies. And the problem is this. We have got kind of a strange looking actually district that it is just basically a tier of counties with a few off to the side that goes from north and south and that is usually not the way we have our boundaries in the state. Usually we have a sort of a south of the Platte, north of the Platte, northern-southern division that has a little more common sort of situation than what we have got now. So what I did was sit down and try to work out a change that would bring about a sort of a more northern half of the first congressional district and southern half of the congressional district and the only way you can really work that out is to take a small chunk of Lancaster County and put it up in the upper tier and so essentially what we would have is this. We would have a number of counties which are now in the northern half which would be moved to the southern half. Let's see, we see Richardson, Pawnee, Gage, Jefferson, Nemaha, Johnson, Otoe, Saline, Fillmore, Seward, York, Butler would all be in the southern county and a number of those, particularly Saline, Fillmore, Seward, York and I believe, Butler, would have all been in the northern one. So what we are doing is shifting around and essentially creating a different sort of a boundary that would include the northwest quadrant of Lancaster County and Saunders County in the northern half of the judicial districts we would split and then have a south of the Platte, north of the Platte difference essentially for all the other counties. There are a number of reasons that I wanted to do this. First off, the population variance would be decreased to a very close margin so that the first district would be off the median ideal figure by about .02% and the third judicial district would be off by a -.28 so they are within .28 of the ideal population variance and

that is very closer, that would make them much closer than any of the other Supreme Court judicial districts. Likewise it would also give a couple of Lancaster County legislative districts, the 27th and 46th would be moved into that northern half of the congressional district division and would be placed in the third judicial district. One of the reasons I want to do that is that two-thirds of the lawyers in the first congressional district are found in Lancaster County and the thought was that by at least taking a small chunk of Lancaster County and placing it with the third judicial district there would be more of a pool of lawyers to look at when a decision is made. I think it is important that the Governor have that opportunity to pick the very best person possible for the Supreme Court when filling a vacancy. So I think that was important as well but most important of all is I think it brings about a contiguousness to the judicial districts that otherwise would not be there and I would certainly encourage your strong support for this amendment. I will leave it at that point and be free to answer questions if you have any.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, again I rise to oppose an attempt to amend the work that the Miscellaneous Subject Committee did in this regard, particularly here where Senator Wesely, irrespective of how he phrases it, is trying to get another Supreme Court justice in Lancaster County. Senator Wesely again, as with the previous amendment, unnecessarily divides the county again, a proposal to violate one of the guidelines which the Miscellaneous Subjects Committee used in drawing the various maps. Now there are other potential maps that make more sense that could accomplish Senator Wesely's objectives so far as not crossing the Platte River that would not have to split Lancaster County. So let us not be fooled by Senator Wesely's talk about the Platte River. His attempt is nothing more than to ensure that Lancaster County would have two Supreme Court justices. They already have two, very excellent members of the court. I think three is pushing it a little much, Senator Wesely, and you probably ought to withdraw your proposal. But he isn't likely to do that. I would urge you to oppose the Wesely amendment.

SENATOR CLARK: Senator Nichol. Is Senator Nichol in the room? Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, Senator Wesely, do I understand this is something you say

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you want and yet you do not have a copy of it for us?

SENATOR WESELY: If you want a copy just walk right over, Shirley. It is right here.

SENATOR MARSH: Senator Wesely, I would think if you really wanted it you would want us to be informed about it.

SENATOR WESELY: If you wanted to be informed you could walk right over...(interruption.)

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, last year Senator Hoagland had a bill in here that had to do with redistricting of Supreme Court judges districts and we finally wound up putting it to a vote of the people and they voted against such a bill. Now what I want to know is, is this the same bill or something similar to it? Either, Senator Hoagland or Senator Wesely.

SENATOR CLARK: Senator Wesely, will you answer the question?

SENATOR NICHOL: The question is, last year Senator Hoagland had a bill that kind of gerrymandered around Omaha so that Omaha would have two Supreme Court judges and we put it to a vote of the people and they voted no and I want to know if this is similar to that bill.

SENATOR WESELY: The similarity is that essentially we would have two Supreme Court justices for each of the three congressional districts but unlike that proposal they would not be at large within the congressional district. There would be two distinct sections of the congressional district that would be divided so there is a difference but it is similar.

SENATOR NICHOL: How is it similar?

SENATOR WESELY: Again, with the six seats that we would have on the Supreme Court, the proposal was to have two from each of the three congressional districts and with this map essentially you would have two from each of the three congressional districts.

SENATOR NICHOL: Why don't we just leave this bill the way the committee came out with it?

SENATOR WESELY: Well, then you have got some districts that do not make a lot of sense I guess. That would be my position.

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LB 552

SENATOR NICHOL: And this puts sense into making the bill sensible?

SENATOR WESELY: I think so.

SENATOR NICHOL: Just how does it make it sensible that it is not sensible now?

SENATOR WESELY: Well instead of having a district that goes from the northern to the southern boundary with the few tag-ons on the northern part, we have a southern and a northern half of the first congressional district which makes more sense to me.

SENATOR NICHOL: Did the committee talk about this particular amendment and the gerrymandering that you are talking about or did they just talk about the gerrymandering that they were doing?

SENATOR WESELY: Well this idea was originally discussed by the Bar Association but because of lack of information and some concerns they decided just to go with what they have so it has been discussed by the Bar but they did not pursue it and they have taken the position of what the committee came out with.

SENATOR NICHOL: Okay. Senator Hefner, what do you think of this deal?

SENATOR HEFNER: What was the question again?

SENATOR NICHOL: What do you think of this gerrymandering as opposed to the gerrymandering that the committee has done?

SENATOR HEFNER: Didn't you say something about a deal?

SENATOR NICHOL: Yes.

SENATOR HEFNER: This is no deal.

SENATOR NICHOL: Oh, well what I wondered was what you thought about this particular amendment that we are talking about at the moment.

SENATOR HEFNER: Okay, I visited with Senator Wesely shortly about it. I really don't think it is that bad. I mean, if it will help Senator Wesely, well I guess I would have to vote for it.

SENATOR NICHOL: Senator Wesely, how does this amendment help you?

SENATOR WESELY: Well it really maybe does not help us that much. We only take a small chunk of Lancaster County and you know, I guess the thought was perhaps we needed to balance off the lawyer distribution in the first congressional district but in the end, it does not help us so much as it does makes a district that makes a little more sense in a southern-northern type of a division instead of a north-south running district with a sort of a southeast district.

SENATOR NICHOL: Okay, thank you, Senator Wesely. This really does make sense that it is a north-south district instead of a northeast-southeast sort of a district. That really makes sense. I don't understand it one bit. I wish it would be explained sensibly so we could understand it.

SENATOR CLARK: Senator Wesely, would you care to close?

SENATOR WESELY: Okay, the amendment before you would essentially have instead of the third district running from the northern boundary to the southern boundary, would essentially have it stop at the Platte River and have a northern third judicial district and a southern first judicial district with an exception of this. Saunders County and the northwest chunk of Lancaster County would have to be moved up to the third judicial district and that would be done essentially because we need to balance off the population. With the changes that we have we have a population variance of less than .28% which is very, very close and also we better distribute the lawyer population which is found in the first congressional district. So it makes sense on a number of different points. I think you will find that the boundaries are much more agreeable to the area in which they would be represented on the Supreme Court and I would just encourage your support for the amendment.

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

CLERK: Senator Clark voting no.

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

CLERK: 4 ayes, 19 nays, Mr. President, on the motion to adopt the Wesely amendment.

SENATOR CLARK: The amendment failed. Anything else?

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

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LB 552-554, 243

SENATOR CLARK: Senator Hefner, do you wish to move the bill.

SENATOR HEFNER: I move the advancement of LB 552 to E & R engrossing.

SENATOR CLARK: You have all heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 553 is next.

CLERK: I have E & R amendments to LB 553, Mr. President.

SENATOR CLARK: Senator Kilgarin, E & R amendments to 553.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 553.

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

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

SENATOR CLARK: Senator Hefner, do you want to move the bill.

SENATOR HEFNER: I move that LB 553 to E & R engrossing.

SENATOR CLARK: You have all heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 554.

CLERK: I have E & R amendments to LB 554, Mr. President.

SENATOR CLARK: Senator Kilgarin, the amendments on 554.

SENATOR KILGARIN: I move we adopt the E & R amendment to LB 554.

SENATOR CLARK: You all heard the motion. All those in favor say aye, opposed no. The amendments are adopted. Do you have anything further on the bill?

CLERK: Nothing further, Mr. President.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: I move LB 554 to E & R engrossing.

SENATOR CLARK: You all heard the motion. All those in favor say aye, opposed no. The bill is advanced. LB 243. Senator Schmit is not here so we will pass over the bill if there is no objection. LB 216.

CLERK: Mr. President...

SENATOR CLARK: LB 320.

CLERK: Mr. President, if I may before that Senator Dworak would like to print amendments to LB 552 in the Journal.

Mr. President, with respect to LB 320 there are E & R amendments pending first of all Mr. President.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 320.

SENATOR CLARK: You all heard the motion. All in favor say aye, opposed no. The amendments are adopted. Do you have anything further on the bill?

CLERK: Yes sir, I have a series of amendments. Mr. President, the first is by Senator Lamb. Senator you have a couple of different amendments. I understand that you wish to withdraw those?

SENATOR LAMB: I have a third. . .I'll withdraw those first two and substitute the third one, which is on the desk.

SENATOR CLARK: Has this been printed in the Journal?

CLERK: Mr. President, Senator Lamb. . .no sir, it has not. Do you want me to read it Senator?

SENATOR LAMB: Please.

CLERK: Mr. President, Senator Lamb would move to amend the bill.(Read Lamb amendment).

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. Chairman, members of the Legislature, this is a compromise amendment which has been approved by those who have been supportive of letting the tech college, the Western Tech College exceed the mill levy limit, the two mill levy limit by an amount which would bring them up to the 7% lid. We have worked out this amendment which is a three, there is a three year sunset and the amendment is on your desks. I'm sorry it is not in the Journal but it is on your desk. This would be sunsetted after three years and the tax levy increase is an additional 2.2¢ on each hundred dollars valuation, that is above the current 7¢ or it is about two and a . . . well a little less than 2½ mills. It is an additional almost a half mill, not quite a half mill. This is the limit that could be exceeded in order to bring these, this school up to the 7% limit. I think perhaps

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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 95, 552

commitment act was held to be unconstitutional. We have a lot of safeguards for individuals in the current system. The preliminary hearings are waived in many times in the current process. I just believe there are no constitutional problems with the seven days and with the one hearing. I would urge you to adopt the amendments.

PRESIDENT: Motion...Senator Marsh, for what purpose do you arise? He was closing.

SENATOR MARSH: I know he was closing. I request that you separate the sections of his...

PRESIDENT: All right, divide the question?

SENATOR MARSH: Divide the question so that the mental health professionals are voted on separately.

PRESIDENT: Well now, we have returned it. You see you would have to return it, Senator Marsh, in a divided manner because it was brought back to us in the form so we would have to do it that way, if that answers your question. We cannot divide it at this point. All right, so the question is, the specific Cullan amendment to LB 95. All those in favor vote aye, opposed nay. Have you all voted? One more time, have you all voted? Record the vote.

CLERK: 25 ayes, 9 nays, Mr. President, on the motion to adopt the amendment.

PRESIDENT: The Cullan amendment is adopted. Senator Cullan, do you wish to or who wants to move this back?

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

PRESIDENT: All right, the motion to readvance to E & R for engrossment. Any discussion? Senator Fowler, you still have your light on. Do you wish to discuss it or...okay. The question is the advance of LB 95 to E & R for engrossment. All those in favor signify by saying aye, opposed nay. The bill is advanced to E & R for engrossment, LB 95. The next bill, Mr. Clerk, is LB 552.

CLERK: Mr. President, Senator Dworak would move to return LB 552 to Select File for a specific amendment. The amendment is on page 2276.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. President, I move we return LB 552 to Select File for a specific amendment.

PRESIDENT: Any further discussion, Senator Dworak?

SENATOR DWORAK: Mr. President, very briefly, I discussed the amendment with virtually everyone on the floor this morning. It affects the Supreme Court districts. It affects only two districts and that is three and five. The amendment creates a better geographical cohesion than the committee plan. I have talked to the chairman, Senator Hefner, Senator Cullan and other members of the Miscellaneous Committee. I did not receive any strong opposition to this particular proposal from anyone on the floor. I think in all fairness I should say that the Bar Association is supporting the original plan but they are not aggressively opposing the new proposal. I think that if you look at the maps that I have passed out it makes a lot of sense. I urge that this bill be returned to Select File so that we can put on this amendment.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, I would support this amendment. I brought one to you before yesterday. That did not go far. That would have given a chunk of Lancaster County to the northeastern district. I can understand why the outstate senators voted against that and I have no regrets, however, this does not include any changes in Lancaster County but it makes a lot more sense. I guess the point I was trying to make yesterday and the point Senator Dworak is making is we have some pretty strange districts in the judicial districts for the Supreme Court, if we don't adopt the Dworak amendment. I am not sure why we adhered so closely to the congressional district line and I think the slight adjustments in those lines by Senator Dworak make a lot of sense. He makes the districts more reasonable, more contiguous. I think he makes for a better I think overall statewide district plan for the Supreme Court and I certainly support his efforts. I hope that you will adopt his amendment.

PRESIDENT: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I rise to support the Dworak plan. I think it is a little better plan than the one that the committee sent to the floor. I did not support the plan that we sent to the floor and I cautioned the committee that we had District #3 extending from the northern boundary of Nebraska to the southern boundary, however, this plan that we did send to the floor was the Bar Association plan and they had lobbied it very heavily. I think that if we had a little more time, and I am talking about the committee now, we would have considered the Bar proposal a little longer and perhaps came up with a better plan ourselves but it seemed like we were running out of time and therefore we realized that we had to get a plan to the floor and we went with the Bar Association

plan. I think that Senator Dworak's plan is more feasible. It looks to me like it is more of a simple plan. I think that all sections of the State of Nebraska will be represented on the Supreme Court with this particular plan. It has been brought up that this plan is not following congressional districts but I see no reason why we should. At the present time, the way we have operated the last ten years we have not followed congressional district lines and so I guess I would just say to you, if something works, why change it, and so, therefore, I would urge you to bring this bill back and to put this amendment on the bill.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I also rise to support Senator Dworak's plan. I think the plan endorsed by the Bar Association based on congressional district lines is very sound and makes a great deal of sense. I think the one thing that that plan does not anticipate, however, is the problem we have with moving one judge of the Supreme Court out of his district and I think what makes Senator Dworak's proposal here most compelling is the fact that a recent Attorney General's opinion addressed to Senator Hefner which we received a day or two ago does not resolve all doubts with respect to whether or not a Supreme Court judge can retain his seat if his district is moved to an area exclusive of where his residence is and I think for that reason it makes sense to deviate from the Bar Association congressional district plan, not for the reason cited by some other people who think that it is fair representation. I think the other plan was just as fair in its representation but I think because we don't want there to be any question that sitting judges who are six years or more away from their retirement or well, who will have to go through another retention election before they reach retirement age should be left in the same district to be absolutely sure that we are not gerrymandering them out of their districts. So that we will be completely secure on that issue I would support this deviation from the Bar Association plan to take care of that one particular problem. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Marsh.

SENATOR MARSH: I move the question.

PRESIDENT: All right, it won't be necessary because you are the last speaker so, Senator Dworak, you may close on your motion to return.

SENATOR DWORAK: I waive closing, Mr. Speaker.

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LB 552, 544

PRESIDENT: You waive closing, all right, the motion then is the return of LB 552 for the specific Dworak amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President.

PRESIDENT: The motion carries. The bill is returned. LB 552 is returned. Senator Dworak, do you wish to move the adoption of your motion.

SENATOR DWORAK: Mr. President, I move the adoption of the motion.

PRESIDENT: The motion is to adopt the Dworak amendment. Any further discussion? That is his opening and closing. All those in favor of adopting the amendment vote aye, opposed nay. Record the vote.

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

PRESIDENT: The motion carries. The Dworak amendment is adopted. Senator Dworak, do you want to move that back?

SENATOR DWORAK: I move LB 552 be moved to E & R final.

PRESIDENT: Motion to advance LB 552 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 552 is advanced to E & R for engrossment. Senator Dworak, the Clerk would like to get your attention.

CLERK: Senator, just for clearing the record, you did want to withdraw that amendment on 2270, that one earlier that you had offered? Is that correct?

SENATOR DWORAK: Yes.

CLERK: Thank you.

SENATOR DWORAK: I will check the amendment to make sure we are talking about the right amendment.

PRESIDENT: We will go on then, Mr. Clerk, to LB 544.

CLERK: Mr. President, Senator Cullan would move to return LB 544 to Select File for a specific amendment.

PRESIDENT: Senator Cullan.

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LB 544, 552

SENATOR CLARK PRESIDING

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

CLERK: Senator Clark voting yes.

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

CLERK: (Read the record vote as found on page 2417 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: The bill having declared a constitutional majority is declared passed with the emergency clause attached. The Clerk will now read LB 552.

ASSISTANT CLERK: (Read LB 552 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass? All those in favor vote aye. All those opposed vote any.

ASSISTANT CLERK: Senator Clark voting aye.

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

ASSISTANT CLERK: (Read the record vote as found on page 2418 of the Legislative Journal.) The vote is 44 ayes, 1 nay, 2 excused and not voting, and 2 present and not voting, Mr. President.

SENATOR CLARK: The Chair declares the bill, 552, passed. Now we will go to number 5, motions. The first motion on the desk. Senator Koch, for what purpose do you arise?

SENATOR KOCH: Mr. President...I'm sorry, Mr. Chairman, I have a point of personal privilege, please.

SENATOR CLARK: Fine.

SENATOR KOCH: It's with relationship to the conduct of this day's session, and I want to put something on record here. Were we advised by the Governor that he would put every bill back to us today that he was going to veto? If we met today, would he put every bill back

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LB 321, 385, 396, 396A, 411, 460,
487, 487A, 494, 544, 552, 561.

health when they reach there. I ask you to support the motion to reconsider the previous motion.

PRESIDENT: All right, motion is suspension of the rules, which will require 30 votes also. Those in favor of the Schmit motion on LB 561 vote aye, opposed nay. Sorry you can't do it. There is three excused. They are all back, okay, I'm sorry, they are all back. So you have all the people here now. So you want a Call of the House?

SENATOR SCHMIT: Let's have a Call of the House and a roll call vote.

PRESIDENT: All right, erase the board, and all those in favor of a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 19 ayes, 3 nays, Mr. President, to go under Call.

PRESIDENT: The motion carries. The House is under Call. Sergeant at Arms will see that all members are returned to the Chamber. All members will return to your desks. All members will register your presence. While we are waiting, while the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 385, LB 552, LB 544, LB 494, LB 321, LB 396, LB 396A and LB 411, LB 460, LB 487 and LB 487A. Looking for Senator Cullan, Senator Kremer, Senator Lamb, Senator Sieck, Senator Nichol, Senator Labedz, Senator Higgins... oh, there she is. Senator Pirsch. Senator Kremer, Senator Lamb, Senator Pirsch, Senator Sieck. Do you want to wait until they arrive, Senator Schmit? All right, we will wait. Then do you wish a roll call vote? All right, sir. It will be done. Senator Kremer is here. Senator Lamb is on his way. All right. Senator Pirsch. Does anybody know where she is? Oh, okay. One more and we can go. Proceed, Senator Schmit. All right, proceed with the roll call, Mr. Clerk. The question is the suspension of the rules on LB 561 for purpose of the override.

CLERK: (Read the roll call vote as found on page 2419 of the Legislative Journal.) 22 ayes, 24 nays, Mr. President, on the motion to suspend the rules.

PRESIDENT: The motion fails, so therefore the second motion is not possible. What is the next motion on the desk, Mr. Clerk? Okay, the next motion.

CLERK: Mr. President, the next motion I have is offered