

January 6, 1982

title). LB 585 offered by Senator Warner. (Read title). LB 586 offered by Senator Wagner. (Read title). LB 587 offered by Senators Kremer, DeCamp, Wagner, Cope and Lamb. (Read title). LB 588 offered by Senator Wagner. (Read title). LB 589 offered by the Banking Committee and signed by its members. (Read title). LB 590 offered by Senators Kilgarin and Beutler. (Read title). LB 591 offered by Senator Landis. (Read title). LB 592 offered by Senator Lamb. (Read title). LB 593 offered by Senators Remmers and Richard Peterson. (Read title). LB 594 offered by Senator Landis. (Read title). LB 595 offered by Senator Fowler. (Read title). LB 596 offered by Senator Nichol. (Read title). LB 597 offered by Senator Nichol. (Read title). LB 598 offered by Senator Nichol. (Read title). LB 599 by Senator Nichol. (Read title). LB 600 by Senator Nichol. (Read title). LB 601 offered by Senator Nichol. (Read title). LB 602 offered by Senator Cullan. (Read title). LB 603 by Senator Cullan. (Read title). LB 604 offered by Senators Cope, Rumery and Fowler. (Read title). LB 605 offered by Senator Koch. (Read title). LB 606 offered by Senator Kremer. (Read title). LB 607 offered by Senator Howard Peterson. (Read title). LB 608 offered by Senator Howard Peterson. (Read title). LB 609 by Senator Marsh. (Read title). LB 610 introduced by Senator Howard Peterson and Senator Heffner. (Read title). LB 611 offered by Senator Kahle. (Read title). LB 612 offered by Senator Pirsch. (Read title). LB 613 offered by Senator Pirsch. (Read title). LB 614 offered by Senator Fowler. (Read title). LB 615 offered by Senator Burrows. (Read title). LB 616 offered by Senator Fenger. (Read title). LB 617 offered by Senator Stoney. (Read title). (See pages 77-88 of the Journal).

Mr. President, I have two new A bills, LB 404A offered by Senator Fowler. (Read title). And LB 604A offered by Senators Cope, Rumery and Fowler. (Read title). (See page 88 of the Journal).

Mr. President, I have a series of items to read into the record. Senator Koch would like to be excused January 7 and 8.

Mr. President, Senator Fowler would like to print amendments to....I am sorry, Senator Pirsch would like to print amendments to LB 465. (See pages 89 through 91 of the Legislative Journal). Senator Fowler to print amendments to LB 458. (See pages 91 through 93 of the Journal). Senator Rumery would like to print amendments to LB 287. (See pages 93 through 94 of the Journal). Senator Newell would like to print amendments to LB 131. (See page 95 of the Journal).

January 29, 1982

LB 590, 677, 705, 718,  
719, 722, 724

Mr. President, your committee on Judiciary whose Chairman is Senator Nichol reports LB 590 to General File; LB 705 to General File; LB 718 to General File; LB 719 to General File; LB 724 to General File; LB 677 General File with amendments; LB 722 General File with amendments. Signed by Senator Nichol as Chair.

February 11, 1982

LR 220

LB 69, 192, 198, 423, 590

SENATOR MARSH: (Mike not activated).....purposes of reconsideration.

CLERK: 20 ayes.....I'm sorry, Senator, you are changing, is that right? I'm sorry. Okay, Senator Marsh changing from yes to not voting for purposes of reconsideration. 19 ayes, 26 nays, Mr. President.

SPEAKER MARVEL: The motion lost. The Clerk has got a couple items on the desk and then we will go back to Final Reading.

CLERK: Mr. President, communication from the Governor addressed to the Clerk. (Read communication with regard to LB 423 as found on page 652 of the Legislative Journal).

Senator Kilgarin would like to print amendments to LB 590 in the Legislative Journal. (See pages 652 and 653 of the Journal).

I have a report of registered lobbyists for the week of February 5 through February 10. (See page 653 of the Journal).

New resolution, LR 220, offered by Senators DeCamp, Wagner, Hefner, Chronister and VonMinden. (Read LR 220 as found on pages 653 and 654 of the Journal). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Before we continue, in the north balcony it is my privilege to introduce from Senator Marsh's District 18 Fifth and Sixth Graders from Beattie School, Lincoln. Ann Jablonski is the teacher. Would you let us see where you are? Up here. Welcome to the Unicameral. Next on Final Reading LB 192. The Clerk will read.

CLERK: (Read LB 192 on Final Reading).

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

CLERK: (Read the record vote as found on pages 654 and 655 of the Legislative Journal). 45 ayes, 1 nay, 2 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read on Final Reading LB 198.

the bill we passed in '75, LB 530 which enacted that single fee. It was the intent of our committee and it was a Revenue Committee bill that it would include the registration fee and the property taxes on the power unit but trailers and semi-trailers of all vehicles that were operating within that fleet. Unfortunately it appears that there is a narrow legal interpretation that our bill in 1975 did not fully accomplish. So it appears that since the case of the Attorney General's opinion in '81 that we should pass 583, or 590, excuse me. If anyone thinks there is a question as to the properness of the fees involved or comparisons or whatever, it would appear that that should be done in a separate bill and that we only use this as a clarification. And I want to just tell you that we do and I sincerely urge you to support this bill. Under the old procedure that we were using we collected a million eight hundred thousand and in 1981 under the committee bill which provides for 30% of the \$32 per ton credited to the ad valorem taxes, we brought in four million, a hundred and twenty-six thousand dollars. It gave them more money and an opportunity for continued growth. So basically the philosophy of the original bill is sound and good and with this amendment does make it clear and concise and I certainly would urge you to support Senator Warner's LB 383.

SENATOR CLARK: The question before the House is the advancement of LB 383. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: LB 383 is advanced. We will now take up LB 590.

CLERK: Mr. President, LB 590 offered by Senators Kilgarin and Beutler. (Read.) The bill was read on January 6 of this year, referred to the Judiciary Committee for a hearing. The bill was advanced to General File, Mr. President.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would move the advancement of LB 590. LB 590 deals with the general concept of more unification which has been subject matter in this Legislature for the last five or six years. Basically the Legislature made the decision a few

years back. I think Senator Schmit and DeCamp were here at that time, that the court system was a state system and that it would be controlled by the state and that it would be funded by the state. And since that basic decision was made we have all been following that guideline and slowly bringing the disparate elements of the court system under that general principle. LB 590 continues that movement and it contains essentially two concepts. The one concept is that it would allow for the assignment of a municipal court judge to temporarily perform the duties of a county judge in the county in which the municipal court judge serves. So what we are trying to do is build in some additional flexibility in the system and that additional flexibility of course would be built in in Omaha and Lincoln because Omaha and Lincoln are the only two counties, only two cities in the state which have a municipal court system. So that is the one thing that LB 590 does. The other item that it covers is to say that the salaries of the municipal court judges shall be paid out of state funds and they will no longer be paid by the local property taxpayer. What I need to point out to you is the relationship between the municipal courts in Lincoln and in Omaha and the county courts outstate. They have similar types of jurisdiction. If in Scottsbluff or Grand Island or Fremont you get a traffic ticket or DWI violation those are always handled in the county court and the county courts in all those cities, in all the places outstate are funded, over 90% of the funding is from state funds. So essentially the taxpayers in Lincoln and in Omaha are helping to fund the cost of processing traffic tickets in Fremont and Scottsbluff and other places in the west and that's all fair enough. That is what we're trying to do with the new court system, with the new principle underlying our idea of the court system at this time. So what we are saying to you is, treat Omaha and Lincoln the same and for the processing of traffic violations and those same types of cases that are processed in the county courts outstate, fund those with state funds at least to the extent of paying the salaries of the municipal court judges from state funds just as the salaries of the county court judges are paid from state funds. Those are the two purposes and the intent of LB 590 and I would ask you to vote for its advancement. Thank you.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I believe there should be an amendment on the desk.

CLERK: Mr. President, Senator Kilgarin would move to amend

the bill and the amendment is found on page 652 of the Legislative Journal.

SENATOR KILGARIN: This is a very simple amendment. It was submitted at the request of the Nebraska Bar Association and it clarifies a little bit what the municipal county judges will be able to handle when they sit as a county judge. It says they may only handle those matters which have concurrent jurisdiction. It is on page 652 of your Journal and I will just quickly...see it is a short one liner. It says, "they may serve on those matters which the municipal court and the county court have concurrent jurisdiction." Essentially this solves some problems that some of the judges and the Bar Association and attorneys had with municipal judges possibly handling probate cases so I would urge your adoption of the amendment. It is mainly a clarifying amendment restricting the municipal judges from dealing with matters that are only concurrent.

SPEAKER MARVEL: Senator Cullan, do you wish to speak to the Kilgarin amendment?

SENATOR CULLAN: On the bill.

SPEAKER MARVEL: Senator Haberman, do you wish...?

SENATOR HABERMAN: On the bill.

SPEAKER MARVEL: Senator Cullan, do you want to speak to the amendment? Do you want to speak to the bill as a whole? Okay. The Chair recognizes you.

SENATOR CULLAN: (Mike not on.) ...committee amendments...

SPEAKER MARVEL: Just a second. The first vote will have to be on the Kilgarin amendment and then we will go back to you. Senator DeCamp, do you wish to speak on the Kilgarin amendment? The motion is to adopt the amendment as explained. All those in favor vote aye, opposed vote no. Have you all voted? Okay, record the vote.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Kilgarin's amendment.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Okay, the motion now is to advance the bill. Senator Cullan, do you wish to speak now?

SENATOR CULLAN: Mr. President, members of the Legislature, I simply rise to offer a word in support of LB 590. I think it is a matter of equity. The State of Nebraska does pay

for the administration of the court system at the county level so if I get a traffic ticket in Box Butte County the judge before whom I appear is paid, his salary is established by and his salary is paid by the State of Nebraska. If I got a traffic ticket in the City of Omaha I would appear before a judge whose salary was set by the Legislature, yet whose salary was paid by the taxpayers or the citizens of the City of Omaha and I don't think that is appropriate. I think the City of Omaha and the City of Lincoln have, in fact, been cheated to that extent and it isn't fair to continue to operate the system the way it is. I really see no logical reason for the court system to be divided the ways it is. So I think it is only a matter of equity. Another point that I think is important is that we do establish those salaries and because we have that function I think it is wrong for us to mandate higher salaries on local government if we're not willing to pay for those salaries ourselves. I do think that the operation of the court system is really a state, not a local function and, therefore, I would urge you to advance LB 590 to rectify what I think is an inequity in the current system.

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

SENATOR HABERMAN: A question of Senator Beutler.

SPEAKER MARVEL: Senator Beutler, do you yield?

SENATOR BEUTLER: Yes, sir.

SENATOR HABERMAN: Senator Beutler, why was this set up this way in the first place?

SENATOR BEUTLER: Senator Haberman, it was set up in 1923 and I'm not really sure.

SENATOR HABERMAN: Thank you, Senator Beutler. Mr. President, members of the Legislature, Senator Vard Johnson had a story in the World Herald the other day and he said that the...western Nebraska was not bearing their fair share of the taxes and he went on to cut western Nebraska off at the knees. Well now, I really don't go along with Senator Johnson and his news story and I'm getting information together to show where I think he is wrong. For example, on the UNO 99% of the kids that go there are from Omaha, yet the entire state supports it. So here is another example. Here is another example of what we're saying to everybody but Omaha and Lincoln, gee, we're in a bind, let's go down to the Legislature and let's sock all of the citizens for

\$640,000. Let's just lay it on to them and let everybody pick up the tab and quite frankly, I'm getting a little tired of this when they keep laying it on us and we have to help pick up the tab and get no benefits. So there must have been a good reason it was put in this way in the first place or they wouldn't have put it in. They haven't come up with the argument why it was put in. All they have come up with the argument is we want to save \$640,000, there shouldn't be two separate courts. So I say to you, let's stop and think a little bit. Let's wait a while, we give them their extra quarter per cent in their sales tax. In fact they have a 3.5 million dollar slush fund or carryover in their budget. I'm sure you saw the headlines in the World Herald. So they can afford the \$640,000 to run their municipal court. So I would say at this time, let's leave it. Let's see that the economy improves and then let's go ahead and let's try it another year. This isn't the year to unload another \$640,000 on the people other than those that live in Lincoln and Omaha. Thank you, Mr. President.

SPEAKER MARVEL: Before we continue I would like to introduce first of all, underneath the South balcony, Bill Cerny, representative from South Dakota, 24th District and his wife Patty. Patty used to be Patty Pattis (phonetic) and was a lobbyist in the Nebraska Legislature. Now where are you sitting so we may welcome you. Okay. And from Lincoln, Nebraska, friends of Ron Cope, Mr. and Mrs. Ron Cope, Paula Busacker from Lincoln and she is under the North balcony. Where are you, please? Okay, over here. Senator Kilgarin, are you next?

SENATOR KILGARIN: Thank you, Mr. Speaker.

SPEAKER MARVEL: Go ahead.

SENATOR KILGARIN: Okay, thank you. Colleagues, I'd just like to say that Senator Beutler explained the bill I think quite well. I think some points I'd like to make or one point I'd like to make is the point of equity. We have ninety-three counties in this state. Ninety-one of those counties have county courts whose judges salaries are paid for by the state. Now in Lincoln and Omaha we not only have the county courts but we have a municipal court in both cities and those salaries are paid for by city taxpayers. They have concurrent jurisdiction. They deal with many of the same issues and yet the city has to pay twice for those court systems. So you've got two counties out of ninety-three counties that have an additional burden on them. I don't think



that is equitable and I think that is part of the reason that this bill was introduced. We're also looking at the administration of the state courts. Article V of our Constitution gives the authority to the Supreme Court to administer the courts and they're all supposed to be state courts and yet we have set up these two municipal courts in Lincoln and Omaha and I think this is the first step to total merger to have a more efficient court system. Now getting back to the equity question. I think that when you look at the 1972 Court Reform Act you will see that initially the merger of the municipal and county courts in Lincoln and Omaha was included in the '72 Court Reform Act. Now I think this is kind of finishing or cleaning up what the Court Reform Act did leave out and I think it is about time that we did that. I think it is fair to the taxpayers of the entire state. So I would appreciate your support for LB 590 and I would move its advancement.

SPEAKER MARVEL: The motion is to advance the bill. Senator Beutler, do you wish to be recognized?

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I don't want to speak long on this. I think the concept has been discussed and I would only ask you to exercise that sense of fairness which I think you must have. The bill's proposition appeals to that. It says basically for the same kind of function for the processing of municipal court or for the processing of traffic violations and those types of cases that the funds used to pay for those should come from the same source, that is the state funds. As for Senator Haberman's comments with regard to Senator Johnson's statements and the panhandle, I disavow all association with any statements Senator Johnson has made with regard to the panhandle. He is not a sponsor of this bill and I don't think I care to comment on whether he is right or wrong. All I am saying is I ask you to deal with the bill on its merits and not on some peripheral issue. Thank you.

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

SENATOR MARSH: Thank you, Mr. Speaker and members of the Legislature, I hope to have the attention of Senator Rex Haberman. Senator Rex Haberman, is on the legislative floor. Senator Rex Haberman, I particularly would like to have Senator Haberman be aware that if our situation was reversed and Senator Haberman had been carrying for many years a double taxation in his community he might feel differently. Think of all the years you've picked up free what the taxpayers of Lincoln have been paying

for many years. You've had a bargain all these years. Now it is time to say the taxpayers of Lincoln and the taxpayers of Omaha as well as the rest of the taxpayers of our state shall help support the state's system. We are not only putting that tax on you and your area, Senator Haberman, but we are accepting the same responsibility for ourselves. It is a fair and equitable bill. It is treating all of the taxpayers equitably, not just those who do not live in Lincoln and Omaha. I would urge your support for the advancement of LB 590.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? Okay. All those in favor of ceasing debate vote aye, opposed vote no. Record. Record the vote.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. Senator Kilgarin, do you wish to close on the motion to advance?

SENATOR KILGARIN: Thank you, Mr. Speaker and colleagues, thank you. LB 590 has been explained. It has been debated. I would like to say in answer to Senator Haberman's objections, that presently the cities of Scottsbluff, Sidney, Imperial, Grand Island, Chadron, etc., have city ordinances. When there is a dispute about those ordinances they do go into county court and those ordinances are decided by a county court whose judge is paid for by the state. Now this is the first step in the merger of the municipal county court. It is about one fourth as expensive as it would have been had we introduced an entire merger bill. We're looking at doing this slowly and reasonably and I would appreciate your support for this first step which is really quite economical and will probably be more economical because it will streamline the court system and make it more efficient especially with the assigning of judges in those counties that they serve in. You won't have judges from way out west driving into Douglas County to sit as a judge for Douglas County. Only those judges which serve in that county may serve in the same court or in the county court in that county. So you will eliminate some of the travel expenses so it can save you money too. I would like to yield a couple minutes of my closing time to Senator DeCamp.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, my good friend Senator Howard Peterson just warned me I'd better tell them the truth so I will tell you the truth. Senator Kilgarin and other people came with a bill that would have cost about two and a half million. Probably it was a justified bill because it would have done some of the things, well it would have done the things that are being accomplished here, the economies in terms of streamlining. There are some efficiencies and some cost savings that are going to be realized and some efficiencies provided in the court system. That is one side. The other side is who pays for the doggone thing? Well, the way they originally had it, we all paid for it pretty much immediately to the tune of about two and a half million bucks. Now there is no doubt in my mind that that is probably fair. To be real honest with you it is fair but I don't think we can afford it this year. So they came up with an alternate solution that costs about a fourth or a fifth as much and it phases in the cost. So your next question is, well, is that fair to have to pay for it? My answer is, same as it has been on so many issues in here, look at the whole state, don't just look at your area. Look at the state from the standpoint of what is fair in the country and what is fair in the city and the cities do have the people. That is where the population is. Omaha and Lincoln, they do pay a lot of taxes. They should be entitled to essentially the same services as you are in the country. What is one of the services in the country? State funds pay the court system, the county judge. Because you have a variation of the court system in the cities to process more people that doesn't mean suddenly you shift that cost outside the general system. So if I am asking them to be fair on distributions of \$70 million or \$95 million in state aid or anything else to the country, then I've got to be consistent and say, okay, we're going to be fair in the distribution or handling of costs of the court. And so for that reason I am supporting this proposal in its amended form. As I say it is about a fourth or a fifth as expensive as what they originally proposed. It does accomplish a streamlining and I guess I think it is probably something that is going to have to be done and this is the cheapest way to do it at this time.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: The motion is to advance the bill. All those in favor signify by voting aye, opposed nay. Have you all voted? Senator Kilgarin.

SENATOR KILGARIN: Well.....

February 22, 1982

LB 590, 590A

SENATOR NICHOL: Nothing to say, okay. Record, Mr. Clerk.

CLERK: 25 ayes, 15 nays on the motion to advance the bill, Mr. President.

SENATOR NICHOL: Before we proceed further, underneath the South balcony we have guests of Senator VonMinden, his brother and wife, Mr. and Mrs. Harold VonMinden and his mother, Mrs. Lida VonMinden, all of Martinsburg, Nebraska, his son and wife, Mr. and Mrs. Scott VonMinden of Lincoln, his daughter Mrs. LeAnn Russell of Garden City, Kansas, four granddaughters of Garden City, Kansas, Michelle, Heidi, Wendy and Tracy. Would you welcome them please. We will move on to LB 590A.

CLERK: Mr. President, LB 590A offered by Senator Kilgarin. (Read.)

SENATOR NICHOL: Senator Kilgarin.

SENATOR KILGARIN: I would move the advancement of LB 590A.

SENATOR NICHOL: The question is shall 590A advance. All those in favor signify by voting aye, opposed nay. Have you all voted?

CLERK: Senator Nichol voting no.

SENATOR NICHOL: Senator Kilgarin.

SENATOR KILGARIN: I guess I would ask for a Call of the House and a roll call vote, Mr. President.

SENATOR NICHOL: The question is, shall the House go under Call. All those in favor signify by voting aye, opposed nay. Record the vote.

CLERK: 20 ayes, 0 nays to go under Call, Mr. President.

SENATOR NICHOL: The House is under Call. Will all those in the Chamber please take their seat. Sergeant at Arms, will you recruit those who are not here. Thank you.

SENATOR KILGARIN: Mr. Speaker, we will take call in votes.

SENATOR NICHOL: There are three excused. Senator Vickers, Schmit, Landis, Goodrich, Chambers. We will take call ins.

CLERK: Senator Goodrich voting yes. Senator Duda, you had voted yes, Senator. Yes, sir. Senator Chambers voting yes.

February 24, 1982

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

SPEAKER MARVEL PRESIDING

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

REVEREND CURRIER: Prayer offered.

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

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

SPEAKER MARVEL: Items in number 3.

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

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

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

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

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

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

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

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

March 1, 1982

LB 590

Good morning to you. Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendment to LB 590.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried.

CLERK: Mr. President, Senator Haberman would now move to indefinitely postpone the bill. That would lay the bill over unless the introducer who is Senators Kilgarin and Beutler would choose to take it up at this time.

SPEAKER MARVEL: Mr. Sergeant at Arms, Ray, will you please find Senator Haberman. Senator Marsh, for what purpose do you rise?

SENATOR MARSH: Mr. Speaker, I might suggest that if we allow five minutes for finding the senator then we should probably go on and vote on the issue whether he is here or not.

SPEAKER MARVEL: Does anyone want to take up the kill motion on the bill? The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Aw, Mr. President, this wouldn't be fair. I'm on the other side but I can handle it for him. I can give some arguments for him if you want. I think he is down in his office. He went to meet some people. He is on his way. See, there he is, looking a little sheepish or suspicious.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, thank you for your indulgence in waiting for me. There is being passed out a newspaper clipping from the World Herald to state that "City hall dishes up plan for a three and one-half million dollar surplus." They had that much money left over from 1981. Now if they have three and a half million dollars left over from 1981, it takes a lot of gall to come down here to ask us to lay on the citizens of Nebraska 404 thousand plus in '82-'83 and 410 thousand plus in '83 and '84. Now there isn't anybody else has municipal judges but they do. Everybody has county judges and we're paying for their county judges. So as I repeat, you will have to explain to me in real simple language so I can understand it because sometimes it is hard for me to understand things, that how can a city with a three and a half million dollar surplus come crying to the Legislature to save them for a \$404,522 expense? Now if it read deficit,

I couldn't stand up here and say these things but it doesn't read deficit. It reads surplus. So I say this is not the year to lay on to the citizens of Nebraska \$622,710. Now you say, Rex, where do you get that figure? Well you've got to add Lincoln in because we are going to take over their municipal court judges also. So when you add the two together that is almost...that is 60% of a million dollars that we're going to unload on the state taxpayers. I don't think this is the year to do it. Let's put it off a year. You know the problems that we're having with the budget now. I asked the reason why they had municipal court judges in the first place. They couldn't even answer the question. So I ask you to support the kill motion as to me they don't need the money and I don't think we should lay it on to all of the taxpayers due to Lincoln and Omaha trying to squeeze more money out of the taxpayers when I think they are getting their share of the state funds now. Thank you, Mr. President.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, let me remind you just quickly again what the bill does. In the first place it starts to consolidate functions between the county courts and the municipal courts and in the second place it says that the salaries of the municipal judges are going to be paid out of state funds as opposed to the local property taxes. And let me remind you once again the reason that we brought this bill to you. In Imperial, Nebraska, in the little towns surrounding Imperial, Nebraska, and in the rural community everywhere in Senator Haberman's district, if municipal ordinances are violated or if certain types of small cases come up for adjudication, all of those are handled in the county courts. In Omaha and in Lincoln those same violations, those same city ordinance violations go to the municipal court. So in other words, for the same service Lincoln and Omaha pay out of local property taxes and at the same time we're helping Imperial and Scottsbluff and the other communities out-state handle their traffic violations by contributing to the salaries of the county judges. It's the county judges in the county courts that handle those types of cases. So all we're asking for from you today is some equity, that is that the same types of cases be paid for in the same way. Senator Haberman asked about the history last time around and I was not able to give him the history of why we have municipal courts in the two cities. Since that time I have gone back and tried to get a little bit of the history but let me read to you what the researchers came up with. "There is no written explanatory legislative records of the 1915 and 1923 laws, however, previous to the 1915 law city

ordinance violations were handled exclusively by a justice of the peace or police magistrate neither of whom were required to be lawyers. It was the consensus that Omaha was large enough to warrant a more professional court, consequently in 1915 the Omaha and South Omaha city municipal courts were created with the requirement that the judges be lawyers. So it was an attempt on the part of the municipalities to professionalize their judiciary system that led to the creation of the municipal courts or at least that is the most likely explanation. Since that time we have moved in a number of directions to professionalize all of the courts of this state and we have professionalized now the county courts of this state. All county court judges must be lawyers. So essentially there are no differences now between the types of services that are being provided by the county courts and the municipal courts except of course for the subject matter jurisdiction. That I think is the best explanation I can give you of why there was that kind of a development. Senator Haberman concentrated on Omaha but this bill applies to Lincoln also and Lincoln does not have the same financial problems that Omaha has. With that I think I will stop, Mr. Speaker, and ask you to reject the motion and remember just the basic fundamental arguments of fairness. Thank you.

SPEAKER MARVEL: Before we proceed, under the South balcony we greet Mr. and Mrs. Marvin Caspers from Auburn, Nebraska, who are guests of Senator Remmers from District #1. Will you hold up your hand so we can see where you are. The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, what we are talking about here is shifting this expense of municipal judges from the municipalities to the state. There is a solution to this that is very simple. Why don't we just make the municipal judges county judges? Then the state would pay the entire thing. Senator Beutler said there is no difference in county judges and municipal judges. I thought there was. I thought municipal judges had the special skill and special area in which they practiced that made them a little bit different than county judges. Next, what are we going to do about the pensions? How do we merge those in? Thirdly, what about the fringe benefits? How are we going to merge those in? It seems to me that this proposal should have a little study, have a little careful planning before we jump into it. If they, the municipalities and there are only two or three, don't want to pay for these municipal judges, make them county judges and the state takes over. If we want to maintain municipal judges, then in my area I want to have municipal judges too at your expense. I think Grand Island wanted municipal judges but I'm not sure of that. But if we



take over the municipal judges' salaries at the state level, I think we'll have several municipalities wanting municipal judges that don't now have them. I urge you to support the kill motion.

SPEAKER MARVEL: The Chair recognizes Senator Landis. Is Senator Vard Johnson there? Yes.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I would urge you to reject Senator Haberman's kill motion. This bill is being advanced not for the purpose of providing economic benefits to the City of Omaha or to the City of Lincoln but rather to continue the orderly progression of assuring that all systems of justice in our state are financed by state dollars. We began the progression back in 1972 when we eliminated the justice of the peace system and we put all JP functions under a totally revised county court system. Now at that time there was considerable dialogue regarding the municipal courts and the Legislature then decided that given the difficulties in making what was a really fundamental change it would be better if the issue involving municipal judges was left to another day and so we did leave it to another day. And now the day is beginning to arrive though with this bill it still doesn't fully arrive. This bill does not make municipal judges county judges. It merely provides that the cost of municipal judges will be borne out of state coffers as are the costs currently of every other judge in the State of Nebraska. Once that particular step is taken within the next year or two we will undoubtedly have all of the mechanisms prepared for consideration by this body for making municipal judges county judges. And then we will have in place in our state a three tier system of courts with the first tier being the county court system, the second tier being the district court system and the final tier being that of the Nebraska Supreme Court. I think frankly it is incredibly important for us to recognize that the dispensation of justice is one of the very fundamental issues for any state. It is not a local question. It is a state question. One of the basic functions of our constitutional system of government is to assure that justice will be provided by the state itself. Our Legislature over the long pull has seen fit to work toward this goal. It has seen fit particularly through removing the JP function and transferring it to the county court and this is the second major step in that direction. At this juncture I would like to yield if I might, two minutes of my time to Senator Reutler.

SPEAKER MARVEL: You have thirty seconds left.

SENATOR V. JOHNSON: He may compress.

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LB 590

SENATOR BEUTLER: Mr. Speaker, do I have an opportunity to speak again? My light is on. Okay, I'll wait, Mr. Speaker, thank you.

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

SENATOR KILGARIN: Yes, thank you, Mr. Speaker. Members of the body, I would like to comment especially on Senator Nichol's comments on his suggestion that a study be done. As he knows as chairman of the Judiciary Committee a study was done. There were interim hearings over the summer which he attended. There was a report which was submitted and the study was done and what was suggested is exactly what we are doing here with 590 today. We're taking it in steps and that is what the study suggested, that we do it slowly and effectively. We will in the end merge the municipal and the county court system so I would suspect that with that final goal in mind that Senator Nichol's fears should be eliminated. And to answer Senator Haberman's questions about the 3.5 million dollars so-called surplus, I must say that it is really not a surplus. That 3.5 million dollars was over the estimated revenue of what the city council had expected to receive because of the high interest rates we received on the money that we did have in savings but because of the 1981 deficit spending there will be a vote tomorrow in the city council and probably about half of that 3.5 million dollars will be effectively spent on the 1981 deficit. We also have a 7% police pay increase that we will have to be funding in addition to a \$6 million federal loss for garbage collection problems and that has to be made up somewhere. So effectively that \$3.5 million additional revenue that we had is already spent and that isn't the issue here anyway. I think the issue is equity merging the court system as the study said, slowly and in step so that we can work out the retirement problems that Senator Nichol brought up and work out the pension problems. I would urge you to vote against Senator Haberman's kill motion and give 590 a chance to advance to Final Reading and when we decide how much money we have for A bills I think then we need to prioritize our appropriation bills and then make a decision as to what priority 590 has on our list. Thank you.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, the argument on 590 in my mind is an argument that has to do with the court system with the proper control and functioning of the court system and whose responsibility it is and it is also a matter of tax equity or fairness. I don't particularly want to get into the question of who is getting too much money

or who is not getting too much money but Senator Haberman has brought up that question with this material on whether Omaha has surpluses or doesn't have surpluses or what the situation is in Omaha and I wanted to bring to your attention a letter from the legal counsel for the Revenue Committee staff addressed to Senator DeCamp in which the question was posed as to where state aid was going, which counties were getting the most, which were not getting much, how it broke down. And this summary of information took into account the homestead exemption, the personal property tax relief fund, the insurance premium tax fund, the highway allocation fund, the governmental subdivision fund, all of the state aid funds that we have which come to a total state aid of about \$371 million. And then it set aside amounts that could not be broken down by counties and then everything else it broke down by county to see where it was going in each individual fund and they discovered that the per capita state average was \$220, the per capita state average across the state was \$220. Now, in Senator Haberman's district in Grant County, for example, whereas the state average was \$220, they were getting \$347 per person in that county and in my county, Lancaster County, we were 90th out of ninety-one counties. We were getting \$176 per capita out of those state aid funds and in Douglas County which Senator Haberman indicates has all these excess funds laying around, they were way below the state average of \$220. They were down around 80th getting \$208 per person in Douglas County. This is the most comprehensive material I've seen on the breakdown of state aid and I'm sure we can still get into arguments about the figures. But I think the point that it makes quite clearly is that Lincoln and Omaha are not making off very well at all. Even if you juggle the figures some we're still going to be near the bottom of the heap. So, Senator Haberman and others of you, that are concerned, it seems to me that the least you could do is with regard to the judicial system, treat us equally, treat us just as you are treating your own people in that regard. Traffic violations paid for out of state funds in Imperial should be paid for out of state funds in Lincoln and in Omaha. Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Newell.

SENATOR NEWELL: Call the question, please.

SPEAKER MARVEL: The question has been called for. Do I see five hands? Shall debate cease? All those in favor vote aye, opposed vote no. Okay, record.

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

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator Haberman to close on his motion.

SENATOR HABERMAN: Mr. President, members of the Legislature, Senator Kilgarin, the news article...you made the statement that it was an overestimated revenue, but it says here, "Boyle, Ireland and city budget chief Lou D'Ercole Friday outlined plans to use the nearly \$3.5 million in money left over from 1981." Well now if that could be changed to overestimated revenue, I sure got a lot to learn about finances. I really do because how can it be overestimated revenue when they say here it is a surplus? And, Senator Beutler, thank you for standing up and fighting for Omaha. They really need it. For example, this year in Omaha alone there is \$32 million being spent in capital construction. You add another \$9 million for partially in Omaha and that is \$41 million that Omaha is getting just in capital construction. Now let's don't forget the University of Omaha where 80% of the students are from Omaha because they don't have dormitories. Nobody from western Nebraska can go to Omaha. So what does it cost to operate UNO? \$31,760,000, and they have a construction this year of \$1,500,000. So you just take those two items, the capital construction and a UNO and Omaha is getting \$74 million of our tax dollars, just a merely \$74 million. Senator Beutler, Grant County is not yet in my district. We will have some other figures up here later to show that the figures that Senator DeCamp and Vard Johnson used... well there is a saying "figures lie and liars figure." You can take a set of figures and do anything you want to with them but you can't get away from the capital construction in Omaha this year of \$32 million, partially Omaha \$9, so that is \$41 million. You add it and UNO together and they are getting \$74 million and now you want to unload another \$622,000 when they have a surplus. So I ask you to support the kill motion. Thank you, Mr. President, and thank you, members of the Legislature. Let's get on with the battle.

SPEAKER MARVEL: Okay, the motion before the House is, shall the bill be indefinitely postponed. Those in favor vote aye, opposed vote no. Yes. Shall the House go under Call? All in favor of that motion vote aye, opposed vote no. Okay, record.

CLERK: 19 ayes, 4 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats, record your presence. Unauthorized personnel must leave the floor. Senator Schmit, do you want to record your presence. Senator Vickers. Ray, we need

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LB 372, 546, 567, 676,  
LB 590, 590A, 818, 870, 948

Senator Vickers. Okay, the Clerk will call the roll.

CLERK: (Read roll call vote as found on page 906 of the Legislative Journal.) 19 ayes, 22 nays, Mr. President.

SPEAKER MARVEL: The motion lost. The motion is to advance the bill. The motion is to advance the bill. A machine vote is requested. All those in favor of advancing the bill vote aye, opposed vote no. A record vote has also been requested. Record.

CLERK: A record vote by Senator Haberman, Mr. President. (Read record vote as found on page 907 of the Legislative Journal.) 25 ayes, 17 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion carried. Okay we've got 590A. We've got a couple of other items and then we've got a couple of announcements to make.

CLERK: Mr. President, 590A. I have no amendments. Senator Haberman has a motion to indefinitely postpone the bill, Mr. President.

SENATOR HABERMAN: Mr. President, I will withdraw that motion but I will ask for a roll call record vote on advancing the A bill.

SPEAKER MARVEL: Do you want a roll call vote or a record vote? All those in favor vote aye, opposed vote no. Have you all voted? The motion is to advance the A bill. Have you all voted? Have you all voted? Well you can try it. Have you all voted? Okay, record the vote.

CLERK: (Read record vote as found on pages 907-908 of the Legislative Journal.) 25 ayes, 20 nays, Mr. President, on the motion to advance the A bill.

SPEAKER MARVEL: The motion carried. Okay, the Clerk has got some items to read in.

CLERK: Public Health and Welfare gives notice of hearing on gubernatorial appointments. The Appropriations Committee advises the body that they have scheduled...will conduct their hearings this week in Room 1520 as opposed to 1003.

Your committee on Judiciary reports LB 372 advanced to General File; 567 General File; 870 General File; 546 General File with amendments; 676 General File with amendments; 818 General File with amendments; 948 General File with amendments, signed by Senator Nichol. (See pages 908-910 of the Journal.)

March 3, 1982

LR 222

LB 547, 590, 590A

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

PRESIDENT: One minute, Senator Chambers.

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

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

SENATOR CHAMBERS: I want a roll call vote

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

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

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

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

April 14, 1982

LB 278, 590, 604

ASSISTANT CLERK: Senator Clark voting yes.

SENATOR CLARK: I would like to announce that we have 78 fourth graders from Montclair Grade School at Millard. They are in the North balcony. Would you stand and be recognized please. Record the vote. Welcome to the Legislature. Have you all voted? Record the vote.

ASSISTANT CLERK: (Read record vote. See pages 1922 and 1923, Legislative Journal.) The vote is 35 ayes, 12 nays, 2 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. The Clerk will now read LB 590.

ASSISTANT CLERK: (Read LB 590 on Final Reading.)

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

ASSISTANT CLERK: Senator Clark voting no.

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

SENATOR BEUTLER: How many are missing, Mr. Speaker?

SENATOR CLARK: Pardon?

SENATOR BEUTLER: How many are missing? Could I have a roll call vote please?

SENATOR CLARK: Yes. A roll call vote has been requested. The Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1923, Legislative Journal.) 20 ayes, 26 nays, Mr. President.

SENATOR CLARK: The bill fails. It did not pass on Final Reading. The Clerk will now read LB 604.

CLERK: (Read LB 604 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

April 14, 1982

LB 115, 413, 590  
LR 295, 386

been restored, it truly is a marvelous idea. Whether you hike or bike, you will enjoy it, believe me. Also, look at the remainder of Ft. Kearney, that is what has been restored and Ft. Kearney Park. It will be a big day.

SENATOR CLARK: There is nothing before the House thank you. I would like to report a guest of Senator Remmers, Bob Williamson, under the south balcony. He is a member of the Grain Sorghum Board from Dawson, Nebraska. Will you stand and be recognized please, Bob. Welcome to the Legislature. We will now go to item number seven, under 952, yes. The Clerk would like to read some things in.

CLERK: Mr. President, I have a gubernatorial confirmation, or a gubernatorial appointment, I should say, that will be referred to the reference committee.

Senator Wagner asks unanimous consent to have his name added to 295 as co-introducer. (LR 295).

Senator Chambers would move to suspend the appropriate rule to reconsider 413 on Final Reading. (LB 413). That will be laid over.

New Resolution, LR 386, by Senator Hoagland. Read LR 386. That will be laid over, Mr. President.

Mr. President, Senator Wiitala would move to reconsider the Legislature's action on LB 115, Senator Beutler to reconsider the Legislature's action on LB 590.

SENATOR CLARK: Is Senter Newell in the room? The last motion we have is Senator Newell's, is he here? Senator Lamb, this is the last motion we have and Senator Newell is not about, I do not know where he is. He is not in the ante room. I'll recognize Senator Lamb for adjournment.

SENATOR LAMB: Mr. President, I move we adjourn until 9:00 Friday morning.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. We are adjourned until 9:00 a.m., Friday morning.

Edited by:

Marilyn Zank  
Marilyn Zank



April 16, 1982

LB 115, 590, 952

I would urge you to vote for this reconsideration motion. I would urge you to vote for the \$10 increase. It absolutely is not excessive. You all know...you all know how expensive it is to raise a family and not all mothers can work, not all mothers are working. Like I said, I don't know what my family would have done if my mother hadn't been working at the time, and it was tough even with mom working. But I would urge you to vote for the reconsideration of LB 115 and I would request the Chair to have all senators please check in and roll call vote.

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

CLERK: 14 ayes, 0 nays, Mr. President, to go under Call.

SENATOR CLARK: The House is under Call. All senators will return to their seats. All unauthorized personnel will leave the floor and everyone will check in, please. Senator Higgins, will you check in, please? Senator Chambers, will you check in, please? We have three excused. Senator Marsh. Senator DeCamp is in now. All right, they are all here. We must have it quiet so the Clerk can hear your response, please. The Clerk will call the roll.

CLERK: (Read the roll call vote as found on page 2011 of the Legislative Journal.) 28 ayes, 17 nays, Mr. President.

SENATOR CLARK: The motion lost. The next motion, 590.

CLERK: Mr. President, Senator Beutler would move to reconsider the Final Reading vote on LB 590.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I would withdraw that.

SENATOR CLARK: It is withdrawn. The next motion is on 952.

CLERK: Mr. President, Senator Newell would move to suspend Rule 7, Section 7, to reconsider the Final Reading vote of LB 952.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: I have got mixed emotions today. LB 952 is a hospital bond act. It does not authorize anything new. It has been basically misunderstood. It allows for administrative consolidation of hospital authorities so that they