

January 6, 1982

LR 197 - 201
LB 646 - 655

and put it in the bill books. It is not that difficult an assignment. It could be spread around as the committee chairperson desires. It is optional. It is something that can be worked out very easily on each individual case as the committee chairperson feels is most appropriate. So as far as the chairpeople is concerned, I think they aren't legitimate and I think that the rule change is absolutely well written and could handle the situation that we have had a problem with. So I ask your support for the rule change and I think we will all benefit from it.

SPEAKER MARVEL: The motion is the adoption of amendment six. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Have you all voted? Okay, Clerk, record the vote.

CLERK: 17 ayes, 25 nays, Mr. President, on adoption of the proposed rule change.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, if I may, new bills. LB 646 offered by Senator Goodrich. (Read title). LB 647 offered by Senator Hefner. (Read title). LB 648 offered by the committee on Agriculture and Environment. (Read title). LB 649 offered by the Administrative Rules and Regulations Committee. (Read title). LB 650 offered by the Education Committee. (Read title). LB 651 offered by the Education Committee. (Read title). LB 652 offered by the Education Committee. (Read title). LB 653 offered by the Education Committee. (Read title). LB 654 offered by the Education Committee. (Read title). LB 655 offered by Senator Beyer. (Read title). (See pages 102 through 105 of the Legislative Journal.)

Mr. President, I have received from the Reference Committee a reference report on gubernatorial appointments. That will be referred to them. (See pages 105 and 106 of the Legislative Journal.)

Mr. President, I have new resolutions. LR 197 offered by Senator Koch. (Read LR 197 as found on pages 106 and 107 of the Journal.) LR 198 offered by Senator Warner. (Read LR 198 as found on pages 107 and 108 of the Journal.) That will be referred to the Reference Committee, Mr. President, pursuant to our rules. Mr. President, LR 199 offered by Senators Fowler and Labeledz. (Read LR 199 as found on page 108 of the Journal.) Mr. President, LR 201 offered by Senator Wagner and the members. (Read LR 201 as found on pages 109 and 110 of the Journal.) That too, will be laid over, Mr. President. And finally, Mr. President, I have a notice of confirmation hearing by the Banking Committee for later this week.

January 20, 1982

LB 375, 376, 649

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will stand as published. Any messages, reports or announcements?

CLERK: Mr. President, your committee on Administrative Rules and Regulations whose chairman is Senator Vard Johnson reports LB 649 to General File.

Mr. President, I have a gubernatorial appointment letters appointing Mr. Don Stenberg to the Department of Administrative Services; Colonel Elmer Kohmetscher as Superintendent of the Nebraska State Patrol and Mickey Skinner to the Games and Parks Commission. Those will be referred to the Reference Committee.

Mr. President, I have a communication from the Secretary of State regarding a return of LB 376 to the Legislature. I also have an accompanying Attorney General's opinion addressed to Mr. Beerman regarding that matter. It will also be inserted in the Journal.

Mr. President, LR 199, 206 and 207 are ready for your signature. (See pages 373-375 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LR 199, LR 206 and LR 207. We're ready then for agenda item #4, General File, the priority bill, LB 375. Mr. Clerk, if you will bring us up to where we are.

February 2, 1982

LB 649, 287

SPEAKER MARVEL: The motion is carried and the bill is advanced. The next bill is LB 649.

CLERK: Mr. President, LB 649 offered by the Administrative Rules and Regulations Committee and signed by its members. (Read title). The bill was read on January 6 of this year. It was referred to the Administrative Rules Committee for public hearing. The bill was advanced to General File, Mr. President.

SPEAKER MARVEL: Senator Vard Johnson, do you want to explain the bill and then move to advance it?

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I would hope that you would listen to the presentation on this particular legislative bill because this will be the first presentation that has been made on the floor of the Legislature with respect to a matter that has been in our statutes for some time. This is a fairly unique situation. What legislative bill 649 does is it repeals regulations that were adopted last year by the Board of Public Roads Classifications and Standards. Now in 1980 this Legislature passed LB 873 which added one additional classification for highways in the State of Nebraska, and that classification was for scenic recreation roads. It was a new highway classification. After we passed LB 873 in 1980, the Board of Public Roads Classifications and Standards held hearings to determine how this new classification should be implemented through the regulatory process. Following the hearings by the Board of Public Roads Classifications and Standards they adopted regulations concerning which roads could then be designated as scenic recreation roads. Our committee i.e. the Administrative Rules and Regulations Review Committee received a complaint from Senators Hoagland and Beyer in which those two Senators claimed that the regulations adopted by the Board of Public Roads Classifications and Standards Committee did not comport with LB 873. They were beyond LB 873. They did not deal with the intent of the Legislature. Now the Administrative Rules and Regulations Review Committee held a public hearing last summer. We held it in Schramm Park which as you may know is where the Omaha World Herald's fish display is. It is a nice park by Cretna outside of Omaha. We held it there because one of the scenic roads to be affected by the regulations is Highway 31 which goes by the old fish hatchery. The committee took considerable public testimony with respect to what was the intent behind LB 873 and in addition what was the intent behind the regulations. The committee concluded that it was absolutely true, as Senators Beyer and Hoagland pointed out, that the regulations did not conform

to what the Legislature intended with LB 873. So the committee voted in 1981 during the summer hearing to suspend the rules of this agency because those rules were outside of legislative intent for scenic recreational road classifications. So we suspended the rules. We have that power. This committee has that power under the statutes. But our statutes then say that when the Administrative Rules and Regulations Review Committee suspends the rules of some regulatory agency as being beyond the intent of the Legislature, when it does that, it must then bring to the full body...it must bring to the full body a bill which will permanently suspend those particular rules. This is the bill. LB 649 permanently suspends those particular rules. And your vote on this bill incidentally is an up or down vote. You get three cracks at it but it is an up or down vote. You can't amend it. Our statutes say that the bill cannot be amended. You have to very simply either vote to suspend those rules permanently or vote not to suspend those rules permanently. If you vote not to suspend the rules permanently, then they are in place and they are in place for two years and cannot be touched by anybody. Or on the other hand if you vote to suspend them permanently, then those rules are suspended and what happens simply is the Board of Public Roads Classifications and Standards have got to go back to the drawing board and come up with rules and regulations that effectively meet the intent of LB 873. Now I do not believe this is the place to argue the wisdom or lack of wisdom on LB 873. If you want to argue the wisdom or lack of wisdom on that old bill, then we have got to introduce a new bill to do that. But the real question here is whether we will enforce the rule of law, and the rule of law is that a regulatory agency must adopt rules and regulations that conform to legislative intent. Your Administrative Rules and Regulations Review Committee concluded that such was not the case, that those regulations promulgated by the Board of Public Roads Classifications and Standards did not so conform to legislative intent. Now with that I at this time would move that LB 649 be advanced.

SPEAKER MARVEL: The Chair has four lights. Senator DeCamp, Senator Beyer, Senator Wesely, Senator Lamb. The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, this is truly a case of first impression for this Legislature because we are testing what we set up three or four years ago which is the whole concept of the Legislature being involved in reviewing rules and regulations to make sure the rules and regulations actually comport or agree

with the law we passed. Now I am in a quandry on this, but not really. The quandry is I happen to completely, totally agree with the rule and agree with the Road Department and believe the law that we passed was a bad law. I believe roads should be made to drive on and that was what the Road Department was trying to accomplish and in doing so...in doing so they adopted a rule that quite frankly violated another law we passed in here that wanted to decorate the roads kind of. So if our Rules and Regulations Committee and what really is behind that which is the Legislature and "the sanctity of the laws we pass means anything", then I must vote...I must vote to support the law absolutely, and if I disagree with the beauty of the roads part, I introduce a separate bill to change that law. These laws cannot and must not be changed by individual agencies making their own subjective judgment as to what is good or bad, right or wrong, wise or unwise, and that is the very essence of rule making authority and where it has gone astray in almost all the states, and I would tell you that almost everyone of the 50 states is now at the same point where we are and that point is, are the agencies writing the laws and the policy of the state, or are the lawmakers? And so this is our first test, our first honest to goodness test, and I wish it would come on something like the Christian schools rule rather than this one, quite frankly, our first test to see when the rule doesn't agree with the law, do we let the agency go ahead and write laws through their rule making authority, or do we say, no, we bring it to a halt? Now I think once we pass this bill, and I think we are under obligation to pass it, unless somebody in this room can show that the rule does agree with the law, I think you are under obligation to pass this if you want to maintain administrative rules oversight. But once you do it, I think then maybe the next step might be a court test as to whether we even have the authority to do this. So I urge you to advance the bill for the purpose of enforcing our lawmaking authority, at the same time recognizing that the law itself that is being enforced is kind of a cruddy one in my opinion.

SPEAKER MARVEL: Senator Beyer.

SENATOR BEYER: Mr. Speaker and members of the Legislature, I agree with what Senator DeCamp has just said, because basically on this road that is in my territory the Department of Roads is more or less following the guidelines that they have, and it is a case of where it is a tremendous expense to go under those guidelines, where if we can put it down to a different description by our rules it will save a considerable amount of money that is not

necessarily needed to be spent in this area. We all agree that good roads are the main thrust of our transportation, but there is also a point as to what standard the roads should be built to, and in this one I feel it does not need to be built to the 65 or 75 mile speed limit that they are talking about. So I heartily endorse this bill.

SPEAKER MARVEL: Senator Wesely, we are speaking on the motion to advance the bill.

SENATOR WESELY: I would like to ask Senator Johnson a question or two, Mr. Speaker.

SPEAKER MARVEL: Senator Johnson.

SENATOR WESELY: First off, Senator Johnson, I read recently that a court decision had been rendered concerning the one-house veto authority of the Congress. I don't understand exactly why that was decided in that manner or how it relates to Nebraska, but could you talk about that decision and how it relates to this function, because as I see it we are basically doing the same thing. This is a veto of a rule initiated by the Executive Branch of government and I wonder whether or not this doesn't follow in line with that decision which says we can't do it. And then second off I guess I wonder if the decision to remove the rule is really the proper step to take. Why wouldn't we just take the law and refine the law to more specifically identify what we want instead of granting the broad authority and delegation of authority that we do under the bill that we passed two years ago? I guess I am wondering, number one, the constitutionality and then, number two, why we couldn't take a different step in this to deal with the problem.

SENATOR V. JOHNSON: In 1977 the Legislature amended the Administrative Procedures Act to establish the Administrative Rules and Regulations Review Committee as an oversight committee. At that time the Attorney General said that he thought that this legislation was unconstitutional because it gave the Legislature the power to veto some acts occurring in the Executive Branch i.e. the power to veto some rules occurring in the Executive Branch. There have been absolutely no court cases in Nebraska on the subject because we have never done this before. This will finally put the case in terms that....it will finally put the situation in an appropriate posture for someone to contest if someone wants to so contest the case. There have been other court tests of this type of a procedure and to the best of my knowledge in two cases, Connecticut and Alaska, the two courts there did find this was an improper infringement on

the separation of powers doctrine inherent in those state Constitutions. But there was another line of cases which have gone the other way. Recently a federal court held the one-house veto in Congress to be an improper excursion on executive power, but there is a substantial difference there because it talks about a one-house veto as opposed to a full Congressional veto of executive action. I, personally, think that our law is constitutional. That is my personal viewpoint, but I can't base that on any decisions out of the State of Nebraska because it has not been tested. Secondly, with respect to the way to go. Who is going to be the boss? Is the Legislature going to be the boss, or is the Executive going to be the boss? What you are really suggesting, Senator Wesely, is when the Executive says, we don't like a piece of legislation that you have passed and they write rules to subvert it, that we should then go back and redo our legislation to conform to their rules. I say that is basic bunkum, that we, in fact, should suspend their rules and say, you go back and you conform your rules to comport to what we thought was the best policy.

SENATOR WESELY: Okay, thank you, Senator Johnson, I appreciate that explanation. I am concerned about the constitutional question involved with this bill but at the same time as Senator DeCamp talked about, I think there has to be some legislative oversight that there has been clamor among the public trying to do something about rules and regulations that are proliferated and not really followed the directives of the legislative branch. We have seen that on the federal level and now we are seeing it on the state level and I think it is important that this Legislature at least test the authority that we have in this area because I think it is important to have that oversight function and if this is the case that it will take to decide whether or not we have that under the Constitution or not, I think we ought to take that step. I think that it is a clear case of violation of the law. I think it does not follow what we had intended, and I know because I was on the committee, the Public Works Committee that dealt with the issue two years ago and supported that issue and felt that it was a just and fair bill. And I have been very disappointed in the way it has been handled by the Roads Department, understanding their bias for a different attitude on the question at hand. So with that in mind I have followed this issue and although I am not directly affected as Senator Beyer and Senator Hoagland who are more directly involved with the legislation, nevertheless, I, too, feel that the directive involved in that bill was not carried forward as it should have been. I do think that perhaps we have to keep in mind

February 2, 1982

LB 649

the question of how much authority is delegated. Frequently in the Public Health Committee we find that there are different bills that we have delegating authority that are too broad, and perhaps the question at hand with this bill was that we were too broad in delegating authority and thus gave too much leeway to the Department to make rules that did not follow what we had really intended. And so when I asked Senator Johnson about tightening the law, I still think that is a valid consideration. Perhaps we should go back, reexamine the law and make more specifically what we want to accomplish, but I can't say that that really is necessary because our intent I thought was clear to not do what the Roads Department has proposed but rather to have a more modest approach than what they are suggesting.

SPEAKER MARVEL: You have 30 seconds left.

SENATOR WESELY: Thank you, Mr. Speaker. I would just say at this time that it is important that we at least challenge this question as on the national level it has been challenged and find out in Nebraska whether or not we are able to provide the oversight of rules and regulations that I think is important in carrying out our functions in our state government.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, just a couple of questions of Senator Johnson, if I may. And the first one is, I am interested that no one supported the bill in committee. I wonder why that was.

SENATOR V. JOHNSON: No one did which?

SENATOR LAMB: Supported the bill in committee.

SENATOR V. JOHNSON: This bill?

SENATOR LAMB: Well, nobody appeared to....in the committee statement there is no one listed as supporting the bill.

SENATOR V. JOHNSON: Yes. The reason for that, Senator Lamb, is that the committee frankly regarded the public hearing on this bill as a very pro forma matter inasmuch as the real hearing on the lawfulness of the rules had been held last summer at which time there was a tremendous amount of public testimony.

SENATOR LAMB: The other question deals with some of the items that Senator Wesely was talking about. As I understand

it, if we pass this bill it repeals the rules but it doesn't do anything positive so there is nothing to keep the Department of Roads from changing two words in the rules and send it right back to us. It seems to me that in conjunction with the bill you have here, it would be appropriate to have a bill which does more specifically point out what you do want to happen in this case, otherwise we could go back and forth session after session here on the same issue and never get it resolved.

SENATOR V. JOHNSON: Yes, Senator Lamb, you are correct in the sense that all the Administrative Rules and Regulations Review Committee does is go over the rule at the request of a complainant, determine whether or not it is a lawful...whether it falls within and meets legislative intent and if not ultimately...if not, first give the Department a chance to correct the rule, which we did and they didn't make any corrections. And secondly, if they don't do that, to then suspend the rule. They can come back later on and amend their rules by making cosmetic changes and we will be faced with the same situation again. That would be unfortunate, in my opinion, if they were to do that.

SENATOR LAMB: Thank you.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, the intent of LB 649 has been well discussed, but I would remind you that I was the author of this legislation in '77, and I want to give you the background on that. The idea came from Wisconsin. Wisconsin was the only state at that time who had such a piece of legislation. When you talk about the court case, it was tried in Wisconsin and the law was held to be constitutional, and I remind those of you who were here at that time that when we were attempting to pass this law, the Executive Branch and all the agencies showed up to oppose it. Naturally they would because they had complete control over any rule or regulations to whatever extent they wanted to either underexceed our intent or to overexceed our intent. So I happen to believe that what we are doing here now, and if you want a test and I have an Attorney General's Opinion and he thought it might be unconstitutional, I think that this bill should be passed, because I get a little bit upset when we pass laws and we say such and such shall promulgate the rules and regulations and then we find they have exceeded the intent of the Legislature, if you will look at the remarks on the floor, or you

found they did not meet the intent of the Legislature and I can give you an example. Senator DeCamp brought into the Christian schools the fact that the rule of the State Department of Education was suspect, Rule 14. Yet the court had said in a case out of Cass County that the Department of Education did not exceed the intent of law that has been on the statute books for a long time, that the rule was perfectly in conformity with that law, and that is the reason the Rules and Regulations Committee did not act because the court had said in that case very explicitly they did not exceed. So I stand in support of LB 649 and I really believe this Legislature has the right to examine any rule and reg once we are the lawmakers and we pass it to make certain that it does not exceed or to make certain that it meets the intent of our laws. It is a place for citizens to come to complain about what they think might be excessive rule making outside of the intent of the law makers. So I support LB 649 and if somebody wants to test it in our Supreme Court, let it happen, then we will know where we stand in terms of our power and our intentions.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, after the last vote that just crushed me I am kind of interested in this particular one where they are talking about cutting down some trees. They are not interested or concerned about cutting down some houses. The Roads Department is cutting down trees right now in my community causing erosion and other problems. There is no concern because it is going through a black community where we live. But if you talk about one where people want to go and have fun and play, then you don't want to cut those trees down. So it seems that in the same way that the location and complexion of people determines the attitude of the Legislature the location of the trees suddenly becomes important. Although it is against my intention, Senator Johnson, what I am saying now is going to help you advance this bill because I think the bill should not advance. I think the Roads Department should do for the rest of you what you have helped them do to me and my kind. Let the Roads Department do it to everybody. Now when they are the handle of the tool that is going to hurt us, the Roads Department is great and they should not be questioned or challenged. And I want this into the record, and you have given me the wonderful opportunity to do it. I have seen concern for whooping cranes. I have seen concern for ferrets. Now I see concern for trees. So maybe if there was some way

I could disguise the people in my community as trees, we would have a chance to make it. So maybe what I ought to do since we are talking about defining power, defining relationships, we ought to define some beings, and say that anybody who lives between Lake and Ames, between 16th and 30th is a tree, then you can't deal with them in the highhanded, careless, crass way that you deal with the people who live there now. And while I have this opportunity, we have to consider what the purpose of a road is. The purpose of a road is to get from one place to another to make a bed on which different types of vehicles can move. Although I didn't mention during the last discussion, there was a road that went past some peoples' houses in Senator Kilgarin's District and they were upset, and they came to me for help, and the Roads Department did not want to meet with those people. Yes, an Interstate shaking peoples' foundations loose, messing up their houses, right now. But the Roads peoples' attitude was, if we take care of your house, then we are going to admit responsibility and we are going to have to take care of everybody's house that the Freeway is messing up. This is the Interstate down there in South Omaha where everybody seems to be so concerned about. So maybe what ought to be done, Senator Johnson, is to just hold this bill right where it is, then discuss and consider during an interim study as we study all things that we really don't want to deal with or that are not very important, just what the function of the Roads Department is, establish a philosophy of roads in Nebraska. And I know that may not come to pass, but I couldn't resist the opportunity to make these statements and comments for the record. I understand we are going to have an animal rights bill at some point and probably some animals will be given more rights than people in my district have. But I can't reduce them to the level of defining them as four-footed animals. They still are rational human beings and although the Legislature does not view them in that fashion, I do, and my job is to come down here and represent our interests, Senator Duda, against anybody and any group that will put them down. And as other countries like Ireland where they send people to the Parliament to try to talk within the system to bring about changes when the system shows itself incapable of addressing the problems of those people, then the system has to be discarded as the means to handle those problems, and a different system must be put in place. Right now we are talking about the cutting down of trees and I don't see that as too important. I say cut down every tree in Nebraska and what difference does it make. In the same way that one bullet hitting one person is total war as much as an atomic bomb dropping on a society, if you cut down all the trees in my area, my area is no worse

if you cut down all the trees in your area too, it just puts us on the same footing. So I am opposed to this bill. You ought not advance it, but I know you are going to advance it. Senator Johnson, while trying to speak against your bill I have probably given you more help than anything you or Senator Koch could have said in behalf of it. But it also gave me the opportunity to get some things into the record, which I will be able to have transcribed and circulated through my community along with the discussion we just had on the bill just before this one that you killed. I don't know if it was the one just before this one but the one on the Freeway that I was concerned about. So I want to thank you for the opportunity and every time I get the chance on these bills you will be hearing from me for the rest of the session.

SENATOR CLARK: Senator Johnson, do you wish to close, please.

SENATOR V. JOHNSON: Yes, I would, Mr. Speaker. I want to close because we are engaged in an act that is unprecedented in the Legislature and that is we are in the process of suspending a rule of an executive agency, and we are doing that because your committee has held public hearings and has concluded that the rule itself exceeds the legislative intent that was behind the bill under which the rule itself is promulgated. This is not the time and place to argue the policy of LB 873, the highway bill, and we passed that bill, we did it, we duped it out on the floor, we thought it was a good bill and we passed it. The real question is whether the rule that the Highway Department has developed conforms to the legislative intent. Now I will tell you why the Administrative Rules and Regulations Review Committee concluded that it did not so do, that it did not conform to the legislative intent. If I can find my statutes.... LB 873 said this, it said, we are going to have a new road classification for scenic recreation roads and these are roads that are deemed to be environmentally fragile, esthetically important or serve some type of recreational and other beneficial need to folk. We said in LB 783 (sic), "except for scenic recreation roads standards, except for those standards, such standards for other roads shall be such as to assure that each segment of highway, road or street will satisfactorily meet the requirements of the area it serves and the traffic patterns and volumes which it may reasonably be expected to bear. The standards for a scenic recreation road and highway classification shall ensure a minimal amount of environmental disruption practicable in the design, construction and maintenance of such highway, roads and streets by the use of less restrictive more flexible

design standards than other highway classifications." The rule that was eventually adopted by the Board of Classifications and Standards turned solely on traffic patterns. Traffic patterns were the applicable standards used for scenic recreation roads, and we said that our legislation specifically said, you weren't to look at traffic patterns, you were to look at esthetic qualities. And so we said, your rules don't conform. Okay, so I ask you at this time to advance this bill, again not to discuss the policy behind LB 873 but more importantly to establish the continued legislative oversight of the rule making power in the Executive and to ensure that what our intent is will be fully and faithfully carried out. Thank you.

SENATOR CLARK: Senator Johnson was closing. The question before the House is 649 to E & R. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 30 ayes, 2 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced to E & R. The next bill is LB 571.

CLERK: Mr. President, while we are waiting, I have an explanation of vote from Senator Richard Peterson.

Mr. President, Senator Landis would like to print amendments to LB 208 in the Journal.

Mr. President, hearing notice from the Revenue Committee and that is signed by Senator Carsten.

Senator Remmers has amendments to LB 208, Mr. President. (See pages 512 and 513 of the Legislative Journal.)

Mr. President, LB 571 introduced by Senator Clark. (Read title). The bill was read on January 6 of this year, referred to the Judiciary Committee for public hearing. The bill was advanced to General File, Mr. President.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Clark.

SENATOR CLARK: Mr. President and members of the Legislature, I introduced this bill for the Oil and Gas Commission. What would happen in the law today is that it is unclear if corporations that are aliens such as Canadian corporations could

February 4, 1982

All Senators that are in their seats, please check in. Will you all check in or shall I call out the names? Senator Sieck, Senator Kremer. All right, they are all here. Do you want a roll call vote? The Clerk will call the roll. They are all here.

CLERK: (Roll call vote taken. See page 545, Legislative Journal.) 27 ayes, 20 nays, Mr. President.

SENATOR CLARK: The motion lost. The next motion is to place #758 on General File notwithstanding the action of the committee. Senator Fowler. The Clerk would like to read in and the Call is raised.

CLERK: Mr. President, your committee on Revenue whose Chairman is Senator Carsten instructs me to report LB 819 advanced to General File with the committee amendments attached. That is signed by Senator Carsten as Chair. (See page 546 of the Journal).

Mr. President, Banking, Commerce and Insurance gives notice of cancellation of hearing. Signed by Senator DeCamp.

Mr. President, Senator Wesely would like to withdraw LB 237. That will be laid over.

Senator Vickers would like to print amendments to LB 230 in the Legislative Journal. (See pages 546 and 547 of the Journal). Senator Kahle to print amendments to LB 703 in the Legislative Journal. (See pages 547 and 548 of the Journal). Senator Schmit to print amendments to LB 421 in the Journal. (See page 549 of the Journal).

Mr. President, new A bill, 590A by Senator Kilgarin. (Read title).

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 255A and recommend that same be placed on Select File; 440 Select File with amendments; 314 Select File with amendments; 131 Select File with amendments; 287 Select File with amendments; 649 Select File; 571 Select File; 598 Select File and 646 Select File. Those are all signed by Senator Kilgarin as Chair. (See pages 549 through 552 of the Legislative Journal).

Mr. President, Senator Fowler moves that LB 758 be placed on General File notwithstanding the actions of the Appropriations Committee.

February 5, 1982

LB 287, 646, 649, 716, 717,
720, 723

SENATOR KILGARIN: I move the E & R amendment to LB 287.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The E & R amendment is adopted. Now what do we do with the bill?

SENATOR KILGARIN: I move we advance LB 287.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. LB 649.

SENATOR KILGARIN: I move we advance LB 649.

SPEAKER MARVEL: All in favor of that motion...649? Okay, all in favor of...the first thing we do, I'm sorry. Senator Kilgarin, 649. Okay, the motion is to advance the bill. All in favor of that motion vote aye, opposed vote no. A machine and record vote have been requested. Have you all voted? The Clerk will record the vote.

CLERK: (Read record vote as found on pages 579-580 of the Legislative Journal.) 41 ayes, 3 nays, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. 571 will be passed over because there are some amendments. We go to 598.

SENATOR KILGARIN: I move we advance LB 598.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The last bill, LB 646.

SENATOR KILGARIN: I move we advance LB 646.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The Clerk has a couple items to read in and then, Senator Goodrich, after the Clerk has read in the items will you make the motion that we adjourn until Monday, February 8th, at 9:30 a.m. Okay, Mr. Clerk.

CLERK: Mr. President, Senator Haberman offers an explanation of vote.

Your committee on Judiciary whose chairman is Senator Nichol instructs me to report 720 advanced to General File; 716 advanced to General File with amendments; 717 General File with amendments; 723 indefinitely postponed, all signed by Senator Nichol. (See page 580 of the Legislative Journal.)

February 9, 1982

LB 237, 255, 274, 402, 525,
589, 598, 646, 649, 802,
828, 832

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Prayer by the Reverend Donald Nunnally, Pastor of Calvary United Methodist Church of Lincoln.

REVEREND NUNNALLY: Prayer offered.

SENATOR CLARK PRESIDING

SENATOR CLARK: Have you all recorded your presence? Have you all recorded your presence? The Clerk will record.

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

SENATOR CLARK: Are there any messages, reports or announcements?

CLERK: Mr. President, I have an Attorney General's Opinion addressed to Senator DeCamp regarding a proposed rule and regulation by the Political Accountability and Disclosure Commission. That will be inserted in the Journal. (See pages 597-600 of the Journal).

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 255 and find the same correctly engrossed; 274, 402, 525, 589, 598, 646 and 649 all correctly engrossed. That is signed by Senator Kilgarin as Chairman. (See pages 600 and 601 of the Journal).

Mr. President, I have a request from Senator Lamb to print resolutions from Chadron State College in the Legislative Journal for ultimate legislative approval. (See pages 601 and 602 of the Journal).

Mr. President, your committee on Public Health and Welfare whose Chairman is Senator Cullan instructs me to report LB 832 advanced to General File with committee amendments attached; 802 indefinitely postponed; and 828 advanced to General File. All signed by Senator Cullan as Chair. (See page 603 of the Legislative Journal).

SENATOR CLARK: We are ready for #4, motions, LB 237 by Senator Wesely to withdraw a bill. Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, the question before the House is the life and death of LB 237, a bill which has served the state well in its brief life. This bill attempts to deal with a very

February 19, 1982

LB 131, 274, 274A, 287,
314, 402, 440, 454,
589, 646, 649, 904

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 131, LB 274, LB 274A, LB 287, LB 314, LB 402, LB 440, LB 454, LB 589. The next order of business is Final Reading on LB 646.

CLERK: (Read LB 646 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. LB 646. Have you all voted? This is voting on Final Reading, LB 646. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 786, Legislative Journal.) 46 ayes, 1 nay, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Next bill, LB 649.

CLERK: (Read LB 649 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. LB 649 on Final Reading. Record the vote.

CLERK: (Record vote read. See page 787, Legislative Journal.) 45 ayes, 1 nay, 2 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading.

CLERK: Mr. President, Senator Cullan would like to have an executive session of the Public Health and Welfare Committee Monday morning at nine o'clock in Room 1019. That is Public Health and Welfare Monday morning, nine o'clock in Room 1019.

Urban Affairs instructs me to report LB 904 indefinitely postponed. That is signed by Senator Landis as Chairman.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Beyer, would you like to adjourn us until Monday morning at nine-thirty.

SENATOR BEYER: Mr. Speaker, I move that we be adjourned until Monday morning at nine-thirty.

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

February 22, 1982

SPEAKER MARVEL PRESIDING

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

REVEREND PALMER: Prayer offered.

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

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

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

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

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

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

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

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

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

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

February 22, 1982

LB 408, 646, 649, 685,
LB 590A, 694, 740

SENATOR NICHOL: We're looking for Senator Cullan, Schmit. Senator Chambers, will you check in please.

CLERK: Senator Marsh voting yes.

SENATOR NICHOL: Senator Kilgarin, we're missing Senator Marvel and Senator Schmit. Do you want to continue or do you want to wait until they are here? We are under Call so you should be in your seats, please. Senator Schmit, are you on your way?

CLERK: Senator Marvel voting yes.

SENATOR NICHOL: Record the vote, Mr. Clerk.

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

SENATOR NICHOL: The Call is raised and the bill is advanced.

CLERK: Mr. President, while we're waiting I have some items to read in. Your committee on Public Works whose chairman is Senator Kremer instructs me to report LB 408 advance to General File with committee amendments attached. And LB 694 advance to General File with committee amendments attached, both signed by Senator Beutler as Vice Chair. (See pages 796-802 of the Legislative Journal.)

Mr. President, your committee on Revenue whose chairman is Senator Carsten instructs me to report LB 740 advance to General File with committee amendments attached.

Mr. President, your Enrolling Clerk has presented to the Governor LB 646 and 649. (See page 803 of the Journal.)

The Education Committee would like to have an executive session immediately following their public hearing this afternoon. That is the Education Committee after their public hearing.

LB 685 is reported to Select File, Mr. President. (Page 803.)

Mr. President, a new resolution, LR 228 offered by Senators Labeledz and Wiitala. (Read. See page 803-804 of the Legislative Journal.)

SENATOR NICHOL: Members of the Legislature, Senator Shirley Marsh has some very special guests. I've asked her to please introduce you to them and she will do that at this time.

March 1, 1982

LR 232
IB 522, 646, 649, 768,
831, 860, 874, 885, 834

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, open the Board and record your presence. Record your presence.

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

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

CLERK: Mr. President, a few items. A communication from the Governor addressed to the Clerk. (Read. Re: LB 646 and 649, and 834.)

Your committee on Public Health and Welfare reports 768 advanced to General File with committee amendments attached; and LB 831 General File with committee amendments attached; both signed by Senator Cullan.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 860 advanced to General File with committee amendments attached; 874 and 885 General File with committee amendments attached. All signed by Senator Kremer.

Mr. President, Senator Vard Johnson would like to print amendments to LB 522 in the Legislative Journal.

SPEAKER MARVEL: Visiting the Legislature today from Senator Marsh's District, May Morley; Mrs. Johnson, Mrs. Pedersen, Mrs. Weisser, teachers; and they are in the North balcony. Can you hold up your hands so we can see where you are? Now, Mr. Clerk, do we have a resolution?

CLERK: Mr. President, we do. Mr. President, LR 232 offered by Senator Schmit, Carsten and Hefner. (Read.) Mr. President, Senator Carsten would move to suspend Rule 4, Section 6, so as to permit consideration of LR 232 today.

SPEAKER MARVEL: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I would ask the Legislature to support us in the move to suspend the rules and adopt this resolution today and that it be in proper form and be carried by Senator Hefner tomorrow to Senator Burbach's funeral and hand delivered to Mrs. Burbach. I would hope that this body would agree to this procedure. Thank you, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Hefner.