

PRESIDENT: Maybe the National Guard would like to have you. Would that (inaudible)? Senator Nichol, I want to say for the Chair's part that I am glad that you don't get excited about anything. Senator Koch, do you have a point?

SENATOR KOCH: (inaudible)..to Senator Nichol's point of view.

PRESIDENT: All right, state your point.

SENATOR KOCH: I want Senator Nichol to know there are twenty-six of us whose pictures did not appear in the World Herald and no politician likes that and we might have been the only group who maintained a degree of sanity on that first day of the session. Thank you.

PRESIDENT: All right, the Legislature will stand at ease now until we get some more bills. If you have some more bills to bring up for introduction please bring them to the Clerk's desk and the Legislature will stand at ease. Pat, what would you say? We will stand at ease at least until ten-thirty or so and see how we are going.

EASE

PRESIDENT: The Legislature will come back in session. Mr. Clerk, do you want to read in some more bills so that the Reference Committee can handle them?

CLERK: Yes, sir. Mr. President, first of all, Senator Landis would like to announce that Senator Remmers has been selected as vice chair of the Urban Affairs Committee.

Read LB 69 by title for the first time as found on pages 100-101 of the Legislative Journal.

Mr. President, I have a reference report from the Executive Board referring LB 37-49 and referring LB 51 as well. That will be inserted in the Legislative Journal. (See page 101.)

PRESIDENT: Does anyone, any member, have any bills to bring to the desk so that they may be processed and read in this morning? The Legislature will stand at ease just for a few minutes more. We will be at ease for about five minutes.

EASE

PRESIDENT: The Legislature will come back to order. Mr. Clerk, do you have some more bills to read in?

January 30, 1981

LR 11  
LB 30, 37, 39, 69, 140,  
207, 312, 363.

your vote for the resolution.

PRESIDENT: Is there any discussion on the Wesely resolution which is LR 11? Seeing none, Senator Wesely, I guess that will be your opening and your closing. The question before the House is the adoption of LR 11. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 31 ayes, 0 nays on adoption of the resolution, Mr. President.

PRESIDENT: The motion carries. The resolution LR 11 is adopted. Mr. Clerk, are there any matters to be read in?

CLERK: Yes, sir, there are. Mr. President, I have a Reference Committee report referring LBs 533, 534 and 535. The Committee on Ag and Environment gives notice of hearing in Room 1520 for March 5 and March 6. The Committee on Public Health and Welfare gives notice for a hearing on February 9, 10 and 17. Your Committee on Public Health and Welfare whose Chairman is Senator Cullan to whom was referred LB 39 instructs me to report the same back to the Legislature with the recommendation it be advanced to General file with amendments; LB 69 to General File with amendments. (See pages 378 and 379 of the Legislative Journal.)

Mr. President, your Committee on Revenue whose Chairman is Senator Carsten to whom was referred LB 140 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File.

Mr. President, I have a motion from Senator Chambers to re-refer LB 363 from Education to the Government Committee. Senator Stoney asks unanimous consent to...or he makes a motion to withdraw LB 312. Pursuant to our rules that will be laid over, Mr. President. Senator Stoney also asks unanimous consent to have his name added to LB 37 as co-introducer.

PRESIDENT: No objections, so ordered.

CLERK: Mr. President, Senator Koch would like to print amendments to LB 207 in the Legislative Journal. (See pages 380 and 381 of the Legislative Journal.) Your Committee on Urban Affairs whose Chairman is Senator Landis to whom was referred LB 37 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments, and LB 30 General File with amendments. (Signed) Senator Landis (See pages 380 and 381 of the Legislative Journal.)

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LB 20, 69

SENATOR CLARK: The motion is to advance LB 20 to E & R. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record the vote.

CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Okay, we will proceed to LB 69.

CLERK: Mr. President, LB 69 is offered by Senator Marsh. (Read title to LB 69). The bill was first read on January 9 of this year. It was referred to the Public Health and Welfare Committee for public hearing. The bill was advanced to General File. There are committee amendments pending by the Public Health and Welfare Committee, Mr. President.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, the Public Health and Welfare Committee adopted two major committee amendments to LB 69 and one amendment which I believe is technical in nature, and I would ask that you adopt all three as a package unless someone has an objection to that procedurally. The committee amendments change the age from under "four" years of age to under "three" years of age. As far as the requirement is concerned that an individual who drives a motor vehicle ensure that these individuals be properly strapped in or in a proper safety device in an automobile, it lowers the age requirement so that only individuals who are infants up to the age of...through the age of two would be included under the provisions of LB 69. The second change is to exempt public transportation vehicles. This would mean buses, taxis and any other means of public transportation from the requirements of the safety devices which are proposed in this particular bill. The third change is simply a change and is providing for a definition of motor vehicle and I am not sure what that definition is right now. It just refers to another section of state law. I can find that out if you want me to, but there was not a definition of motor vehicle referred to in LB 69. It is because there

are many definitions of motor vehicles in the statutes, we decided that we must incorporate one of those definitions within the provisions of LB 69. Those are the committee amendments and I would urge that you adopt them.

SPEAKER MARVEL: Senator Wesely, your light is on, do you wish to speak to the committee amendments?

SENATOR WESELY: Mr. Speaker and members of the Legislature, I rise in support of the committee amendments. The major one of the lowering of the age from "four" to "three" was an amendment I offered in committee and I just want to encourage you to support that. Quite frankly, I think when we start a new effort to restrict personal behavior such as this bill would provide for, I don't think we have to start with the ultimate but I think we start in a small way and see how it works and perhaps can expand it at a later date, and I think under the age of three that is the proper age to try to provide child restraint protection for our children, but I think once you get to the age of three, I think you are old enough that perhaps seat belts are applicable or that I think that is a better way to protect those children, and so my feeling is the committee amendment is important and I certainly encourage your support for them.

SPEAKER MARVEL: Senator Marsh, do you wish to speak to the committee amendments?

SENATOR MARSH: Yes, Mr. Speaker, and thank you very much. I would like to accept all of the committee amendments. However, I feel it is important to share with the Legislature in the event of an impact, often a tot wearing a safety belt slides right out either over or under, and the medical experts believe that the magic time is when that child reaches 40 pounds of weight, when that child can then be safely restrained within a seat belt, and not many three year olds weigh 40 pounds. There are exceptions. There are some who do. But I would hesitate to have the age reduced from three to two. It is under the age four, which means three year olds. So I would ask that the committee amendments split that section out and I would accept the other committee amendments, but I would ask that we vote on it separately. It is important to add the section referring to vehicles into this bill, and I feel that that is a good committee amendment, but I would ask to have the age section taken separately since I do not agree with it. And the medical experts, those who have

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a great deal of knowledge in this field, feel that one, two and three year olds should be under this legislation. So I urge your support of the committee amendments minus the age change.

SPEAKER MARVEL: Senator Marsh, Senator Cullan had a motion to the bill which as I understand designated under three years.

SENATOR MARSH: Under three years is the section I wish to have voted on separately, because that does not....

SPEAKER MARVEL: Well, you are asking that the question be divided....

SENATOR MARSH: Yes, sir, I am.

SPEAKER MARVEL: ....and....

SENATOR MARSH: The rest can go as one amendment.

SPEAKER MARVEL: ....my question is, how do you wish to divide it? You divide....

SENATOR MARSH: The committee amendments minus the age change.

CLERK: Senator, just so I understand then, we will vote separately on the one amendment that says, "on page 2, line 3, strike "four" and insert "three".

SENATOR MARSH: Right.

CLERK: And that is where the division shall occur?

SENATOR MARSH: Yes, please.

CLERK: All right, thank you.

SPEAKER MARVEL: Senator Marsh, will you...we are talking about page 379 in the Journal, would you turn to that, please? Do you have that page?

SENATOR MARSH: Yes, sir, I do.

SPEAKER MARVEL: Okay, now your division would, first of all it would be, "on page 2, line 3, strike "four" and insert "three". That is the first....(interruption).

SENATOR MARSH: That is the section I wish taken out, or voted on separately since it is a proposal by the committee.

SPEAKER MARVEL: Well, the second one is then, in line 4 down through vehicles or.

SENATOR MARSH: Yes, sir.

SPEAKER MARVEL: Okay. Okay, I think then that we will proceed as we have indicated. Those of you who are following this bill, would you please turn in your Journal to page 379, and on page 379 the first vote is, "On page 2, line 3, strike "four" and insert "three". And then the second vote starts, "In line 4 after "vehicle" insert ", as defined in section 60-301," down to "vehicles or". Okay, Senator Marsh, do you want to speak to the first amendment?

SENATOR MARSH: The first amendment is the second half?

SPEAKER MARVEL: It is, "On page 2, line 3, strike "four" and insert "three".

SENATOR MARSH: Yes, sir, I would speak against this section of the amendment. As it fits into the bill, we are not talking about four year olds, we are not talking about three year olds, we are talking about those under four or those under three, and most of you know that a two year old does not fit well into a seat belt without having some type of seat restraint such as the one over on the side here. That helps the child see out of the car. It helps the child remain quiet safely, but if you are trying to put that squirming just turned three year old without some additional assistance, that child is not as safely restrained. It is better than none. But we are talking about children who are infants and one and two year olds in this bill. Let's try it with the three year olds in the proposal without taking them out to start with. They are still well under kindergarten age, as you know. I would like to see it say, under age five, but this was a compromise on my part. Let's not compromise it further at the very beginning. I urge you to vote against the first section of the proposed amendments.

SPEAKER MARVEL: Now let me find....Senator Cope, do you wish to speak to the amendment that...okay. Senator Clark, do you wish to speak to the amendment? Senator Nichol, do you wish to speak to the amendment Senator Marsh just...?

SENATOR NICHOL: Yes, I do.

SPEAKER MARVEL: Okay.

SENATOR NICHOL: Mr. Speaker and members of the Legislature, Senator Marsh, I would think that a patrolman would have difficulty in establishing whether a child was two and a half or two, or three, or three and a half years old, and since you are concerned about the weight of the child, I think it would be much easier for the patrolman to determine the weight of the child rather than the age of the child. Now a parent is not going to have a birth certificate with them to prove that they have a child of a certain age, but a patrolman could use a scale if they wanted to go to that extent to very definitely prove whether the parent is abiding by the law or not. I was wondering if you would entertain the thought of going by weight instead of by age.

SENATOR MARSH: Yes, sir, I would.

SENATOR NICHOL: Okay, then...(interruption).

SPEAKER MARVEL: Could we have a little order in the room. It is hard to hear the discussion. Go ahead, Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I didn't...and Senator Marsh, I didn't want to fritz up your bill without visiting with you beforehand, but I am sorry I don't have an amendment, but if you wish to do so if the amendment should fail, I just throw that in as a suggestion to you.

SENATOR MARSH: I would be very amenable to an amendment to put it on a poundage rather than an age. Would the committee chairperson like to respond to that proposal? Senator Cullan?

SPEAKER MARVEL: Senator Marsh, Senator Nichol has the floor, I am sorry. Senator Nichol, are you...(interruption).

SENATOR NICHOL: Yes, I yield. Is that what your question is? I would yield to Senator Marsh. Is that okay?

SPEAKER MARVEL: Okay.

SENATOR MARSH: Thank you, Senator Nichol. Senator Cullan, would you respond to the weight proposal?

SENATOR CULLAN: Members of the Legislature, I think that proposal is not a realistic one, and a patrolman can simply ask how old the child is. If he believes that

they are misleading him, that is the purpose of the judicial system and I think it is unrealistic to have a patrolman carry a scale around weighing kids. I think he can just ask a question and if there is a question of fact, that is a question for a jury if necessary or for a judge.

SPEAKER MARVEL: Okay, Senator Wesely, do you wish to speak to the amendment that we have addressed up to now?

SENATOR WESELY: No, I won't, Senator Kremer. Members of the body, I think the discussion about the scale in the hands of the patrolman raises the issue that I want to make on this amendment, lowering the age from 4 and under to 3 and under. I think when you start a new restriction on the public, which this bill would do, you don't start including everybody that you want to at the very first. I think you start a little slower than that, and I think I can understand the point for a very young baby, a 1 or 2 year old to include them, which this amendment would still allow. But when you start getting to be 3 years old, I think you are old enough that maybe the seat belts would be satisfactory. I understand there is medical evidence otherwise, but let's talk about the social impact here. I think that people are not going to be very happy in many cases of being forced to have the child restraints in the first place, and then to just expand the group that would have to have these and to make it a little more marginal group like the 3 year olds, I think this leads to trouble for the bill and the legislation in general. So I guess what I am urging is I think the concept is one of some controversy, but I think if we are going to start it, let's start it with the group that needs it the most and then if we want to expand it later, fine, Senator Marsh can have a bill next year or the following year. But let's start small and see how it works and then we will grow.

SPEAKER MARVEL: Senator Marsh, do you wish to speak to the amendment? Okay.

SENATOR MARSH: Thank you, Mr. Speaker. Senator Wesely brought up an interesting point of those we are including. When we considered the age break at 5 because the 5 year old is now a kindergartener, we modified that for 20 percent because the 5 year old can get in and out of his or her seat belt, and against my better judgment, they say the 4 year old can also make that choice. Let's not put it down to a 3 year old deciding



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whether or not that child will be safely restrained. Let's try leaving the 1, 2 and 3 year olds in this proposal. We are still not putting 4 and 5 year olds. A 3 year old child does not have the ability to make a decision based on safety. I am not sure a 4 year old does, but let's not put it down to, you just passed your third birthday and all of a sudden you are now making the decision for yourself.

SPEAKER MARVEL: Senator Labedz, do you wish to be recognized on this amendment?

SENATOR LABEDZ: Yes, I do. Thank you, Mr. Speaker. Senator Wesely was speaking and most everybody that has gotten up before me about the rights of children and at what age should we amend this bill from 3 to 2, and I am assuming that we are talking about children at birth, and I am just wondering whether or not we shouldn't put an amendment on that bill as to the rights of a child, say when a woman is in their ninth month of pregnancy, should we allow or force this woman because she is carrying a child, should we force her to fasten her seat belts. If we are talking about the protection of children, I am almost tempted to put the amendment on there that the child has a right, too, at the eighth or ninth month of pregnancy for protection under the law. I wonder if Senator Marsh would agree to pregnant women being forced to fasten their seat belts in their eighth or ninth month of pregnancy.

SPEAKER MARVEL: Do you want to yield, Senator Marsh? Okay.

SENATOR MARSH: Senator Labedz, I think the woman's doctor should be the one who decides that because there may be an added safety problem when you are eight or nine months pregnant. Maybe the seat belt doesn't go around.

SPEAKER MARVEL: Go ahead.

SENATOR LABEDZ: Thank you, Senator Marsh.

SPEAKER MARVEL: Senator Cullan. Well, just a moment. Senator Cope, do you wish to speak to the other amendment? Just on the bill. Okay, Senator Cullan, you are recognized to close on....Senator Clark, do you want to speak to the bill as a whole? Second amendment. Okay. We are on the first amendment. Senator Cullan, do you want to close on the first amendment?

SENATOR CULLAN: Mr. President, members of the Legislature, I would just simply like to clarify what this particular amendment does. The current draft of the bill says that an individual child under the age of four, which would be a child one, two or three years old would have to be restrained. Under this committee amendment a child under the age of three would have to be restrained, in other words, only a child that is one or two years of age, and that is simply the amendment. It has nothing to do with the weight of the children or anything else.

SPEAKER MARVEL: Okay, Senator Cullan is closing on the amendment number one. All those in favor of amendment number one as discussed by Senator Cullan vote aye, opposed vote no. We are voting on the first amendment which is found on page 379 of the Journal, which reads: On page 2, line 3, strike "four" and insert "three". Have you all voted? Senator Cullan, what is your pleasure?

SENATOR CULLAN: Forget it.

SPEAKER MARVEL: Okay, Clerk, record the vote.

CLERK: 16 ayes, 16 nays, Mr. President, on adoption of the first committee amendment.

SPEAKER MARVEL: Okay, motion lost. Senator Cullan, do you want to address yourself to the second amendment which is: In line 4 after "vehicle" insert ", as defined in section 60-301," and in line 11 after "include" insert "public transportation vehicles or". Page 379.

SENATOR CULLAN: As I explained earlier, Mr. President and members of the Legislature, the purpose of this amendment, first of all the substantive change is to exclude public transportation from the requirements of the act. That would include taxis and other vehicles that are used in public transportation. The second relates to including a definition of motor vehicle in the bill. There was not a definition of motor vehicle previous to this amendment. This adopts the most restrictive definition of motor vehicle which is currently contained in existing state law, and that can be found in Section 60-301 and that is one of the more restrictive definitions....the most restrictive definition of motor vehicle found in the statutes. That is simply the purpose of the amendment.

SPEAKER MARVEL: Okay, Senator Cope, you are speaking to

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the bill as a whole, right? Senator Clark, you are speaking to the bill as a whole. Do you want to speak to the second amendment?

SENATOR CLARK: Mr. President and members, I would like to ask Senator Cullan a question.

SPEAKER MARVEL: Senator Cullan, do you yield?

SENATOR CULLAN: Yes, sir.

SENATOR CLARK: What is a vehicle according to that?

SENATOR CULLAN: Okay, Senator Clark...(interruption).

SENATOR CLARK: Is that anything with four wheels?

SENATOR CULLAN: Section 60-301 defines a motor vehicle as all vehicles propelled by any power other than muscular power except mopeds, farm tractors, self-propelled equipment designed to use exclusively to carry on and apply fertilizers, chemicals or related products to agricultural soil and crops and other implements of husbandry designed for use primarily for tilling the soil and harvesting crops, vehicles which run only on rail or tracks, off-road designated vehicles including but not limited to golf carts, go-carts, riding lawn mowers, garden tractors, all terrain vehicles, snowmobiles and minibikes, and road and general purpose construction and maintenance machinery not designed or primarily used for the transportation of persons or property included but not limited to ditch digging apparatus, well boring apparatus, asphalt spreaders, bucket loaders, level graders, earth moving carryalls, power shovels, earth moving equipment... (interruption)

SENATOR CLARK: I don't think you have to read the entire statute on that.

SENATOR CULLAN: Okay. The point is, Senator Clark, it excludes most items that are most vehicles which are not currently used on the highways of the state.

SENATOR CLARK: You say public transportation, are you talking about school buses?

SENATOR CULLAN: It would exclude school buses. That is correct.

SENATOR CLARK: How about private buses, church buses, this type of thing?

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SENATOR CULLAN: They would be excluded, Senator Clark.

SENATOR CLARK: Well, that's not public transportation.

SENATOR CULLAN: Buses would not be covered under the scope of the bill.

SENATOR CLARK: They wouldn't be at all?

SENATOR CULLAN: That is correct.

SENATOR CLARK: Okay, thank you.

SPEAKER MARVEL: Senator Hefner, do you wish to speak to the second amendment? Okay. Senator Maresh, do you wish to speak to the second amendment?

SENATOR MARESH: Mr. Speaker, this was my amendment in the committee. We had a lot of problems with taxis. I brought this up at the hearing and nobody seemed to be able to come up with an answer, how we are going to treat taxis. Should the taxicab operator be responsible for this, carry one in his trunk, and what if there are three children, how could he provide three carriers? So this excludes...the reason for this amendment is to exclude taxis mostly. I support the amendment.

SPEAKER MARVEL: Senator Labedz, do you wish to speak to amendment two?

SENATOR LABEDZ: Yes, Mr. Speaker. I would like to ask Senator Cullan a question.

SPEAKER MARVEL: Senator Cullan, do you yield?

SENATOR CULLAN: Yes, I do.

SENATOR LABEDZ: In committee, Senator Cullan, was there any time was it discussed whether or not we should disallow 1 to 3 year olds from riding on motorcycles?

SENATOR CULLAN: Motorcycles are excluded from the statute. This statute has nothing to do with motorcycles, Senator Labedz.

SENATOR LABEDZ: Thank you.

SENATOR CULLAN: Thank you.

SPEAKER MARVEL: Okay, Senator Cullan, you are recognized to close on the amendment.

SENATOR CULLAN: Mr. President and members of the Legislature, I think the amendment has been previously addressed. The purpose of the amendment, number one, is to exclude public transportation of all forms from the provisions of LB 69. The second purpose of the amendment is to define motor vehicle. We have used the most restrictive definition of motor vehicle available in the statutes. Motorcycles are not included under LB 69, and neither are buses or farm machinery or other implements which are used. The purpose of the act is to apply primarily to automobiles and other vehicles which are used for traffic on the highways in the State of Nebraska.

SPEAKER MARVEL: The motion before the House is the adoption of amendment number two found on page 379 as discussed by Senator Cullan. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Clerk, record the vote.

CLERK: 35 ayes, 0 nays on adoption of the second committee amendment, Mr. President.

SPEAKER MARVEL: The second committee amendment is adopted. Now before we turn this over to Senator Marsh, it is my privilege to introduce originally in the north balcony but I think now in both balconies, fifty ladies connected with the Nebraska Federation of Woman's Clubs. Are you sitting up here? Would you hold up your hands? Oh, there you are over here. It is the south balcony, right? In the north balcony from Senator Wagner's District, 35 students, 11th and 12th Grades, Wheeler Central High School, Bartlett, Nebraska, Mrs. Shirley Majors, Principal, and Mr. Bill Lindsteadt, teacher. You are in the north balcony. Will you hold up your hands so we can see where you are? Okay. We welcome all of you to the Unicameral. Senator Marsh, do you want to explain the bill?

SENATOR MARSH: Thank you very much, Mr. Speaker. We keep telling our kids in cars, one of the most dangerous automobile trips any of us takes in a lifetime is the first going home from the hospital, a newborn infant, father drives, mother sits beside him and cuddles that newborn baby. It is the perfect recipe for disaster. As an added grim bit of irony, both parents may be wearing their seat belts while the child is restrained only by the mother's arms. Almost any kind of a front-end accident causes the baby to pop out of the mother's lap and go crashing into the instrument panel. It is the way scores of infants every year die. Automobile

accidents are the greatest cause of death after birth to the child from infancy through five years of age. Six hundred and sixty-nine children could be alive today if we had restrictive legislation available in our country rather than having it be limited to the few states which have started moving in this direction. I very much want Nebraska to be state number three, moving in the direction to protect those who are not in the position to protect themselves. One of the questions asked is, how do you know when your bill speaks to the requirement to exceed federal regulations? I have a sheet in my hand and a copy has been shared with each of you, from the Sears Catalogue and at the very top it says, "Sears cars meet or exceed the federal vehicle standard for child restraint systems." Moderately costs for protection of a family; loaned by friends back and forth like other types of child care equipment are loaned, the cost to a family is modest, particularly when you consider that the cost of even a minor fender bender means a trip to hospital to have the forehead sewn up and that emergency room trip to the hospital is at least \$55 in the State of Nebraska, and it is a great deal more than that in the City of Lincoln. The investment in the lives of our children at a dollar cost; one of the pediatricians who appeared at the public hearing explained about the possibility of service clubs lending child restraint systems. The child in an automobile accident is safer than the parent, because the safety is inversely related to the age and weight of the child. That simple fender bender, the so-called minor accident, becomes a major accident when it is a seven pound infant in an automobile that is stopped going thirty miles an hour because you put the seven pounds of infant times that thirty miles an hour and you come out with the child striking the dashboard or windshield with 210 pounds of force. The physicians in the public hearing spoke about the cost of repairing a child, financial cost to the family or to the State of Nebraska, the mental retardation, the other serious medical problems which last a lifetime when the child is injured in an accident. We use transportation nearly every day of the year. We have children who are standing in the front seat or the back seat. The real need for legislative bill 69 is to help inform parents, guardians and other persons who are responsible for young children in the State of Nebraska. Were you to see the movie which the committee saw, using only models to see the impact of that body hurling through the air, you would already be convinced. The material which has been shared with you is factual

material. A child restrained in a proper seat restraint has a 90 percent survival rate in a major accident, and the injury rate is reduced between 80 and 86 percent. Does not your child, your grandchild or the child of your next door neighbor deserve this protection? This year you have the ability and the responsibility to speak for that infant or child who is unable to speak for herself or for himself. This proposal has been before the Legislature but not for discussion on the legislative floor. This year you have the opportunity to vote for this needed legislation.

SPEAKER MARVEL: The next motion pending, Mr. Clerk.

CLERK: Mr. President, Senator Haberman moves to indefinitely postpone LB 69.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Nebraska Unicameral, I don't know a finer lady, and I have never met a finer lady than Senator Shirley Marsh. I consider Shirley Marsh a friend of mine. She opens up her home to students. She opens up her hearts to people. In fact, we have even shared the same foreign students in the same home. I shared the student in my home and she shared the student in her home. I am sure that Senator Marsh is very sincere in her attempts to pass this legislation and I hope that my opposing this legislation is not taken as a personal attack or a personal offense against Senator Marsh, but I feel I must oppose this legislation and I put the indefinitely postpone to see that if this bill is going to go somewhere, let's do it, if not, let's stop it. I will start by reading some letters that I have received. "Dear Senator: Please don't support LB 69. Please don't support LB 69 which would require us to strap our children in the car. We don't need the state government telling us how to take care of our children. Thank you. Mrs. Turpin". "Senator Haberman, please don't support the bill that requires you to strap your four year old child in the car, bill 69. The next thing you know they will have a bill passed that will tell us when to go to the bathroom, and that is getting pretty bad. We are human too and can think on our own most of the time. Thank you. Pam Sedlacek." I have a letter here from Omaha. "I am writing this letter to you requesting that you vote against LB 69 that was forwarded by the Public Health and Welfare

Committee. This bill would require children under the age of three to wear restraints in motor vehicles, private. I can understand the purpose of the bill if it is to try to ensure safety for the child, but I don't think safety standards should be legislated to parents or drivers. My son is only nine months old and I take him with me every time I can and I use the car seat. He is the most important thing in the world to me and I consider it my personal responsibility to guarantee his health and safety. I don't want him strapped in like a test dummy for three years and not be able to play in the car, move around and observe things from the front and back. I also don't want to tell him that the state, as they say in Russia, instead of his father has taken the right of judgment away and has set the rules for a private citizen in his own privately owned vehicle. There is so much government interference through massive state and federal rules and regulations in our country today that it is becoming unbearable. The Legislature will be taking away a citizen's freedom with this bill in the name of the common good. I am one of those common people and I don't think it is so good for me or my son. If successful, another Senator can follow this bill and take away another right in the name of the common good. Most of us in Nebraska can't attend hearings or stay informed, or be aware of legislation that affects us personally when over 500 bills are introduced. This is the only way I can voice my opinion and seek your help. I believe that the safety of our children is most important, but it is sometimes I, as a father, wants to do for my own son because I love him and not because the state orders it. Our police officers and patrolmen have more important things to do than to ticket us parents for failure to restrain our children. You tax my property and income and collect sales tax. State agencies regulate my commercial and social activities. With those responsibilities, I have this to state, don't take away my opportunity to guarantee the safety of my son. I wonder how many Senators would obey the law that said seat belts are mandatory for all persons in a vehicle in Nebraska. It is commendable to try to ensure the safety of our children, but I don't think you should force it upon the people of this state. Public service announcements could be used as reminders. Please vote against LB 69. Thank you. Michael Dishman". I have here before me a pamphlet put out by the Civil Aeronautics Board, and in the Civil Aeronautics Board it says, "People wonder why they can't use child seat belts or child seats in airlines, and simply put that these seats



can be dangerous. One reason they also say, it's hard to get the child out of the seat quickly in case of an emergency and this can be very dangerous. In case of an accident, if the child is strapped in it is an emergency to get them out, it is hard to get them out so the airlines ban them for this reason". What are we going to do about the mother that has three children under the age of four? They used the car last night for a social purpose, so Dad took off this morning and he went to work in his car. Now Mom has to go to the grocery store. In the house are the three seats. In the house are the three children. Now, what is she going to do first? Is she going to take the three seats and put them in the car and leave the two months old and the one and a half year old and the three and a half year old by themselves in the house? Or is she going to take the children first and put them in the car and then go back and get the seats? Now if she puts these children first in the car, she can be arrested for child abuse because it is illegal to leave children alone in a car. I believe it is six years and under. How is this mother going to handle the three children and the three seats in the wind, if the wind is blowing real hard? How is she going to get this all put in the car? She and Dad decide to go for a ride in the car. There are four seat belts in the car. These seats fasten to the seat belts or you have to put in a special bolt in the floor of the car. So Mom straps in, Dad straps in, we strap in child A, we strap in child B, and child C is just going to have to take it all by themselves, or the parents are going to get arrested. What about the tourists that come to the State of Nebraska? We spend hundreds and hundreds and hundreds of thousands of dollars attracting tourists to the State of Nebraska, and when they get here they are all going to be subject to arrest, those that have children in their car that aren't in restraint seats. The word is going to get out about this and they are going to avoid Nebraska,

SPEAKER MARVEL: You have one minute.

SENATOR HABERMAN: ....we are going to get a bad reputation like some people are avoiding Nebraska due to our gas tax. What are we going to do about a pickup out in my country. Here is a family that has three children, or even two children, and the only vehicle they have is a pickup, how are they going to get Mom and Dad and pickups have two safety straps for the adults, how are they going to strap those other two children in?

Where are they even going to put the third one in that carrier? So they are going to be subject to arrest. No, I say it is a good idea, let's educate these people in the prenatal courses. Let's start the program there. I understand many hospitals now loan parents car seats to take their child home in, and they can return them if they wish.

SPEAKER MARVEL: Your time is up, Senator Haberman.

SENATOR HABERMAN: Thank you, Mr. President.

SPEAKER MARVEL: Now the Chair has about 19 names on the list up here. We are going to try to be fair to everybody. If somebody gets in first, ahead of where they should be, why then you will have to blame me for it. Senator Cope, do you wish to speak to the kill motion? We are now talking about the kill motion.

SENATOR COPE: Mr. President and members, I certainly do wish to. I oppose the kill motion wholeheartedly. The arguments that my good friend, Senator Haberman, made, they have a point, but let me ask...I won't ask him because I want all the time I have. But suppose that someone wrote to him and said, why don't you introduce a bill to take the speed limit off entirely? You are infringing upon my rights as a citizen. I know how to drive a car. I know how fast I want to go and don't do anything about it. I wonder if he would give the same argument to kill that. Now this argument about taking away citizens' freedoms I think is overdone. I would like to use the same argument I used in the Public Health and Welfare Committee when I introduced a bill mandating smoke detectors, and from a big point from the point of an infant, of a child, these children whether it be smoke detectors or seat belts, have no choice as to whether...they didn't have a chance to make the decision on their own. All right, the parent is responsible. If the parent doesn't do that, I think it is our right to take away this so-called in the name of common good. The parent in the case of seat belts has the privilege of playing Russian roulette, they can wear them or not wear them, they are there. I think it is foolish. Personally, I wear seat belts. I think it is a safety measure I can't afford not to use. But that is neither here nor there. The child below three years old doesn't have that privilege. I don't believe the age of the child that we are setting the limit makes a lot of difference. I truly believe that if parents in three

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year's time will see the advantage and the good of the restraints, then that child will continue to use seat belts the rest of their life. They have learned to do it, they will practice it. I certainly ask you not to support this kill motion because if this law, if this isn't killed and it does pass, it could save...it will save lives and it could save the life of your son or daughter or your grandson or granddaughter, and that gets it right down to some good serious thinking.

SPEAKER MARVEL: Senator Hefner, do you wish to speak to the kill motion?

SENATOR HEFNER: Mr. President and members of the body, I rise in support of Senator Haberman's motion to indefinitely postpone this bill. I think this last fall in the last election people said, we want government off of our backs, we have too many rules and regulations to live by now. We can make some of these decisions ourselves, and I think this here bill would just put more rules that we would have to abide by. I think the intent of Senator Marsh's bill is a good one, but I really think that we ought to look into it very carefully and so this...at this time I would vote to indefinitely postpone it. Let's go back to the seat belt situation that we have, not only in the United States but especially in Nebraska. I operate a service station. We service a lot of automobiles, a lot of pickups, and we find in these cars and pickups that perhaps four out of five, four out of five of these automobiles and pickups the seat belts are not used. A lot of them are still enclosed in the plastic that they came out when the car and automobile and pickups were new. What is this going to cost each individual owner? I don't know what they cost but I imagine they cost more than seat belts, and the seat belts in a car today will run approximately \$50 to \$60 a car, and so even though we would pass this bill I do not think that a lot of people would use them. I don't think we can force the people to use them. I believe like Senator Haberman said that we need to educate the people without a law. Tell them the advantages of using some of these. What about the tourists passing through the state? If they get caught, will they have to pay a penalty for not having a child restraint system in their car? And so I think there are many things in this bill that are left unanswered, and therefore, I would support the motion to indefinitely postpone it at this time.

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SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, I find this a very difficult vote and may not vote on the indefinite postponement bill because I would have to compliment Senator Marsh in bringing attention to the state the real value of child devices to restrain the child in an accident, and I feel this vote possibly puts the body in an embarrassing position because the bill as drafted I do not feel will work, and the one special circumstance that makes it impossible is a family that is going to travel for a four to eight hour trip. We are saying by law as is presently drafted in this bill that they will be strapped in a car for a period of possibly as high as four to eight hours with a family that is traveling across the state. Now if any parents strap their child in a seat in a home for four or six or eight hours, I am sure that the body would agree that that was child abuse and look at that very seriously. You cannot do that with small children. We traveled across the state several times every year when our children were small and usually after a few hours of travel we could lay them down and they would go to sleep in the car, and we had a very peaceful period of travel. But a child cannot, a two and three year old cannot sleep on the trip across the state in a restraint device and this solely, as a problem that goes with the bill, is enough that I do not feel we can pass the bill in its present form. I have an amendment coming up later and I am not going to vote on the kill motion, which would strike the penalty clause which makes it a classified misdemeanor. I would support even an appropriation to make these devices available to families that do not have the money to buy them, because I think promotion of this is really important by this body, that we are not put in a position where the public will feel we don't think the devices are worthwhile because where it works for them on the shorter trips and where an individual...where it works it is beautiful to have the device and everyone should have a restraining device with these small children because part of the time they will work, they would save lives. But to enforce and make a crime on a trip where the family has to let the children go to sleep is very bad law. So I am going to pass on the kill motion and hope that we might adopt the bill in some way that I could vote for it because in no way would I

want to go on record in any way not endorsing these devices to save lives, and I have to compliment Senator Marsh for bringing this to the public's attention, and in any way it is taken by the public I hope it is taking this bill, wherever it goes, as a promotion and does instigate more of these devices being used in caring for small children in cars. Thank you, Mr. Chairman.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Koch, do you wish to speak to the kill motion?

SENATOR KOCH: Mr. Speaker, I move for the previous question.

SPEAKER MARVEL: Seconds. The question before the House is, shall debate cease? All in favor of that motion vote aye, opposed vote no. Have you all voted? We are voting on ceasing debate. Senator Koch.

SENATOR KOCH: Mr. Speaker.

SPEAKER MARVEL: Yes.

SENATOR KOCH: I remove my request for the Call in deference to Senator Marsh, the introducer.

SPEAKER MARVEL: The Clerk will record the vote.

CLERK: 9 ayes, 27 nays, Mr. President, on the motion to cease debate.

SPEAKER MARVEL: The motion lost. We will proceed with the kill motion. Senator Remmers, do you wish to speak to the kill motion?

SENATOR REMMERS: I also find this rather embarrassing, as Senator Burrows indicated, opposing a bill that is meant to save the lives of children, but I think the bill has some problems and I support Senator Haberman's motion because I think it does need more study. I know there are some more amendments going to be suggested, but I think that this will still leave some problems. I would just like to comment that I do not support the sentiment in most of the letters that Mr. Haberman read. I feel that we do have a responsibility. I do think we have a right. It seems to me like some of those parents were indicating that it is perfectly all right to let their children play in the car, sit where they want to, stand up when they want to. I got

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some of those letters and I don't support that sentiment at all. But there are some other problems with this bill. For instance, although I believe there is going to be an amendment offered on this, but I am thinking of many of the young families in the rural areas. I am thinking of a mother that has maybe a child that is two months old, another one maybe two years old, and then another one not quite four. These farm mothers do not have the convenience of babysitters when they go to work so they take the children with them and they do help their husbands in the fields, run errands. Can you imagine the difficulty of a young mother putting three such children in this type of restraint every time that she runs down the road to the field, maybe run an errand for her husband? Many of these young people on the farms have only a pickup for a means of conveyance. They don't ever have a car. They use a pickup for their regular business, and to provide safety restraints of that type in a pickup for mother and father and several small children, I do not believe is practical. I do support the idea that we need to encourage people to put their children in restraints whenever possible, but I think there are too many problems in this bill, and I would support Senator Haberman's motion.

SPEAKER MARVEL: Senator Clark, did you wish to speak to the kill motion?

SENATOR CLARK: Mr. President and members, I am not going to give Shirley any accolades like Senator Haberman did, you know, he said, you are a beautiful lady and all this and then I am going to cut your heart out. I am not going to do that. But I am against the bill for several reasons, not because Shirley isn't a fine lady. In the first place, to classify a misdemeanor, I don't know what that applies to, whether that is one if you have four kids and you have four of them in there that do not have restraining belts, are those separate offenses? It doesn't say one way or the other. You could have three or four children come to your house for a birthday party delivered by their mothers in restrainers and you have to take the kids home and you don't have the restrainers, I suppose this is another bad thing. Another thing is, this is only against Nebraskans, it has nothing to do with anyone else. It is another regulation, and if you don't think the people are sick of being regulated, go out and talk to them. You can regulate anything you want and any Senator that can find something that isn't regulated

seems to be elated that they have something they can finally regulate. I just will not vote for things that are going to regulate people unless it is in the public interest entirely. I really don't think this is. As far as speed is concerned, many states, Senator Cope, used to have speed limit laws that said, safe and reasonable. The reason they changed those is because the federal government said, 55 miles an hour. But it was a safe and reasonable speed at that time. You could do 70 or 75 or 80 if it was safe and reasonable if any officer thought it was. This bill was heard last year and I was in the committee when it was heard, and we killed that bill in committee only because it is a regulating bill, and I will not vote to regulate people. I think they are sick of it and the letter that Senator Haberman brought out certainly expresses a lot of thoughts from a lot of people, and I was talking on a radio last weekend at home and had that same thing brought up to me, how far are you going to go to regulate? So I would vote to indefinitely postpone it. Thank you.

SPEAKER MARVEL: Senator Cullan. Senator Cullan, do you wish to speak to the kill motion?

SENATOR CULLAN: Yes, Mr. President, I do. Mr. President and members of the Legislature, Senator Marsh has had this bill before the Legislature now for three years. Last year a very conservative Public Health and Welfare Committee advanced this proposal to the floor of the Legislature and they advanced this to the floor of the Legislature again. I wish that many members of the Legislature had the opportunity to attend the public hearing and see what I thought was one of the most organized and one of the most excellent and informative presentations that I have had the opportunity to observe as a committee member in the last four years. Senator Marsh convinced me in a very convincing fashion that these devices save lives. Senator Marsh also convinced me that this is not a burdensome or costly regulation and that it is, in fact, a workable proposal that can do something to protect some of the citizens of the State of Nebraska who are least able to protect themselves. I am one of the most perhaps antiregulation members of the Legislature. I opposed the motorcycle helmet law when that proposal was before the Public Health...or Public Works Committee previously. I don't believe that the Legislature should force people who are old enough and competent to make decisions about their own safety. I would oppose mandatory seat belts

in automobiles although I use my own very consistently and constantly because it makes sense to use it. But an adult can make those kinds of decisions themselves. This is an instance, I believe, where the state should say that this regulation should be imposed upon a motorist to protect an individual who cannot...is not old enough to speak for him or herself. Whether this bill passes or not, I think Senator Marsh has done a service to the State of Nebraska by bringing it to the attention of people throughout the state and particularly to parents who have young children. If you have ever had the chance to watch the films which Senator Marsh presented to the Public Health and Welfare Committee, you would know beyond a shadow of a doubt that these devices do save lives. I simply urge you to support this bill. I do not believe it is an unnecessary...it is an extremely burdensome regulation. There are many regulations which the State of Nebraska has which apply to motorists who operate vehicles in the state and yet I do not buy Senator Haberman's argument that this is going to prohibit people from coming in the State of Nebraska. The average State Patrolman, if he does stop someone, is simply going to inform them of the state law. I don't think we are going to see out of state tourists receiving citations as a result of this particular statute. We have, I think, quality law enforcement in the State of Nebraska that use their discretion in enforcing the law, and that is part of the system. I do believe that the bill is a good one. I hope that you will support it.

SPEAKER MARVEL: Is Senator Labeledz in the room? Senator DeCamp, do you want to speak to the kill motion?

SENATOR DeCAMP: Only to say very briefly I will probably vote for the kill motion, or at least remain neutral. I have an amendment up there that would eliminate pickups from it, pickup trucks, and quite frankly, as long as pickup trucks are involved in it, I would have to vote to kill the bill. In my territory, I don't think we could live with it, but I just mentioned that that amendment is up there in case the bill does survive.

SPEAKER MARVEL: Senator Koch, do you want to speak to the kill motion?

SENATOR KOCH: Senator Marvel, I will be very brief. This body on a number of occasions has passed legislation in the best interests of primarily youth. Most



recently we passed legislation that had to do with immunization. This body endorsed it to a very high degree. That was difficult for some people. This morning when you got up to brush your teeth the water that you used to brush your teeth you are assured that is in the best interest of your health. People who criticize us for passing laws as it relates to people sometimes don't realize those laws are in their best interest for their protection. There is no one that has less voice than a young person. We are not saying parents are at fault. What we are saying is we are advising parents through this legislation, this is in the best interest of you and particularly something you appreciate very much and that is the young child. As a recent grandfather of a young lady by my son and wife, they already have this kind of a seat in their car and that is three months, and they had that before the child was born. That is because they are probably more up on safety, and I agree with Senator Cullan. We passed a lot of laws that relates to highways, rules of the road and defensive driving, and I see nothing in this piece of legislation Senator Marsh is advancing that is hideous and that is not in the best interest of us totally. I will yield the rest of my time to Senator Marsh in the interest of time this morning.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Thank you, Senator Koch. Members of the Legislature, there are some other amendments proposed to this piece of legislation. For that reason as well as for the need for the passage of LB 69, I urge you to vote against the kill motion. You should at least hear the discussion on the proposed amendments. A number of you from the rural areas are aware that one of the arguments against this bill is the pickup truck which only has one seat. There is an amendment which would remove pickup trucks and I venture remove most of the opposition to this proposal from your rural districts. Are you also hearing from the doctors in your area? From the PTA? From the medical auxiliary? From the persons who are interested in the welfare of the children of our state? For those reasons, I urge you to vote against LB 69 kill motion as proposed by Senator Haberman. I certainly don't need any enemies when I have friends like that.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I hoped that I could stay out of this argument but I do believe that,

I think that Senator Marsh has an excellent idea. I wish everyone would put their child in a restraint. I know they are not going to. I am not sure it would be legal if they did, because of the child abuse laws that we have. So in order to save time I think we should continue to educate the young families, the young couples that are having their first child or two that it is a safe proposition to have the child in a restraint, but to mandate it and put it in law and put it in statute, I cannot go along with. I think it is wrong. It is a good idea but it just won't work. That is the problem. We can't enforce the laws that we have now, and we don't enforce them so I am going to vote for the kill motion to clear the board. Thank you.

SPEAKER MARVEL: Senator Schmit, do you want to speak to the kill motion?

SENATOR SCHMIT: Mr. President and members of the Legislature, I know that there has been a lot of conversation already on the bill but I am not going to vote for the kill motion at this time. I think that the bill deserves to be discussed and I know that there are good sincere points of view on both sides. I have had a little experience transporting children in my time and I will say this that Senator Wagner and I when we jammed our automobiles full, they didn't move around very much. They were pretty well compacted, and that probably constitutes some form of child abuse. But I just thought in order to add a little leverage to this thing this morning I would repeat a little joke I heard this morning coming into the office. The stewardess had told Muhammed Ali to fasten his seat belt on the airplane and Muhammed said, Superman doesn't need a seat belt. And the stewardess quickly replied, Superman doesn't need an airplane either. And so I think maybe we ought to discuss the bill and we are going to spend a lot of time on issues that are less important and I think that we owe Senator Marsh the courtesy of discussing the bill. I am going to vote against the kill.

SPEAKER MARVEL: Before we proceed, underneath the south balcony as guests of Senator Wagner are Dean Rasmussen, Norman Smith, Leon Koehlmoss, Rudy Kokes and Richard Beran. Will you please stand so we may say good morning to you. Senator Hoagland, do you wish to speak to the kill motion? Senator Hoagland wants to yield his time to Senator Marsh.

SENATOR MARSH: Mr. Speaker, a gentle reminder to this body, when we were discussing the smoking legislation, a number of persons used the argument, we don't need the legislation, we will have people being arrested all over the place. On the contrary, most Nebraskans want to obey state law. Most Nebraskans do obey state law and we have not cluttered the courts with smoking violators, nor will we clutter the courts with child restraint violators. It will be a strong educational measure for the safety of the future citizens of the State of Nebraska who we want to be as healthy as is possible.

SPEAKER MARVEL: Senator Rumery, do you wish to speak to the kill motion?

SENATOR RUMERY: Mr. President and members of the Legislature, I move the previous question.

SPEAKER MARVEL: Since yours is the only light on we will turn the closing up to Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Unicameral, I will just mention two or three things that we didn't touch upon and then we will go forward from here. The price list passed out showed the seat belts cost around \$45. What about the people on ADC and the people on welfare? Where are they going to get the money? You have to buy a different one after your child is a year old because the seat is too small and you have to buy a bigger one. So where are these people going to get the money to buy the seat belts? They exempted motorcycles. Now all of us here have seen two, three and one year olds sitting in front of the driver of a motorcycle, but they are exempt. Don't we care about those? I have a grandson that turned three years old. I called my daughter to ask her about these seats. He is such a large three year old. She can't find one for him. He just won't fit. He is too big. What is she going to do? What about rental cars? People that rent cars. Every rental car is going to have to have a seat. What kind of a problem is this going to cause? As far as the courts being jammed with people on the smoking law, the reason courts aren't jammed, Senator Marsh, is because the law isn't being enforced. I have eaten at every cafe in Lincoln and 80 percent of them do not ask nonsmoking or smoking. They don't have areas. That is why the courts are not jammed. I believe we have said enough on this and I ask you to support the indefinitely postpone of LB 69.

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LB 69

SPEAKER MARVEL: The motion before the House is the indefinite postponement of LB 69. Those in favor of that motion vote aye, opposed vote no. The count has to do with the majority of those voting. Have you all voted? Senator Marsh, for what purpose do you....?

SENATOR MARSH: For a Call of the House.

SPEAKER MARVEL: Okay, shall the House go under Call? All those in favor of that motion vote aye, opposed vote no.

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

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence, and all unauthorized personnel please leave the floor. There are two excused, therefore there should be 47 present. Senator Burrows, will you please record your presence? Senator Wiitala, will you please record your presence? Senator Cope, will you please record your presence? Senator Kremer, Senator Schmit, Senator Hefner, Senator Vard Johnson, Senator Marsh, Senator Newell, Senator Chambers, Senator Higgins. There are still five out. Senator Kremer, will you please record your presence? Senator Hefner. Mr. Sergeant at Arms, Senator Hefner and Senator Higgins. Senator Higgins. Will you please take your seats and we will proceed with the roll call vote. Okay, we are voting on the Haberman....(interruption).

SENATOR HABERMAN: I would like to wait for Senator Higgins, please.

SPEAKER MARVEL: Ray, can you find Senator Higgins for us? Senator Barrett, would you record your presence, please? It doesn't show up. Your bulb is burned out. Do you want to record your presence, please? I think all are present or accounted for. The motion before the House is the....I am sorry, the motion before the House is the indefinite postponement of LB 69. Those in favor of that motion vote aye, opposed vote no. The Clerk will proceed with the roll call.

CLERK: (Read roll call vote as found on page 427 of the Legislative Journal.)

SPEAKER MARVEL: Still under Call. Still under Call.

CLERK: 22 ayes, 22 nays, Mr. President.

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LB 69, 182, 214, 336

SPEAKER MARVEL: The motion fails. Do you have anything to read into the....may I have the attention of the Legislature for just a moment? I would like to take this opportunity to welcome 38 Nigerian visitors to the Nebraska Legislature. They are Nigerian legislative staff from most of the 19 Unicameral Legislatures as well as their National Assembly. Most are front desk or committee clerks. The others are editors, accountants, legal draftsmen and Sergeant at Arms. They will be here to study and observe the Nebraska Legislature during Friday. So may we welcome our visitors who are underneath the north balcony. Okay, the Clerk has some items to read into the record.

CLERK: Mr. President, your Committee on Ag and Environment gives notice of hearing for Friday, March 6th. Your Committee on Banking, Commerce and Insurance gives notice of public hearing for February 24. (See page 428 of the Legislative Journal.)

Mr. President, your Committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp to whom was referred LB 214 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (Signed) Senator DeCamp. (See pages 428 and 429 of the Legislative Journal.)

Your Committee on Education to whom was referred LB 336 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File and LB 182 indefinitely postponed. (Signed) Senator Koch, Chairman.

Mr. President, that is all that I have. Oh, no it is not. Mr. President, your Miscellaneous Subjects whose Chairman is Senator Hefner gives notice of hearing for February 26, 27, March 5 and March 6. (See pages 427 and 428 of the Legislative Journal.)

Mr. President....that is all that I have right now, Mr. President.

SPEAKER MARVEL: Okay, we will proceed with LB 69. There are amendments.

CLERK: Mr. President, the next amendment I have is offered by Senator Burrows. Senator Burrows moves to amend LB 69, on page 2 by striking Section 2.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, this amendment would simply strike the penalty clause where it makes failure to have the device a Class 5 misdemeanor. I think by striking the penalty clause we are committing the Legislature in supporting the idea by passing the bill without a penalty clause to the idea that people should use these protective devices whenever practical, and the situations that come up that make the bill as is impossible to enforce creating a breach of law where on a long trip you could not keep the child in the device, some children would get out, to make that a breach of law with a penalty I think is rather ridiculous. I don't think we should go on record as being against protective devices and this allows us to stamp the endorsement of the Legislature on using protective devices. I think it might be very reasonable to further amend and possibly advise police officers which they could do under this bill, advise parents with the merits of protective devices for small children and go at it in a passive route. I don't think the bill has the votes to advance, in fact I am sure it does not in its existing form. But to put the Legislature on record or come up with other amendments to promote the use of these protective devices, I think still is in order, and I think the issue here is a mandate making a person perform a misdemeanor for doing things that they can't avoid, like letting the child out of the device to go to sleep or within the car, and to make that a misdemeanor is wrong and wrong in writing law in that direction. So I ask the body to pass this amendment to strike the penalty clause. It simply does that and proceed with the bill. Thank you.

SPEAKER MARVEL: Senator Marsh, we are speaking to the Burrows amendment.

SENATOR MARSH: Mr. Speaker and Senator Burrows. Senator Burrows, it is my understanding that if it does not have some clause that would make it unconstitutional and I would recommend that your amendment change it from a Class 5 misdemeanor to an infraction which is one of the things done with other, and could you ask one of the attorneys in the body about that angle? Senator DeCamp, would you be willing to clarify that issue about why it is necessary to have some kind of a penalty to make it constitutional?

SPEAKER MARVEL: Senator DeCamp, do you yield?

SENATOR DeCAMP: Well, I don't think it is necessary to have a penalty to make it constitutional but without a penalty it becomes

just an exercise of futility. It becomes meaningless. And on the infraction thing we did pass a bill a couple years ago in conjunction with the criminal code a year later to have a whole list of things, you know, like spitting on the sidewalk and I don't know what all that were listed as crimes, either misdemeanors or felonies. We said, well, look it is foolish to waste court time on these, prosecuting time and so on forth, why don't we create this special area and treat them very simply such as parking tickets, this kind of thing, call them infractions so there isn't a criminal record but it makes the system work, and if you are going to pass the bill I would suggest this is the kind of thing you put on there. There is a special class already in the books to call it an infraction and it is zero to \$100 fine and you just write a ticket and you don't have to go through all the mishing and mashing around that you do on misdemeanors and felonies. So that might be your approach if you are going to pass the bill.

SENATOR MARSH: Mr. Speaker, I would have problems with removing this entirely because that is what makes other pieces of legislation unenforceable. I would like to again state we have a penalty clause in the smoking regulations. We have not cluttered our courts with them. In the other two states which have this legislation when persons have been brought to court, the fine has been suspended so that the individual could purchase the seat restraint and it is approximately the same dollar. The cost of a seat restraint ranges from \$20 to \$45 and if you again will look at the sheet that was sent out, the Sears advertising page, they have proper seats for persons up to 63 pounds and I would imagine most three year olds will be under that figure.

SPEAKER MARVEL: Senator Cope. We are speaking to the Burrows amendment. Senator Cope, do you want to speak? Your light is on. Senator Stoney, do you wish to speak to the Burrows amendment?

SENATOR STONEY: Mr. Speaker, I would call the question.

SPEAKER MARVEL: The question has been called for. All those in favor of ceasing debate vote aye.....do I see five hands first? Okay, all those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Record.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

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SPEAKER MARVEL: Debate is ceased. Senator Burrows, do you want to close on your amendment?

SENATOR BURROWS: Yes. Mr. Speaker, this would strike the penalty provision, this amendment, just strike it for now. I am totally opposed to approaching it from penalty in any way, but I think we have a vehicle here I did not desire to see killed as far as the bill goes because I think we could use the bill to foster or promote the use of seat belts in some other ways, whether it be by advice by police officers and generally use the bill as a vehicle to state the Legislature's intent that it is a good idea, that it is solid to use these devices when practical, and use the vehicle as an encouragement. I think there are other approaches. Lincoln presently, the hospitals are providing loaner seats for infants going home from the hospital and selling at cost and we have some very worthwhile programs which might be incorporated in this bill before it crosses the board. But I do ask that we strike the penalty provision for now and then proceed with the bill and keep it alive and advance the bill.

SPEAKER MARVEL: The motion is the adoption of the Burrows amendment to LB 69. All those in favor vote aye, opposed vote no. Voting on the Burrows amendment to LB 69. Have you all voted? Have you all voted? Senator Burrows. One more time, have you all voted on the Burrows amendment to LB 69? Senator Burrows, what is your pleasure?

SENATOR BURROWS: I would like a Call of the House and a roll call vote.

SPEAKER MARVEL: Shall the House go under Call? All those in favor of that motion vote aye, opposed vote no.

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

SPEAKER MARVEL: The House is under Call. All legislators will please take your seats, record your presence. Unauthorized personnel please leave the floor. Will you please record your presence? Senator Howard Peterson, would you record your presence, please? Senator Hefner, Senator Vard Johnson. Senator Schmit, will you...? Senator Cullan, will you record your presence? Senator Goll, will you record yours? Senator Koch, Senator Cope, Senator Chambers, Senator Beutler. Senator Rumery, will you record your presence? Senator Burrows, everybody is present except Senator Chambers. Do you want to proceed



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with the roll call?

SENATOR BURROWS: Please.

SPEAKER MARVEL: Okay. Clerk will call the roll. The motion is the adoption of the Burrows amendment to LB 69. All those in favor will vote aye and opposed vote no. Call the roll.

CLERK: (Read roll call vote as found on page 430 of the Legislative Journal.) 17 ayes, 29 nays, Mr. President.

SPEAKER MARVEL: The motion lost. Do we have another amendment?

CLERK: Mr. President, Senator DeCamp now moves to amend the bill. In the committee amendments on page 1, line 4, after vehicles insert "pickup trucks".

SENATOR DeCAMP: Mr. President, I won't waste a lot of time. I quite frankly think the bill is a bit of a cripple, but if it is going to fly I would at least want it in a form that is liveable in my territory. As a practical matter, I think you have heard some of the discussion already, pickups excluded maybe it will accomplish some good, maybe it won't. With pickups in I think the bill will never go, so I move you to do that, and then assuming this goes or doesn't go, I am going to move to change the penalty from a misdemeanor to an infraction. I know there was a temptation on the last vote simply to kill the bill by removing the penalty, but I think we ought to do her upfront one way or the other and that is why I voted against killing the bill that way, but I would, on the theory that the bill might pass, change it to an infraction rather than the misdemeanor, but this time it is just the pickup thing, that's all.

SPEAKER MARVEL: Senator Cope, your light is on, do you wish to speak? Okay. The motion before the House is the DeCamp amendment to LB 69. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 28 ayes, 10 nays on the motion to adopt the amendment, Mr. President.

SPEAKER MARVEL: The motion passes, the amendment is adopted. What is the next item?

CLERK: Mr. President, Senator Maresh now moves to amend

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the bill. (Read the Maresh amendment as found on page 431 of the Legislative Journal.)

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Mr. Speaker, one amendment was handed out by error so refer to the one that states "corrected". This would exclude people coming through the state with out of state license plates unless they are residents of the State of Nebraska for more than six months. I don't think we want the police officers to turn their head like was suggested that the Patrol will not arrest out of state people, and I think it would be wrong for somebody coming through the state in the night and not realizing that Nebraska was one of the three states that is covered by this law. So I think we should have this provision in there that it does not apply for those that are licensed out of state....with vehicles that are licensed out of state. I move that the amendment be adopted.

SPEAKER MARVEL: Senator DeCamp, do you wish to speak to the....? Okay, the motion before the House is the Maresh amendment to LB 69. All those in favor vote aye, opposed vote no. Have you all voted? Record.

CLERK: 29 ayes, 6 nays on the adoption of Senator Maresh's amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Are there any other....?

CLERK: Yes, sir. Mr. President, Senator DeCamp moves to amend. (Read the DeCamp amendment as found on page 431 of the Legislative Journal.)

SENATOR DECAMP: Mr. President and members of the Legislature, as I have told you from the beginning, my enthusiasm for the bill was less than overwhelming, but when you didn't kill it, I thought at least we had an obligation to put it in some kind of a workable form on the theory that it might pass. By taking out pickups I think you have addressed 90 percent of the farm problem or the rural issue on it. By adopting Senator Maresh's amendment you have addressed the Interstate problem. I think by doing this you make it...you make it at least an enforceable system that may accomplish some good. I don't know. I remember I always had reservations about Senator Marsh's bill on smoking on elevators and hospitals. Then I saw how it did operate,

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and I had to reluctantly say, well, doggone it, Shirley, maybe you did accomplish a little good there. It has accomplished something. Maybe this will do the same thing. I hate regulations as much as the next guy and as you know I voted to kill the bill, but as long as there isn't enough to kill it and it is kind of in that wishy-washy stage of not being too strong or too weak, I think you ought to make it in decent form and this would make it in workable form. That is all.

SPEAKER MARVEL: Senator Newell. Senator Newell.

SENATOR NEWELL: Mr. President, I would like to call the question. We all understand this.

SPEAKER MARVEL: The motion before the House is, shall debate cease? Do I see five seconds to that motion? Okay, all those in favor of ceasing debate vote aye, opposed vote no. Record.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. The Chair recognizes Senator DeCamp to close on his motion.

SENATOR DeCAMP: You all heard, I just don't think it should be a criminal penalty. If you want an enforcement, it is a pretty simple system of enforcement in case the bill passes.

SPEAKER MARVEL: All those in favor of the DeCamp amendment to LB 69 vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 29 ayes, 5 nays on the adoption of Senator DeCamp's amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted.

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

SPEAKER MARVEL: Senator Haberman, your light is on. Sir.

SENATOR HABERMAN: Are we ready for debate on the bill?

SPEAKER MARVEL: All the motions that have been posed have been enacted and we are ready for any other motions? Do you have a motion? Okay. The motion is the advancement

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of the bill. Do you wish to speak to that motion?

SENATOR HABERMAN: Yes, Mr. President.

SPEAKER MARVEL: Okay.

SENATOR HABERMAN: Fellow legislators, I will just take a few minutes. Let's stop...let's stop and let's see what we have done. Let's see what we have done. We have excluded pickups, so those children can be killed. We are not going to have them in seats. We have excluded little children with tourists. They can be killed. They don't have to have the seats. We have excluded the motorcycles. The little children that ride on the front of the motorcycles with their mother or their father, they can be killed. They don't have to have the seats. We have removed the penalty clause, now you get a ticket like a parking ticket. Doesn't even make it a crime if you don't have the seat. So what do we have here? We have a piece of legislation that the people of the State of Nebraska are going to say, what are you legislators doing down there? You pass a bill. You make all these exclusions. You exclude this and you exclude that. When you get through with a bill, it doesn't mean anything. Why did you pass it? So I am going to ask that you vote no on the advancement of LB 69. Thank you.

SPEAKER MARVEL: Senator Labedz. We have Senator Labedz, and then Senator DeCamp and then Senator Cope, and then Senator Maresh.

SENATOR LABEDZ: Thank you, Mr. Speaker, and I, too, will be very brief. When Senator Marsh stood up and spoke in favor of advancing the bill, she mentioned the fact that we are killing our kids and I agree with her one hundred percent. I agree with her that we are killing our kids whether they are born or unborn. The children do have rights and a right to be protected from bodily harm and just as I so often have said on this floor, the child whether born or unborn has the right for protection under the law. Yesterday we received an opinion from the Grand Island newspaper and it mentioned the fact and it was sent out by Senator Marsh, as for personal rights, bif, that's all poppycock. It is government's job to protect all of us when we need protection. Now we are not saying here that it is either a moral or a religious issue or whether a parent has the right over a child, or does have...or a child has rights over a parent. The article goes on to say, and while some might argue

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that such a duty does not include protecting us from ourselves, infants don't have the option of making choices, and I want this to be remembered at a future date, that infants don't have the option of making those choices. I commend Senator Marsh for bringing this to the floor of the Legislature and I urge the members of this body to support Senator Marsh's bill.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I call for the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? Okay, shall debate cease? All those in favor vote aye, opposed....(microphone off). Okay, record the vote.

CLERK: 29 ayes, 1 nay, to cease debate, Mr. President.

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

SENATOR MARSH: Yes, very quickly, Mr. Speaker. This bill does 99 percent of what I set out to do. It protects Nebraska children. It allows them to have some protection under our state laws. It excludes the children who will be traveling in pickup trucks, but you and I know that the majority of children are transported in passenger vehicles. That protection will be available in this law. It does remove the misdemeanor. It leaves it with an infraction so that it will be a legal piece of legislation. That is a workable tool. Let's try this for our state. Let's be number three in the nation to say, our children are our natural resource, and we believe in husbanding those natural resources for the future. Without our care and consideration many of them will not grow to adulthood. I urge your support for the amended form of LB 69.

SPEAKER MARVEL: Senator Marsh was closing. The motion is the advancement of the bill. All those in favor vote aye, opposed vote no. Senator Marsh.

SENATOR MARSH: I am going to ask for a Call of the House, please.

SPEAKER MARVEL: Shall the House go under Call? All those in favor of placing the House under Call vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 1 nay to go under Call, Mr. President.

SPEAKER MARVEL: Are you asking for a roll call vote? Is she asking for a roll call vote? Okay, record your presence. There are three absent. Have you all voted? Will you please record your vote? Senator Burrows, Senator Kilgarin, Senator Cope, Senator Wesely, Senator Beutler, Senator Sieck, Senator Landis, Senator Newell. Okay, everybody is accounted for except Senator Wesely. Senator Marsh, do you want to take call ins or do you want a roll call vote? Okay, roll call vote has been requested. The motion is the advancement of the bill. Those in favor of that motion will vote aye, opposed vote no. Call the roll.

CLERK: (Read roll call vote as found on page 432 of the Legislative Journal.) 24 ayes, 22 nays, on the motion to advance, Mr. President.

SPEAKER MARVEL: The motion lost. Anything else to read into the....?

CLERK: Yes, sir, I do.

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

CLERK: Mr. President, your Committee on Public Health and Welfare gives notice of hearing for February 23, 24, March 2, 3, 9, 10, and 16, 17 and 23. (See pages 432 and 433 of the Legislative Journal.)

Mr. President, your Committee on Miscellaneous Subjects gives notice of Gubernatorial Appointment Confirmation hearing for February 20. That is signed by Senator Hefner. (See page 433 of the Journal.) That's all I have, Mr. President.

SPEAKER MARVEL: Are we ready to adjourn?

CLERK: Yes, sir.

SPEAKER MARVEL: Senator Dworak, do you want to adjourn us until tomorrow at 9:00 o'clock?

SENATOR DWORAK: I move we adjourn until tomorrow morning at 9:00 a.m.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. We are adjourned until 9:00 o'clock, Thursday, February 5th, 1981.

welcome them, please, to their Legislature. Welcome to your Legislature. We will now proceed then with agenda item #8, LB 69, Mr. Clerk.

CLERK: Mr. President, LB 69 was a bill introduced by Senator Shirley Marsh. It is a bill for an act relating to motor vehicles to require the use of a passenger restraint system and to provide a penalty. The bill was read on January 9. It was referred to the Public Health Committee. The bill was considered by the body on February 4, Mr. President. At that time a portion of the committee amendments were adopted and a portion were defeated. There were amendments offered by Senator DeCamp that were adopted. There was an amendment by Senator Maresh that was adopted, and a second amendment by Senator DeCamp that was adopted. The bill, Mr. President, on February 4 failed to advance.

PRESIDENT: The Chair recognizes Senator Marsh.

SENATOR MARSH: Mr. President and members of the Legislature, I ask you to help me save that child. That child's life may be your grandson or your granddaughter or your son or your daughter. During 1979, 46,000 children under the age of 5 were seriously injured in automobile accidents. Over a 1,000 were killed. The great majority of those deaths could have been avoided if proper seat restraints had been used and I underline used because they were available in many of the cars. Less than 10 percent of the children now riding in cars are properly restrained. Twenty-three states....are you listening, twenty-three states have initiated legislative action this year for mandated child automobile restraints and two states have already passed laws dealing with this topic. Using a restraint is a decision that a child cannot make. It is the supervising adult's role. As a public health principle it seems important to determine the risk before withholding their protective vaccines and in this case that protective vaccine is child restraint legislation. Despite well documented observations in many studies on safety for over a decade, the nation's legislators missed the mark with regard to this vital public health target. We talk about safeguarding our water supply. We talk about safeguarding our soils. Human lives are also a future resource for our state. Public health measures say we should protect where we have that power to do so. Your child, when a child is in a boat, is required by state law to wear a life jacket. Your child, to enter school, is required

to have protective inoculations. Your child cannot make that decision, but the state has a financial interest in seeing that this type of legislation is enacted. The state bears the responsibility when a child is permanently disabled. The state bears the responsibility when a child has mental retardation as the result of an automobile accident or cerebral palsy, or one of the other very serious physical effects of automobile accidents. Yes, we have done some good simply talking about it on this legislative floor because it has informed more parents. Yes, we have done some good informing grandparents, but the effect of having a state law to back up that safety measure is something which is within your power to do something this day. I urge your support to advance LB 69. Put us with the 23 other states which this year are moving in that direction. Let us be number 3 if we move it today.

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Nebraska Unicameral, it looks like this might be turning into whoever wins the paper war compared of all the papers being passed around. But I must say that Shirley has an advantage over me because she has a gremlin working for her as here is some five-page thing that was passed around and we don't know who passed it around, so I'd say she has got somebody working for her that I don't have. Shirley talks about saving childrens' lives and grandchildren, and that's true, I believe this because I have a grandchild, and she said speaking about it on the floor has helped. It sure has, and that proves that we should do it through education not through legislation. The State Patrol informed me that this is nearly impossible to enforce this law. The County Sheriffs' Association, they laughed and said, it is impossible to enforce this law. So why should we pass a law that we can't enforce? If you will look through the literature that has been passed out, you will find some letters from some mothers here in Lincoln and one of them said, if we feel so strongly about protecting our children that we want the government to force us to do certain things, then it seems only right that the government also penalizes those children who cause harm to their children through bad habits, such as drugs, smoking, diet. Where should it end? Now I take two walks daily and I go by a junior highschool and I see these young people in this junior highschool across the street smoking. Nothing happens.



It is ruining their health. It says right on the package of cigarettes, detrimental to their health, but we don't find out who their parents are and the rest of them. We don't do this. Another sheet of paper I passed out, it says, Johnny DeCamp, he wants to take people who steal food and put them in the penitentiary, or fine them \$250. We want to take people who don't use a car restraint seat where a child can be killed and give them a citation, give them a ticket. Senator Chambers says his people steal because they are hungry. Where are they going to get the money to buy a car restraint seat? If you will look on the sheet of paper I passed out from Senator Marsh's information, the average car seat costs \$46.31. Welfare has informed me that they will not pay any money toward a car restraint seat for people on ADC. There are 9400 families on ADC that have children under four. Sixty percent have cars. So that is 5640 ADC mothers and fathers that are going to have to find an extra \$46.31 if they only have one child. Where are they going to find this money? Another piece of paper I passed out shows that the ADC people are going to get \$10 a month increase, \$10 a month. So it is going to take five months for these people to buy one seat. So how can they comply with the law? We are making criminals out of people who want to be law abiding citizens by passing a law they cannot conform to. Number one, they don't have the money. Number two, if they have three children under the age of four, they can't strap them all in because there aren't enough seat belts. So automatically we are making them criminals, and if they get stopped they can be arrested. So let's do it through education. Let's do it through prenatal courses. Let's do it with the youngsters. This I believe in. Let's don't try to legislate something like this. And don't forget, the children in the pickups, we can kill them because they don't have to have the restraint. It's all right. The children on motorcycles, it's all right to go ahead and kill them because they don't have to have the seat restraint. So I ask you to stop and think before you pass a bill like this. It is unenforceable. There are other ways to impress upon the parents to use these child restraint seats, which I believe in, other than passing legislation. I have had my say. Whatever you wish to do today, fine. I have tried to in my way, which is probably poor, show that we shouldn't pass legislation like this. It causes hardships on people. It upsets people. They don't understand why we do things like this. The other letter that the parent wrote.... (interruption).

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PRESIDENT: You have half a minute, Senator.

SENATOR HABERMAN: Thank you. The other parent says, the government should not, would not set up to be guardians and save everyone. The people out there, the silent majority is speaking. Thank you, Howard Lamb. Are we going to listen? Thank you, Mr. President. I ask you not to advance LB 69.

PRESIDENT: Before we go on to the next speaker, the Chair would like to introduce some guests of Senator Richard Peterson, Doris Sellin and Betty Amen from Norfolk. They are under the south balcony. Would they stand up and be recognized by their Legislature. Welcome to your Legislature. The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, like all these tough bills where government steps in and does something, we have to look at the complete picture and do our balancing act. Now I got up and I opposed this bill in the form it was brought in, and I highlighted the areas where I thought it would give trouble. One of those areas had to do with pickups because pickups are primarily used, particularly in the country, as work vehicles and it would be a great inconvenience. I am looking at the picture, I said the balance there in imposing this is worse than the problem it will probably solve because the pickup most of the time is used to go out in the country, one thing or another, go into the fields. It would just be inconvenient. I looked at the penalties and I said, the penalty structure, the way it is in the bill, probably will be pretty much unenforceable and unworkable, more of a hassle and harassment than a solution. And so we changed both of those things, and I think one of the newspapers said, well, we watered down the bill. I think what we did and what we have now is a bill that basically says, in the vast majority of passenger cars traveling across the state and being used for transportation there is a danger and a risk that is pretty significant and it is killing X number of children...killing X number of children per year, and we said, from studies from Tennessee and wherever this particular solution costs X number of dollars and it will save 73 or 74 or whatever percent of the children in this particular class that are being killed. And so where you are now is simply balancing whether the number of lives saved justifies this cost over here and the enforcement will probably be minimal in terms of harassment, because about the only time it is ever going

to come into play where you actually get involved with a policeman on the matter is when there has been an accident and it is clear that the law was violated. But overall, overall, the law's existence is going to induce the vast majority of people in the particular category to have these particular restraints. With that kind of law I think you can reasonably say that government is not going in too far. They are using the minimal solution necessary to address a problem where kids are getting killed. And on that basis and in the structure the law is now, I think it is reasonable to support.

PRESIDENT: The Chair recognizes Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, I stand to support the bill as it is written at the present time. I feel with the modification of the penalties that we can live with it, and I do feel that this is an educational process and I would like to read to you an excerpt from a letter that I received from one of my constituents: "If a law was passed, the public would be aware of the dangers of allowing a child to ride unprotected sooner. The publicity would teach the parents and every organization would want to get on the bandwagon to educate parents. We have done lots of work in the field talking to prenatal classes, womens' clubs and so forth, but we have merely scratched the surface. This law, when passed, can be considered an educational document backed up by legislative teeth." One objection I have heard is that the child restraint systems are too expensive. I answer that question this way. \$20 for an infant carrier or \$40 for a larger device for the toddler is a minor expense compared to the cost of an automobile and gasoline and air conditioning or car radio. Certainly the protection of the child should be priority. I do support this bill because we could save the State of Nebraska many, many dollars. Thank you.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have to correct a comment that Senator Haberman made. My interest, Senator Haberman, is in all people who have problems. You handed around an article dealing with a shoplifting bill and I am quoted as saying....this is a direct quote from the article: "Chambers took issue with the proposed penalty that would require jail time if a \$250 fine could not be paid.

He said the measure would discriminate against poor people who sometimes have to steal to eat." Poor people are not my people. Poor people are all of our people. Poor people could be us. So when I made that comment, I am concerned about all of the poor people throughout this state who may be reduced to such circumstances that they would steal food. And, as a matter of fact, the examples that were given to me by the Lincoln public defender were of elderly people, resumably white, who had done this. And I also had some cases from the Attorney General where this had happened. So in order that people do not turn all poor people over to me, I would like to make that correction. However, I will add this proviso. Being very poor myself, as Abraham Lincoln was very poor, as Christ was very poor, and we all are concerned about the poor, the company that I am keeping is not too bad. Just like I have said on that situation, I bring it to this child restraint bill. I can't say that everything in it is what I feel it should be. I don't know what the ultimate outcome in terms of protecting children will be. However, not only from what I have heard on the floor but from contacts I have had from doctors, it can be a wholesome beneficial program, so even though I don't have all of the answers and cannot tell by looking into the future what the outcome will be, Senator Haberman, I am going to support the bill. And may I ask you a question on the bill? Are you, from everything I have heard you offer, saying that you are opposed to the bill, and that you will not vote for its advancement?

SENATOR HABERMAN: I will not vote for the advancement of the bill, Senator Chambers.

SENATOR CHAMBERS: Did you state earlier in the discussion of this bill on a prior day that you had received a letter or two from some people who were upset about it and that primarily was what your opposition was based on?

SENATOR HABERMAN: No, if I made that remark, I don't think I made that remark. I read some letters from my district where two people were upset, and I passed around two letters today from people from Lincoln who were upset, Senator Chambers.

SENATOR CHAMBERS: Okay, now, you stated that children in pickups may still be killed because the restraints won't apply to them. Did you say that?

SENATOR HABERMAN: Yes.

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SENATOR CHAMBERS: Okay, now let's say we have 100 children and we, because of whatever circumstances, can only preserve the welfare of 10 of them, should we say that because 90 may die we should allow all 100 to die and not save the 10 that perhaps we can?

SENATOR HABERMAN: Well, there is only one answer to that, Senator Chambers, and the answer to that is we should save as many as we can.

SENATOR CHAMBERS: Do you think that if this child restraint bill were enacted and proper restraints could be put in place that would protect a child, that would be a worthwhile thing?

SENATOR HABERMAN: Proper restraints are a worthwhile thing, yes, Senator Chambers.

SENATOR CHAMBERS: Is it your feeling then that no such thing as a worthwhile restraint can be built? Is that your opposition?

SENATOR HABERMAN: I am sorry, you are going to have to restate....(interruption).

SENATOR CHAMBERS: Is it your feeling that it is impossible to construct a restraint that will protect a child?

SENATOR HABERMAN: No, it is not impossible to construct a restraint that will protect a child.

SENATOR CHAMBERS: Then if restraints can be constructed that will protect children, and once put in place children will be protected, why will you oppose the bill simply because children in a different vehicle will not be protected? You don't want to protect those who can be protected. Is that what you are saying?

SENATOR HABERMAN: I used that illustration, Senator Chambers, merely to show the seriousness of the situation that we have a bill before us and we are standing here and saying we have to protect the lives of the children, yet this body will go on record and exclude motor vehicles that many, many, many children will ride in and they do not have to conform to having the restraints.

SENATOR CHAMBERS: Thank you, Senator Haberman.

SENATOR HABERMAN: We are being hypocritical, Senator Chambers.

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LB 69

SENATOR CHAMBERS: My time is almost out. I think I would be hypocritical if I would use that as an excuse not to vote for a bill that does have some merit. There is rarely a bill that comes across this floor which will give every member everything that he or she would like to see the bill offer. However, we take what we can get. And sometimes, as in school, we go from that which is simple to that which is more complex... (interruption).

PRESIDENT: Half a minute, Senator Chambers.

SENATOR CHAMBERS: ....we will take what we can at this point and then maybe on Select File we can get more or maybe next year. But I wish you would reconsider and maybe find it in your heart to help protect those children who are still protectable under the bill.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President and members, I support LB 69. I did the other day when it was introduced. Senator Haberman made a strong point for education, and certainly, education is good. But if we are going to do that, why don't we use education instead of statutes to stop murdering other people? Or why don't we use education to stop stealing? Or use education to stop speeding instead of statutes in these cases? Or to stop rape? I could go on with a hundred illustrations of where we have statutes because education hasn't done the job, and I think this is a very similar example. Education is great, but you have to put some teeth in it. And I see the bottom line is what has been said many times, restraints will save lives. You know it and I know it, and I do hope you will support LB 69.

PRESIDENT: Any further discussion on LB 69? Senator Marsh, do you wish to close?

SENATOR MARSH: Yes, thank you, Mr. President. Historically, we have statistics which show that when a child restraint law is passed, there is increased compliance. That is the point we are talking about. Several persons have mentioned that it is difficult to enforce. We all know that most Nebraskans are law abiding citizens and want to comply with state law. We also know that this is only one of the ways in which we can help save lives. We need to continue working in other areas. We need to continue to have hospitals provide seat restraints for the newborn infant to go home safely from the hospital. We need to

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LB 69

have the educational programs in the prenatal classes. We need to have the education at all levels. This vehicle, and that is what LB 69 is, is another vehicle for safety. We have that decision to make this morning. The group of citizens who are supporting this proposal are informed kinds of persons. The Nebraska Medical Association has many, many concerned and informed persons. The Nebraska Pediatric Association, our State PTA sees the value and need for LB 69, the surgeons who do the repair work in the emergency rooms, who make the stitches when someone's only cut and not dead, those persons who see what happens when a child is unrestrained in an automobile are the strongest supporters for this proposal. Yes, you say, we are mandating in a parents' area. Yes, the state has a financial cost to protect. We pay it at one end or we pay it at the other. Let's keep the child alive if it is within our ability to do so. LB 69 is the vehicle which with your support will provide the educational tool and the safety for unnumbered lives in the future. I urge you to advance LB 69 to Enrollment and Review.

PRESIDENT: The motion before the House is the advance of LB 69 to E & R Initial. All those in favor vote aye, opposed nay. Senator Marsh, there are three excused.

SENATOR MARSH: Mr. President.

PRESIDENT: Yes.

SENATOR MARSH: I will ask for a Call of the House, please.

PRESIDENT: All right, the motion is, shall the House go under Call? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 22 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. The Sergeant at Arms will see that all members are returned to their desks, all other personnel will leave the floor, the House is under Call. All legislators will register their presence, please. Senator Marsh, shall we authorize call ins? Is there anyone who wishes to vote, we will authorize call ins at this time while we are waiting. While we are waiting, if anyone has not voted we will accept call ins. Senator Goodrich. Oh, I thought maybe you were voting. We are accepting call ins. I

thought you wanted to vote. Senator Furrows is here. Senator Landis, Senator Vickers, Wiitala, Senator Wiitala, Senator Schmit, I think, didn't I see him? Senator Schmit. Senator Schmit is here then. Do you wish to have a roll call vote, Senator Marsh? All right. Senator Marsh requests a roll call vote. When Senator Schmit gets here we will have a roll call vote. Do you want to wait, Senator Marsh, until he gets here? Proceed.

CLERK: (Read the roll call vote as found on page 544 of the Legislative Journal.) 24 ayes, 22 nays on the motion to advance the bill, Mr. President.

PRESIDENT: The motion fails. All right, we will proceed then with the next bill on General File which is LB 34, Mr. Clerk.

CLERK: Mr. President, LB 34 was offered by Senator Tom Vickers. (Read title.) The bill was first read on January 8. It was referred to the Public Works Committee to General File with committee amendments. I now have pending, Mr. President, the committee amendments as offered by the Public Works Committee.

PRESIDENT: Senator Kremer. The Chair recognizes Senator Kremer.

SENATOR KREMER: Mr. Chairman, these committee amendments are purely technical. They have no impact whatsoever changing the intent of the bill. They are purely technical and I move they be adopted.

PRESIDENT: Yes, and there is no one else, I guess, is there anything...anyone further on the committee amendments? If not, all those in favor...do you have anything further, Senator Kremer? All those in favor of adopting the committee amendments on LB 34 vote aye, opposed nay. Record the vote.

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

PRESIDENT: The motion carries, the committee amendments are adopted.

CLERK: Mr. President, Senator Vickers now has amendments to the bill. His amendments are found on page 522, and he wants to amend those amendments that are printed in the Journal as follows: (Read the Vickers amendment as found on page 545 of the Legislative Journal.)



March 5, 1981

LB 9, 34, 59, 69, 206,  
206A, 308, 331

(Recorder malfunctioned. Following are the proceedings taken from the Journal.)

SPEAKER MARVEL PRESIDING

G. BRUCE CURRIER: Prayer offered.

ROLL CALL

CORRECTIONS FOR THE JOURNAL

MESSAGES, REPORTS, ANNOUNCEMENTS: LB 331 placed on General File as amended. (See pages 746-747 of the Journal.)

Message from the Governor. (See page 747.)

Executive Board report. (See pages 747-748.)

Attorney General's opinions re LB 59, LB 308, LB 69 as found on pages 748-752.

Speaker Marvel signed LE 206 and LB 206A.

FINAL READING: LB 9 read and passed on Final Reading. Final vote 33 ayes, 12 nays as found on pages 752-753 of the Journal.

Senator DeCamp moved to return LB 34 to Select File for a specific amendment.

Senator DeCamp asked unanimous consent to withdraw his motion.

sales tax it takes a whole reworking of the computer system. And so if the Board of Equalization can fine tune and make those adjustments more quickly, then it is just a greater burden and cost to the local retailer, as Senator Burrows mentioned. So it seems to me a good thing for the state probably to allow this adjustment but at the same time we have to keep in mind local business impact. So I will hesitantly give support to the bill and I ask all of you to check on this because it is a legitimate concern.

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

SENATOR CARSTEN: Mr. President and members, I am closing, is that right? Mr. President and members of the Legislature, I am not going to belabor the point at all. In reference to Senator Burrows and, Senator Burrows, I understand the concerns of the retail area very well. But the Mickey Mouse as you refer to is only the changing of the rate cards as it now operates and they are readily available from the Department of Revenue and they are supplied in goodly numbers to the retail outlet for their use to compute or to punch into their machines the required amount. I don't think... and I will agree there is some inconvenience but I don't believe it is all that critical at this point as it was a few years ago, and would not be hesitant to support it on that basis alone. I think that the bill does have lots of merit and one that has been considered for some time and would hope that you would agree with us and move the bill over to E & R Initial. Thank you, Mr. President.

SENATOR CLARK PRESIDING

SENATOR CLARK: The motion is the advancement of 454 to E & R. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

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

SENATOR CLARK: The bill is advanced. Senator Marsh, your light is on, did you want to be recognized?

SENATOR MARSH: Thank you, Mr. Speaker. I would like to ask permission to have some amendments to LB 69 printed in the Journal for tomorrow.

January 13, 1982

LB 69, 628, 802-804

of the Committee on Committees report. All those in favor vote aye, opposed vote nay. Have you all voted? Have you all voted? Have you all voted? I am going to call the vote. Senator Marsh.

SENATOR MARSH: I would request a Call of the House and a roll call vote.

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

CLERK: 21 ayes, 3 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. Did you want a roll call vote? All right. All Senators will return to their desks and check in please. We have four excused. Senator Cope, will you check in please. Senator Landis. The Clerk will call the roll. I hope we can keep it quiet so the Clerk can hear the response please.

CLERK: (Roll call vote taken. See page 258, Legislative Journal.) 20 ayes, 25 nays, Mr. President.

SENATOR CLARK: Motion lost. The Committee on Committees report is not accepted. Do you have anything to read in, Pat?

CLERK: A couple of bills, Mr. President, if I may. Mr. President, new bills: (Read by title for the first time LBs 802-804 as found on page 259 of the Legislative Journal.)

And finally, Mr. President, Senator Beutler would like unanimous consent to add his name to LB 628 as coinstructor.

SENATOR CLARK: No objections, so ordered. We are ready for item #6, special order on General File, LB 69 by Senator Marsh. The Clerk will read.

CLERK: Mr. President, LB 69 was a bill introduced by Senator Marsh. (Read title.) The bill was first read on January 9 of last year. It was referred to the Public Health and Welfare Committee for public hearing. The bill was advanced to General File, Mr. President. On February a portion of the committee amendments were adopted, a portion rejected. There was also an amendment from Senator DeCamp that was adopted, an amendment from Senator Richard Maresh that was adopted, an amendment from Senator DeCamp that was adopted. The bill failed to advance on February 4, Mr. President, and again on February 17. I now have pending an amendment by Senator Marsh and that amendment, Mr. President, is found on page 253 of the Legislative Journal.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Thank you very much, Mr. Speaker. I'd like to have you turn to page 253. These, I believe, are the compromise amendments which will move LB 69. On page 2, after line 10, insert, "or using an existing seat safety belt for children over age one." Sometime a grandparent may not have the seat restraint right there but when that child could be more safely in a seat belt when a child is over age one, that will help with the compromise of moving LB 69. And in the second DeCamp amendment on page 431 of the 1981 Journal insert, "The fine for such infraction shall be waived upon the person convicted of violating Section 1 of this act acquiring and proving to the court that he or she has purchased or acquired an approved child passenger restraint system." I move for the adoption of the amendment.

SENATOR CLARK: Is there any discussion on the Marsh amendment to LB 69? If not all those in favor vote aye, opposed vote nay. Have you all voted on the Marsh amendment? Record the vote.

CLERK: 25 ayes, 0 nays on the motion to adopt the Marsh amendment, Mr. President.

SENATOR CLARK: The amendment is adopted. Senator Marsh, on the bill.

SENATOR MARSH: Thank you very much. Members of the Legislature, we have a very special opportunity this morning. You are aware because of the information I have continued to send to you about the increase in the number of deaths of children in the State of Nebraska. If you have any questions or want to look at any of the supporting material I urge you to turn around and look at my desk. This is just some of the supporting evidence about the safety of child seat restraints, about the ability to safeguard the lives of those who are not able to make a decision for themselves regarding the use of proper restraints. When I started talking about safety restraints for children there was only one other state which had passed legislation in this field. I had hoped Nebraska might be one of the leaders and be state two but state two was not Nebraska, nor state three, nor four, nor five, nor six, nor seven, nor eight. There are twenty-five states last year who considered this legislation, some of which is still pending and additional states which have already introduced the legislation in the new 1982 legislative session, some



of which was prefilled and the senators shared that information with me. The National Safety Council is concerned about the lives unnecessarily stamped out last year or the 57,000 serious injuries to the children of our country and unfortunately the children of the State of Nebraska. An accident as you well know which is "only that fender bender" can cause the death or the serious injury to the small child who is not properly restrained. A number of you have new programs in your communities across the State of Nebraska, loaner systems at a very modest cost. Hospitals who desire to have those babies safely born in their hospital arrive home safely so that the hospital is providing services. The cost is minimum. The cost of even one visit to an emergency room is more than the total cost of a brand new very expensive model child's seat restraint. A child's seat restraint is a super kind of gift from a grandparent or a good friend, that favorite aunt who wishes to do something special for the newborn. The opportunity is here. If you will think back a few years with me and a number of you have been in the Legislature for a number of years, you will remember we had much discussion when we were discussing the possibility of putting on our statutes the requirement for parents to see that their child was immunized against communicable diseases. Oh, that should be a decision by the parents. In theory it should but parents sometimes need that gentle reminder from the state that the overall good of the child is paramount and that the state has a stake in what happens to the children in this state. That accident which only causes injury may cause mental retardation for the remaining years of the life of that small child. It may only cause the onset of epilepsy. It could be even more serious. Our state has the opportunity on January 13th to move ahead with the other states in the United States who have put this good legislation on the books. Oh, it is not all we've wished for. We'd like it to include children older than three but it is a start. It is a step in the right direction. I urge your support for LB 69. As you know, this has had sufficient persons supporting it. Just getting them here at the same time has been the problem. I urge your advancement of LB 69 to Enrollment and Review initial.

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President, members, I have strongly supported Senator Marsh on this bill in the past and I continue to support LB 69. Adults have a choice. If we want to play Russian roulette and not use seat belts, that is our decision. Does an infant or a small child have a choice? Of course not. That child is solely dependent on the person that is driving the car. Please

give your child or your grandchild a chance to live and enjoy this great country and of course that means supporting LB 69.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, a question of Shirley Marsh, please.

SENATOR CLARK: Senator Marsh, will you yield?

SENATOR MARSH: I do, Senator Haberman.

SENATOR HABERMAN: Thank you, Senator Marsh, so that I understand, we're going to have the seat restraint carriers for one and under, correct?

SENATOR MARSH: The legislation is written so that it includes one, two and three year olds. However, a substitution may be made to a seat belt which lessens its effectiveness, I must admit, but is the compromise which some persons who have not previously supported it are now willing to support.

SENATOR HABERMAN: But just so that I understand it, for two and three we're going to use the seat belts in the cars. For under two we're going to use the carriers. Right?

SENATOR MARSH: Actually the legislation, Senator Haberman, uses the age of one. I wouldn't use it for a one year old but it is allowable.

SENATOR HABERMAN: Okay, and then again the legislation still says that this is just in automobiles, not in pickups or anything like that.

SENATOR MARSH: Unfortunately that is what it says.

SENATOR HABERMAN: Thank you, Senator Marsh.

SENATOR CLARK: Senator VonMinden.

SENATOR VONMINDEN: Mr. Speaker, members of the body, it is extremely hard to stand up and oppose a bill that perhaps may save a life but as the bill is amended now it is going to make it much harder to have anybody enforce this law and the reason I rise to speak against it is that we continually make more laws that we can't enforce. We tend to show disrespect for all laws and I really believe in the long run as we introduce more laws that we can't

enforce and more laws with no teeth in them that the enforcement agencies will not pick anyone up anyway. It is kind of hard to prove whether a child is nine months old or a year or a little past. I received several letters against the restraining seats. They say they are just trying to force some more legislation down our throats. I have talked to a few people who have restraining seats. One was my daughter and she said, "Dad, they are good. They do save lives." But she said, "Please don't force us to sometimes have to have our child in restraining seats." With that I kind of wish you would think twice before you pass legislation for a law that has very little teeth in it and perhaps will make us on other laws disrespectful toward them. Thank you.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Senator VonMinden, I am very pleased to...

SENATOR CLARK: Senator Marsh, you are closing now.

SENATOR MARSH: Yes. I am very pleased to respond to one of your comments. Since the purpose of trying to safeguard children is to see that more children are in seat restraints or other proper seat procedures, the history, and unfortunately it is history since we were not state number two, but the history of the number of children in a state with no legislation is that less than 10% are in seat restraints or in seat belts. Then a state would pass legislation, numerically that number has jumped up into the 30s, 34 in one state, 37 in another state of the number of children in proper seat restraints. That is not 100% and I'm the first to admit it but it is a tool to help safeguard children. Most parents want to obey a state law. We don't have enough police officers to go through and look in every car nor is that the purpose. It is a teaching tool, Senator VonMinden, a tool to help parents to do a good job. It is not a perfect answer but it is a step in the right direction to help protect children. I am wearing a little lapel button which was presented to me as a senator who had been very concerned with children's legislation and children's issues. It is a picture of a family, a family surrounded by love. You remember when I passed out the material on the floor about the horrible after accident feelings of parents and grandparents whose children were injured in an accident, all who died. Then it is too late but by passage of this piece of legislation we can help lessen that dramatic impact on the citizens of our state. It won't work 100% but it will increase the number of children



who are protected. It will help move in the direction we'd like to say we are wanting our children to move in more protection for them at a very, very modest cost to the parents. These children as Senator Cope so ably stated are not able to make the decision alone but the person who is responsible for the child has an inclination to add that safety protection when there is a law on the books of the state. Some of you were in this body when we passed the first smoking legislation and Senator VonMinden's argument against the seat belt was used then against the smoking legislation. How will you enforce it? It is not, the smoking legislation, is not enforced 100% either but most elevators now are smoke free, not all. Most persons have some place they can go with some protection. It is a tool, a teaching tool. We hope that LB 69 will put us into the column of passed legislation and not pending legislation. I urge your advancement. This is a very important bill to the pediatricians of Nebraska, to the PTA of Nebraska, to the children of Nebraska and you have these persons in your district. The physicians who do the stitching up after the accident agree that this is a piece of legislation which needs to be passed. I urge your help in moving LB 69 on its way in this legislative body, for one senator cannot move anything alone. It takes a cooperative effort and cooperation at the beginning of a legislative session is perhaps even more important than at the end of a legislative session. We need to be concerned about our citizens and the citizens include those small infants and children.

SENATOR CLARK: You have one minute left, Senator Marsh.

SENATOR MARSH: I don't need that minute for you have had sufficient information shared through the years with you, and if you want to refresh your memory about any of those handouts, come ask me at my desk for people across the state have written and said, "We need this legislation." It is not just people from the 29th Legislative District. It is not just people from Lincoln, Nebraska, or this county. It is people from the ninety-three counties and you are their representatives. Help pass LB 69. Thank you.

SENATOR CLARK: The motion before the House is the advancement of LB 69. Those in favor vote aye, opposed vote nay. Have you all voted? Have you all voted on the advancement of LB 69? Record the vote.

CLERK: 25 ayes, 11 nays, Mr. President, on the motion to advance the bill.



January 13, 1982

LB 69, 139, 805-809

SENATOR CLARK: The bill is advanced. We are now ready for #7, General File, priority bill and I understand that wants to be passed over. Is that right?

CLERK: Yes, sir. I have a request to have the bill passed over, Mr. President.

SENATOR CLARK: Alright. We're ready for #8 on General File, LB 139 by Senator Marsh. Oh, you've got a few things to read in first.

CLERK: Yes, sir, I do. Mr. President, I have a new resolution, LR 205. (Read. See pages 260-261 of the Legislative Journal.) Mr. President, pursuant to our rules that resolution will be laid over.

Mr. President, I have a series of new bills. (Read by title for the first time LB 805-809. See pages 261-262 of the Legislative Journal.)

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The next bill is LB 139.

CLERK: (Read.) The bill was first read on January 13 last year. At that time it was referred to the Banking, Commerce and Insurance Committee for public hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Banking, Commerce and Insurance Committee.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, the bill that about a year and a half time has been invested in trying to work out a solution and maybe it is living proof that if you push hard enough long enough you can bring the sides together. I am going to ask to defeat the committee amendments unless your amendment, Senator Marsh... Senator Marsh has an amendment that has been agreed upon by all sides in this controversy from the Insurance Department through the opponents, proponents and so on and so forth. Is your amendment to the committee amendments or is it a separate amendment?

SENATOR MARSH: I believe it is a separate amendment. Patrick, is that the way it is written?

CLERK: Senator, it is written so that it amends the standing committee amendments.

January 19, 1982

SENATOR CLARK: The motion lost. The next amendment is amendment number two of Senator Vickers to Section one. He wants to read a few things in first.

CLERK: Mr. President, very quickly, new bills: (Read by title for the first time, LBs 895-914 as found on pages 343-347 of the Legislative Journal.)

Mr. President, I have a hearing notice from the Public Works Committee for January 29, February 10, 11 and 17. That is signed by Senator Kremer as Chair.

Mr. President, Retirement sets hearings for Wednesday, January 7 and Revenue sets hearings for January 25, 26 and 27, signed by the respective chairmen.

I have a reference report referring LBs 848 through 880.

Mr. President, your committee on Enrollment and Review reports that 511 be reported to Select File with amendments, 192 Select File with amendments, 231 Select File with amendments, 454 Select File, 304 Select File, 69 Select File with amendments, 139 Select File, 139A Select File, 305 Select File, 239 Select File with amendments, 410 Select File with amendments, 278 Select File with amendments, 126 Select File with amendments, all signed by Senator Kilgarin.

SENATOR CLARK: We are now ready for the second Vickers amendment to Section one.

CLERK: Mr. President, the amendment reads as follows: On page 2, line 13, strike the word "life" and insert "safe yield."

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, since that is more of a technical one there the following amendment on Section two would be more applicable to take up and I think the Clerk has other amendments on Section one so if you would want to skip over this and go to the other amendments that are on Section one, that would be fine with me. You have other amendments and I think Senator Beutler and some other people might have amendments on Section one if you want to go ahead and take those up at this time.

CLERK: So are you withdrawing. . .you don't want this one then, Senator?

SENATOR VICKERS: That one is more of a technical one. It

the authority to make those determinations. If Senator Schmit and Senator DeCamp want different mechanisms within their area then let them go to their natural resources districts and make that plea to them. It's the same as I should have the right to do with my NRD but you're taking that right away from me and I think that is wrong. I think that is fundamentally wrong. Why don't we just do away with the NRDs and make all the decisions right here? We'll draw the lines, we'll do the whole works. We'll be the Natural Resources Board for the whole state. That is really what we are doing. Is that what we want to do?

SENATOR CLARK: The question before the House is the adoption of the Vickers amendment to the Kremer amendment on Section two. All those in favor vote aye, opposed vote nay. This also takes a simple majority. A record vote has been requested. Once again, have you all voted? Record the vote.

CLERK: (Read record vote as found on page 353 of the Legislative Journal.) 12 ayes, 21 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The motion lost. Senator DeCamp, would you like to adjourn us until nine o'clock tomorrow morning after the Clerk reads in the rest of the bills.

SENATOR DeCAMP: Marvel was saying something about coming back at four-thirty or something. Is that out?

SENATOR CLARK: No, I don't think we need to.

SENATOR DeCAMP: Okay, we're going until nine o'clock tomorrow then.

SENATOR CLARK: No, let's wait until he reads the bills in.

SENATOR DeCAMP: Oh, okay.

SENATOR CLARK: He still has some bills to read in.

CLERK: Mr. President, new bills. (Read by title for the first time, LBs 915-955 as found on pages 354-366 of the Legislative Journal.)

Mr. President, Senator Marsh would like to print amendments to LB 69 in the Legislative Journal. (See page 369 of the Legislative Journal.)

Banking gives notice of cancellation and rescheduling of a hearing. (See page 369.)

January 25, 1982

LB 69, 560, 589, 598,  
646, 654, 865

by Senator Kilgarin as Chair.

Mr. President, your committee on Banking, Commerce and Insurance whose chairman is Senator DeCamp to whom is referred LB 589 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File, 598 to General File, 646 to General File and 654 to General File...I'm sorry, 646, and Education reports LB 654 to General File. Those are signed by their respective chairmen, Mr. President.

Mr. President, Judiciary gives notice of cancellation of hearing for Wednesday, February 3 and I have received two reports, one from the University of Nebraska pursuant to LB 560 passed last session, a report from the Upper Big Blue Natural Resources District regarding payment of attorneys fees and, Mr. President, Senator Marsh would like to print amendments to LB 69 in the Legislative Journal. (See pages 395-397 of the Legislative Journal.)

Mr. President, I have a unanimous consent request from Senator DeCamp asking that the Banking, Commerce and Insurance Committee hold their hearings in Room 1113 tomorrow and Judiciary Committee would hold their public hearings in Room 2230, just switching hearing rooms.

PRESIDENT: Any objection? Hearing none, so ordered. We are ready then for agenda item #4, Motions. The first motion on gubernatorial appointments from the Agriculture Committee. Senator Wagner, will you handle the motion. The Chair recognizes Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, the Agriculture Committee held their confirmation hearings on Friday, the 15th and the three people we confirmed were Homer Loutzenheiser for the Environmental Control Council, All Wood for the Environmental Control Council and Donald Larson for the Nebraska Gasohol Committee. The committee acted favorable on these nominations. It is our recommendation that the Legislature approve of them.

PRESIDENT: Any discussion as to the motion of the Agriculture Committee? Hearing none, the question is the approval of the gubernatorial appointments for the Agriculture and Environment Committee. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 0 nays, Mr. President, on approval of the report. (See vote on page 397 of the Legislative Journal.)

PRESIDENT: Motion carries. The report is approved. The next motion concerns LB 865, a motion to withdraw. Is Senator Goodrich here? Would someone make the motion for

January 29, 1982

LB 231, 69

CLERK: No, I have nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Fowler, would you like to move the bill?

SENATOR FOWLER: In the spirit of compromise, I move that it be advanced.

SENATOR CLARK: You heard the motion in the spirit of compromise there, do you want to advance the bill? All those in favor say aye, opposed. The bill is advanced. We are going to pass over LB 454 and also 304. LB 69.

CLERK: Mr. President, there are E & R amendments to LB 69.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 69.

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

CLERK: Mr. President, Senator Marsh had amendments on page 369 but I understand she wishes to withdraw.

SENATOR CLARK: They are withdrawn.

CLERK: And I have an amendment from Senator Marsh found on page 396 of the Legislative Journal.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Thank you, Mr. Chairman. If you will turn to page 396 you can see the two amendments which are being offered and I would request that we vote on them separately. The first one at the request of the Attorney General is to put it into constitutional form and Senator DeCamp has expressed his willingness to allow me to do so, so I would move for the adoption of the first amendment to LB 69.

SENATOR CLARK: Do you want to explain the first amendment? Is there any discussion on the first amendment? If not, all those in favor vote aye, opposed vote nay. Voting aye, Mr. Clerk.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on the Marsh amendment to LB 69? It is on page 396 of the Journal. Have you all voted? If you would rather have a Call of the House, we can do that?

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LB 69

SENATOR MARSH: I think we had better have a Call of the House so that we get enough people here to maneuver. Senator Von Minden, did you want to put this into constitutional form?

SENATOR CLARK: Senator Nichol, for what purpose?

SENATOR NICHOL: I don't think I can talk on it.

SENATOR CLARK: Not yet. Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President, on the first amendment.

SENATOR CLARK: The first amendment is adopted. Senator Marsh, on the second amendment.

SENATOR MARSH: Thank you very much, Mr. Chairman. I have talked with several of you in the body but I have not had an opportunity to get to each of you. I am offering this amendment which speaks to the necessity for a child care center transporting children to make use of the seat belts which are installed in the vehicle. As you know, there was a child killed in Omaha last fall being transported by a day care center. There were seat belts available. They were not in use. The car door wedge had been removed. You have read the reports. I would like to quote from several communications and this one is from Dr. Gillespie who says, "Trauma is the leading cause of death in children. Moreover the nature of injury in a child unrestrained in an automobile is frequently an abdominal injury or a head injury. Contrarywise removal of the injured spleen leaves the child susceptible to overwhelming infection even if they survive the crash." Or from another Omaha mother, "Please try to gain legislative action re the standards for day care centers and requirements for seat belt use if children must be transported." Julie Broadstone was killed because there were no standards. I had a letter of request from the parents of Julie Broadstone and I made a moral commitment to them that I would offer this amendment on the floor of the Legislature. You do as you choose. Her parents would feel that the passage of LB 69 with this amendment would be a fitting memorial to the child who was killed, that perhaps her death would not be in vain. I offer this amendment to the members of the Legislature. One of the parents said, "An unnecessary tragedy has made many Nebraskans realize just how important your proposal was and how vital it would have been to the life of five year old Julie Broadstone had you been successful last year." I had a letter from the physician who was the family pediatrician

for Julie Broadstone and he emphasized the need for adopting this amendment. Do as you will. I feel morally obligated to offer this amendment on the floor of the Legislature. It is tough enough to lose a child, but when it could have been avoided, that is even more difficult for parents. I urge your adoption of this second amendment so that children being transported by day care centers would have that extra requirement for the safety of the child.

SENATOR CLARK: Senator Nichol, do you want to talk on the amendment?

SENATOR NICHOL: Just briefly. I can't get emotional about this even though I like children as much as anybody and I like to have them safe, but to give the Department of Public Welfare this much power, I can't see it. Now if they want to abide by the law like anybody else or if the Department of Public Welfare wants to have power to do this, then perhaps we should give them power to do it for me or anybody else. I just hesitate to give the Department of Public Welfare that much power and that excuse, if they want to use it, for revoking someone's license. They say they can revoke their license because they don't do this, and I don't think they should have that much power.

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

SENATOR MARSH: I would like to quote from the Omaha Children's Clinic letter which was signed by a Dr. Gary Lerner. "The American Academy of Pediatrics has been a strong national advocate for child safety for many years. As part of their 'Speak Up For Children' campaign now in its third year, they have influenced several states to legislate that children be protected." Nebraska presently has no such law. The local chapter of the American Academy of Pediatrics has been pressing over a year now for its enactment. I urge your adoption of this amendment to LB 69 so that children, and this is a very special category, being transported by day care center would make use of the seat belts which are already installed in vehicles. No additional cost. There are funds available for the request by the Department of Welfare specifically to be used only for seat belts in vehicles which do not have seat belts and that means they are pretty old or a child restraint seat, if it is for an infant. I urge your adoption of this amendment. If you would like to read Julie Broadstone's parents' letter, I have it on my desk and would be very pleased to share it with you. It is a very moving letter.

SENATOR CLARK: Are you done, Senator Marsh?

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LB 69, 239

SENATOR MARSH: I simply will read the first paragraph. "We would like your help in exacting legislation to institute safety regulations for day care center vehicles used for the transportation of children." They have a concern even though they no longer have a five year old in a day care center.

SENATOR CLARK: All those in favor of the second Marsh amendment will vote aye, opposed vote nay. Have you all voted? Once more, have you all voted? I am going to call the vote and let her call for a Call of the House. Have you all voted? Record the vote.

CLERK: 25 ayes, 0 nays on the adoption of the second Marsh amendment, Mr. President.

SENATOR CLARK: The second amendment is adopted. Any further amendments?

CLERK: Nothing further on the bill.

SENATOR CLARK: Senator Kilgarin. Senator Marsh, do you wish to move the bill?

SENATOR MARSH: I move the bill be advanced.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. We go to LB 239. LB 239.

CLERK: Mr. President, 239, there are E & R amendments pending.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 239.

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

CLERK: Mr. President, Senator Vickers and Koch move to amend the bill and their amendments are on page 432 of the Journal.

SENATOR CLARK: Senator Vickers, do you want to take it?

SENATOR VICKERS: Mr. Clerk, I think there was another amendment following that so we'd ask to ~~withdraw~~ that one and we will go with the next one.

SENATOR CLARK: That amendment is withdrawn. We will go to the next.



February 4, 1982

LB 32, 69, 192, 198, 229, 231, 239,  
263, 264, 270, 309, 347, 370, 403,  
418, 423, 431, 448, 449, 490, 492,  
511, 542, 563-66, 572, 592

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Glenn Frazier of the Antelope Park Church of the Brethren.

PASTOR FRAZIER: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Will you please record your presence? Senator Cope and Senator Warner, would you please record your presence? Record.

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

SPEAKER MARVEL: Do you have anything to read into the record?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 69 and find the same correctly engrossed; 192, 198, 231, 239, 263, 370, 431, 448, 449, 511 and 592 all correctly engrossed. (See pages 540 through 544 of the Legislative Journal).

Mr. President, LBs 32, 229, 264, 309, 347, 403, 418, 423, 490, 492, 542, 563, 564, 565, 566, and 572 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 32, engrossed LB 229, engrossed LB 264, engrossed LB 309, engrossed LB 347, engrossed LB 403, engrossed LB 418, engrossed LB 423, engrossed LB 490, engrossed LB 492, engrossed LB 542, engrossed LB 563, engrossed LB 564, engrossed LB 565, engrossed LB 566, engrossed LB 572. We are down to item #4, motions, and the first motion concerns LB 270.

CLERK: Mr. President, LB 270 was last considered by the Legislature January 27th. At that time Senator Barrett offered a motion to indefinitely postpone the bill. That motion prevailed. Subsequent to that action, Senator Cullan offered a motion to reconsider the body's action to indefinitely postpone LB 270. That motion is found on page 450.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature,

February 11, 1982

LB 139, 69, 450

SPEAKER MARVEL: The Chair recognizes Senator Marsh.

SENATOR MARSH: Good morning, Mr. Speaker and members of the Legislature. This is a technical amendment. When the original amendment was drafted, no error of the bill drafter's office, I might add, it was added to an amendment which struck a section that was not intended to be struck. Therefore, this is a corrective amendment which everyone has agreed to and I ask your assistance in bringing it back to adopt this specific amendment.

SPEAKER MARVEL: The motion is to return the bill for a specific amendment. All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 33 ayes, 0 nays on the motion to return the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is returned. The next motion is....

SENATOR MARSH: For its adoption.

SPEAKER MARVEL: Okay, the motion is to adopt the amendment. All those in favor of that motion vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: The motion is carried. The amendment is adopted. The motion now is to readvance the bill. All those in favor say aye. Opposed no. The motion is carried. The bill is readvanced. The next item of business, LB 450 on Final Reading.

ASSISTANT CLERK: (Read LB 450 on Final Reading).

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass with emergency clause attached? Those in favor vote aye, opposed vote no. Record.

ASSISTANT CLERK: (Read the record vote as found on pages 650 and 651 of the Legislative Journal). The vote is 46 ayes, 0 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next one is 192. Okay, LB 69 on Final Reading.

February 11, 1982

LB 69

CLERK: Mr. President, I have a motion from Senator Haberman. Senator Haberman would move to return LB 69 to Select File for a specific amendment, that amendment being to strike the enacting clause.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, first of all, I rise to tell you that I am not against the effort to save small children's lives, but I believe in education instead of legislation, and I believe in what I hear from the people outside the chambers of the Legislature, and if you will notice the literature that I sent around, just two of many letters that have been received by me and been in the press where the parents say, let us raise our children, let us decide what are good for our children and not have government tell us to do this. Also, I passed around an article that says, a first rule of legislatures at any level ought to be never to pass an unenforceable law. They foster widespread evasion and they contribute to a state of mind that tends to review the law with disdain. This is what we are doing. It is unenforceable. I have talked to dozens and dozens of police officers. I said, can you tell the difference between a 3 year old and a 4 year old when they are going down the highway or the street in a car, and they say, no, they cannot. It is unenforceable because we 175,000 pickups registered in the State of Nebraska and thousands and thousands and thousands of those people cannot comply to the law because they only have two seat belts in those pickups. So if a person has a child three years old and six months old, they cannot strap them in. They cannot do it. They cannot follow the law. So we are forcing them to be lawbreakers. They want to be good citizens but they can't. Chevrolets only have two seat belts. Small Fords have two. Large Fords have three. So I say it is good to have seat restraints but let's do it through ETV. Let's have the insurance companies put money in the T.V. program and educate the parents to use them, then if they wish to do so, they may do so. But let's don't mandate and legislate something like this. I ask you to vote no or to pass on LB 69. Mr. President, I withdraw my motion to indefinitely postpone LB 69.

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

SENATOR MARSH: Yes, thank you. Did he ask unanimous

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LB 69

consent to withdraw? I would like to say that Rex says he is not against killing children but we safeguard the safety of children by saying that they shall have health exams, they shall....we end up paying for children who are seriously injured....we really do not, we do not protect our children by saying, oh parents can decide, this is one more educational tool. We have used educational tools and will continue to use educational tools. It is an economical way to save lives. The young person does not have a choice. If you have read the letter I placed on your desk this morning from Dr. Calvert who happens to be Chairman of the Committee on Safety, Accidents and Abuse, Nebraska Chapter of American Academy of Pediatrics, you are aware....

SPEAKER MARVEL: Excuse me just a moment. Senator Kahle, for what purpose do you arise?

SENATOR KAHLE: Mr. Speaker, my point of personal privilege is that....

SPEAKER MARVEL: Do you want to speak to the Chair on...?

SENATOR KAHLE: I am talking to you.

SPEAKER MARVEL: Yes, sir.

SENATOR KAHLE: The motion was withdrawn, so it's not... Senator Marsh is out of order.

SPEAKER MARVEL: The Chair was attempting to give Senator Marsh some opportunity to respond. I think, Senator Marsh, in fairness to everybody it would be well if we proceeded instead of trying to sell the bill right now. Senator Beutler, for purpose do you arise?

SENATOR BEUTLER: Does a motion to withdraw take unanimous consent?

SPEAKER MARVEL: Yes.

SENATOR BEUTLER: Then I object.

SPEAKER MARVEL: The introducer can withdraw at any time.

SENATOR BEUTLER: Mr. Speaker, then I would move to return it to Select File for the same purpose.

SPEAKER MARVEL: Just a moment, please. Okay, Senator Beutler. The motion is to return the bill to strike the

enacting clause. Is that right, Senator Beutler?

SENATOR BEUTLER: Yes, Mr. Speaker, I wanted to use this for purpose of one last discussion. I would like to ask Senator Marsh a question if I may. In reading over the bill and thinking how it may relate to some other statutes we have in effect, you all know that we have been working on a child abuse bill and you all know that the child abuse bill, the penalty for child abuse has been up from a misdemeanor to a felony, and child abuse is defined in part as depriving a child of necessary care, and so my question to you, Senator Marsh, if the statute says that we are required to put children under restraints and if a parent fails to do that and if there is an accident and the child is harmed, is the parent then subject to a felony child abuse penalty?

SENATOR MARSH: Not to my knowledge, Senator Beutler. It might be fair if the parent were, but to my knowledge he or she is not.

SENATOR BEUTLER: Okay, Mr. Speaker, my only comment would be that the language of the statute is simply that if you deprive intentionally, knowingly or negligently, deprive a child of care, and if the bill that we have before us this year passes which it appears that it will, that will make it a felony offense. And it seems to me that you are leaving the prosecutors wide open to prosecute under the child abuse statute for failure to restrain a child, and I just wanted to make that comment. And with that, I will withdraw my motion, Mr. Speaker.

SPEAKER MARVEL: Okay, your motion is withdrawn. The Clerk will read on Final Reading LB 69.

CLERK: (Read LB 69 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? Senator Marsh, do you wish a roll call vote?

SENATOR MARSH: Yes, please.

SPEAKER MARVEL: Okay.

CLERK: (Read the roll call vote as found on pages 652 and 653 of the Legislative Journal).

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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.

February 16, 1982

LB 69, 604, 604A, 662, 651,  
669, 684, 729, 782

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend Chris Brekke, Our Savior Lutheran Church, here in Lincoln.

REVEREND CHRIS BREKKE: (Prayer offered.)

PRESIDENT: Roll call. While we are waiting for all of you to register your presence this morning, the Chair takes pleasure in introducing some guests of Senator Goll from Burt and Washington Counties. They are up here in the South balcony, from the 16th Legislative District. Would you recognize about 30 of these guests of Senator Goll's, up here in the balcony. Welcome to your Legislature. Record the attendance, Mr. Clerk.

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

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

CLERK: (Read corrections as found on page 681, Legislative Journal.)

PRESIDENT: The Journal will stand corrected. Any messages, reports or announcements, Mr. Clerk.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 662 and recommend that same be placed on Select File; 729 Select File; 669 Select File with amendments; 782 Select File with amendments; 604 Select File; and 604A Select File. All signed by Senator Kilgarin.

Mr. President, your committee on Banking, Commerce and Insurance gives notice of a rehearing for Monday, February 22.

Your committee on Education whose Chairman is Senator Koch instructs me to report LB 651 advanced to General File.

Senator Marsh would like to print amendments to LB 69 in the Legislative Journal.

I have an Attorney General's opinion addressed to Senator Cullan regarding LB 684. (See page 683, Journal.)

Mr. President, I have received reports from the Department of Energy as well as the State Risk Management Program. Those will be on file in my office.

February 17, 1982

LB 69, 259, 413,  
684, 967, 968

SPEAKER MARVEL: The motion is carried. The bill is introduced.

CLERK: Mr. President, new bills, LB 967 by the Business and Labor Committee and signed by its members. (Read by title for the first time as found on page 718 of the Legislative Journal. Also read LB 968.)

Mr. President, Senator Wiitala and Senator Kilgarin ask unanimous consent to add their name to 259 as cointroducers.

SPEAKER MARVEL: No objections, so ordered.

CLERK: Mr. President, I have a new resolution, LR 233. (Read as found on page 719 of the Legislative Journal.) The resolution is offered by Senator Newell. It will be referred to the Reference Committee for reference, Mr. President.

Mr. President, I have a notice of Revenue Committee Executive session upon adjournment today in Room 1520. That is Revenue Committee upon adjournment today in Room 1520

Senator Marsh would move to reconsider the Legislature's action in failing to pass LB 69 on Final Reading. That will be laid over. (See page 719 of the Journal.)

Mr. President, I have a motion from Senator VonMinden that LB 684 be placed on General File pursuant to Rule 3, Section 18(b). That too will be laid over.

SPEAKER MARVEL: The next item of business is LB 413.

CLERK: Mr. President, Senator Chambers pursuant to our rules has made a motion to reconsider the Final Reading vote on LB 413. The motion is found on page 592 of the Legislative Journal.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this bill on Final Reading failed to muster 25 votes so what I am asking that you do is vote to reconsider. It will take 30 votes to do so. Let the bill be brought back to Final Reading or revived on Final Reading, let it stay there until any questions you have can be answered because I think there has been a lot of confusion about exactly what this bill does. Now I wrote to Colonel Kohmetscher and pointed out to him that some statements he made in a letter to Senator Nichol go contrary to the training that the state patrol uses with reference to radar and in a letter that I got from Colonel Kohmetscher which I have circulated to you this morning, he says, "Naturally our training does



February 19, 1982

LB 598, 69, 603, 656

SENATOR NICHOL: I am sorry, Senator Koch, I wasn't listening. Would you repeat the question?

SENATOR KOCH: When the bill was introduced by you originally, was it to take them from under the seven percent lid for the monies they spend for renovation and energy saving devices?

SENATOR NICHOL: I am sorry. You was talking so fast I couldn't understand you. Would you repeat it slowly please.

SENATOR KOCH: When you introduced this bill in its original form, it was to allow community colleges to be exempt from the seven percent lid on dollars they spent to renovate buildings to make them energy efficient?

SENATOR NICHOL: This particular bill? No. This was to allow community technical colleges to be eligible.

SENATOR KOCH: For just exactly what it is?

SENATOR NICHOL: Sure.

SENATOR KOCH: Well, obviously, someone misinterpreted Senator Noren's, not Senator Noren, Mr. Noren's dialogue with the committee but the point is I think our commitment is to maintain this fund as we put it there last year and maintain it that way. Historically it is correct and I think for the future it is also correct. I am asking you to strike the enacting clause. Thank you. And, Mr. Chairman, I would like a record vote.

SPEAKER MARVEL: The amendment is to strike the enacting clause and that is the issue. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: (Record vote read. See pages 779 and 780, Legislative Journal.) 26 ayes, 15 nays, Mr. President, on the motion to strike the enacting clause.

SPEAKER MARVEL: Motion is carried. Do you have anything to read in?

CLERK: Mr. President, I have amendments from Senator Marsh to be printed to LB 69 in the Legislative Journal.

Mr. President, your committee on Judiciary reports LB 603 advanced to General File with committee amendments attached; LB 656 from the Revenue Committee is reported to General File with committee amendments attached, Mr. President, and that is signed by Senator Carsten.

Lately there have been no result, so this is what I am going to try. The next item of business is motions, item #5. It is on your sheet. If we allow discussion without any control whatsoever, and if you don't like that word, why we can find a different one, but if we just say, okay, we have got item #5, proceed, that will take care of today. There will be no other action. Now if you want action and you want things to be handled much better than they have been during this session so far, then I have this proposal. Each person involved in item #5 gets five minutes for discussion. At the end of those five minutes the discussion is cut off. Okay, the first motion is LB 69.

CLERK: Mr. President, the motion on LB 69 is to reconsider the vote on Final Reading.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Thank you, Mr. Speaker. I would ask for your careful attention. I want to take less than five minutes of your time. I ask for your assistance to reconsider LB 69 so that the majority of the bill can be removed and the very narrow segment of daycare centers be left. The parents will have the decision of their child but when a parent wants that child protected and a daycare center does not protect that child, then the safety is taken from the hands of the parent. Please help reconsider LB 69. I did pass out a handout this morning which shows an editorial from the Fremont Tribune, "Child Seat Restraints Do Save Lives". Help me bring it back so that it can be a very narrow segment. I will be gutting the bill, I sent out last week, when I thought we were going to be discussing 69, the amendment... Pat, the amendment to this bill, can you quickly explain about that? The first vote I need 30 votes for reconsideration so that the bill may be brought back to Final Reading. Then it needs to be returned for the specific amendment to address the bill and only have the protection for the daycare centers. I have talked to a number of you so that you understand this is not to pass LB 69 in its current form. I will ask for your help to bring it back so that something can be in protection for children in daycare centers after four years of discussion. Thank you very much, Mr. Speaker.

SPEAKER MARVEL: Senator Haberman, do you wish to comment? We have item #5 on motions. We have a limit of five minutes discussion before we vote, and if you want the floor, well the floor is yours. We are talking about LB 69.

February 23, 1982

LB 69

SENATOR HABERMAN: Thank you, Mr. President, and a question of Senator Marsh, please.

SENATOR MARSH: Certainly, Senator Haberman.

SENATOR HABERMAN: Senator Marsh, is there a penalty clause on this?

SENATOR MARSH: Yes, sir, there is.

SENATOR HABERMAN: And the penalty is what, please?

SENATOR MARSH: I'm sorry, there is no....69 will be gutted, sir, and it is what you put onto it. Right now it is my intent to gut 69, and only allow the daycare center section to be returned.

SENATOR HABERMAN: I know that, but is there a penalty on the daycare center?

SENATOR MARSH: This is not the time to discuss that. The Speaker does not desire to have that discussed at this time.

SENATOR HABERMAN: I asked a question. Is there a penalty on your bill now, LB 69, if people don't conform?

SENATOR MARSH: Yes, sir, there is.

SENATOR HABERMAN: What is it, please?

SENATOR MARSH: The penalty is a misdemeanor....John DeCamp, what is the word?

SENATOR HABERMAN: Misdemeanor....

SENATOR MARSH: An infraction.

SENATOR HABERMAN: And that is the same thing as a parking ticket.

SENATOR MARSH: Yes, sir.

SENATOR HABERMAN: They will not lose their licenses?

SENATOR MARSH: No, sir.

SENATOR HABERMAN: Thank you. Thank you, Mr. President. I feel that with no penalty...well, just let it go. Thank you, Mr. President.

February 23, 1982

LB 69, 770

SPEAKER MARVEL: Senator Cope, your light is on.

SENATOR COPE: Mr. President and members, I support bringing this bill back. I am sorry that it wasn't passed originally. This is the least we can do, so I would certainly support it.

SPEAKER MARVEL: Okay, from now on in this trial period, you are going to have to bear with me and we are not going to have pros and cons because we will never get through otherwise. We will have the people who have molded the legislation be the ones that make the presentation and each of those people get five minutes. So the Chair recognizes...is Senator Wesely in the room? Okay, the Chair recognizes Senator Wesely. Okay, both sides have been represented. All those in favor of Senator Marsh's motion to reconsider vote aye, opposed vote no. Have you all voted? Okay, Clerk, record the vote.

CLERK: 31 ayes, 1 nay, Mr. President, on the motion to reconsider the bill on Final Reading.

SPEAKER MARVEL: The motion is carried. The next item is LB 770. We will pass over that until...are they ready? Okay. Senator Wesely, are you now ready?

SENATOR WESELY: Yes, I will go ahead with it if you would like, Mr. Speaker.

SPEAKER MARVEL: Okay, the one motion was 69, now we are going to 770.

SENATOR WESELY: Thank you. Mr. Speaker and members of the Legislature, I will be brief. Senator Beutler and I cosponsored LB 770 this year to deal with a problem we identified last year through LR 150 of the Treasurer's office. We looked at that office and came up with the legislation which in its present form, LB 770, calls for written contracts between the Treasurer's office and banks that handle state accounts. It is a fairly simple bill. It is not a big bill, but somehow it was killed by the committee and I thought it was a reasonable bill in its form. There are all kinds of facts and information dealing with this issue that I think need to be brought to the attention of the Legislature, but deferring to the Speaker and to the chairmen when we met this morning, I don't think we need to spend a lot of time, of course, on this issue. Let me just say one thing and I think it is probably the most important point I want to

March 5, 1982

LB 375, 69

CLERK: (Read LB 375 on Final Reading.)

SENATOR CLARK PRESIDING

SENATOR CLARK: All provisions of law having been complied with the question is, shall the bill pass. All those in favor vote aye, opposed nay. I would like to introduce to you 33 seniors. They are in the South balcony, or they were, from Yutan High, guests of Senator Schmit. Bill Campbell and Kim Benning are the sponsors. Also we have guests of Senator Kahle under the North balcony, Mr. and Mrs. Jesse Adkins and son, Chip, from Minden, Nebraska. They are the parents of Cathy Adkins, one of our Pages. Under the South balcony also we have Vernon and Adalee Allan of Scottsbluff; Henrik Follin, their Rotary exchange student from Denmark. They are under the South balcony. Welcome to the Legislature, all of you. The Clerk will record the vote.

CLERK: (Read record vote as found on page 1016 of the Legislative Journal.) 45 ayes, 0 nays.

SENATOR CLARK: The bill is declared passed. We will now take up LB 69. The Clerk will read LB 69.

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

SENATOR CLARK: Alright, read the motion.

CLERK: Mr. President, LB 69 was reconsidered, the vote on Final Reading was reconsidered on February 23 of this year. I now have a motion from Senator Marsh to return the bill to Select File for a specific amendment and the Marsh amendment is found on page 780 of the Legislative Journal.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Thank you, Mr. Chairman and members of the Legislature, as I have told many of you in person and as you have read, the intent is to move LB 69 to Select File for the specific amendment which will be to strike all except the provisions for mandating that child care centers will use safety restraints for children which they are transporting. I will appreciate your support in returning LB 69 so that something may be salvaged from this piece of safety legislation. I urge your return for this specific amendment.

SENATOR CLARK: The question before the House is the return of LB 69 to E & R. All those in favor vote aye, opposed vote

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LB 69, 720

nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The bill is returned. Senator Marsh.

SENATOR MARSH: I now move for the adoption of the amendment.

SENATOR CLARK: Any further discussion on the amendment? If not, the question before the House is the adoption of the amendment. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of the Marsh amendment.

SENATOR CLARK: The amendment is adopted. Senator Marsh, do you want to return the bill to Final Reading?

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

SENATOR CLARK: You have heard the motion. All those in favor say aye, opposed. The bill is returned to E & R final. We will now go to the priority bill list, #6. We have a fifteen minute limit on each bill. The first bill will be LB 720.

CLERK: Mr. President, LB 720 is a bill introduced by Law Enforcement and Criminal Justice Advisory Committee and signed by its members. (Read.) The bill was read on January 8th of this year. It was referred to Judiciary for a public hearing. The bill was advanced to General File, Mr. President, and I have no amendments to the bill.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, LB 720 came to us because there apparently is a little misunderstanding in current law which provides for certain temporary orders to be entered while a divorce or separation case is pending in front of the reconciliation court. There is no expressed statutory authority for a temporary custody order to be entered during this period and the absence of such statutory authority could make it difficult to enforce

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Roll call. Record the vote, Mr. Clerk, or the presence, I mean.

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

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. Are there any other messages, reports or announcements?

CLERK: Mr. President, I have a report from the Department of Roads. That will be on file in my office.

The Committee on Business and Labor whose chairman is Senator Barrett instructs me to report LB 967 advance to General File with committee amendments attached; LB 968 as indefinitely postponed, both of those signed by Senator Barrett.

A new resolution, LR 248 offered by the Administrative Rules Committee calls for an interim study into the feasibility of employing an independent hearing examiners system for state agencies in Nebraska. (See page 1149 of the Journal.)

Your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 69 and find the same correctly engrossed; 359, 428, 571, 623, 659, 705, 724, 779 all correctly engrossed, those signed by Senator Kilgarin as Chair. (See page 1151 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 652 and recommend that same be placed on Select File with E & R amendments attached; 522 E & R amendments attached; 568 E & R amendments attached. Those are signed by Senator Kilgarin as Chair. (See pages 1150-1151 of the Legislative Journal.)

Your committee on Public Works whose chairman is Senator Kremer reports LB 785 advance to General File and LR 212 advance to General File. Those are signed by Senator Kremer. (See page 1152 of the Legislative Journal.)

I also have a committee on Public Works report on a gubernatorial confirmation hearing.

And, Mr. President, Senator Beutler would like to add his name to LB 577 as cointroducer.

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LB 827, 69, 359, 428

PRESIDENT: LB 827 passes. The next bill on Final Reading, Mr. Clerk, is LB 69.

CLERK: (Read LB 69 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 69 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read as found on page 1253, Legislative Journal.) 34 ayes, 11 nays, 2 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 69 passes. We will proceed then with the Final Reading of LB 359, Mr. Clerk.

CLERK: (Read LB 359 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 359 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1253 and 1254, Legislative Journal.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT: LB 359 passes. The next bill on Final Reading is LB 428, Mr. Clerk.

CLERK: Mr. President, a motion on the desk.

PRESIDENT: Read the motion.

CLERK: Senator Beutler would move to return, Mr. President, LB 428 to Select File for specific amendment. (Read Beutler amendment found on page 1254, Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I think there is an important question that we should discuss before we proceed to pass this bill and that is a question that this Legislature as I understand it discussed a number of years ago when it passed the Uniform Probate Code, and the basic question that I am addressing with this amendment is whether in the case of guardianships the court should be required to appoint an attorney for each and every incapacitated person that comes before it or whether that should be left to the court's discretion after reviewing the facts of



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LR 249  
LB 69, 359, 435, 626, 628,  
687, 722, 782, 827

ASSISTANT CLERK: (Read LB 435 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 435 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 1257 of the Legislative Journal.) 38 ayes, 9 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 435 passes. That will conclude Final Reading today. Mr. Clerk, you probably have some matters to read in which you will do at this time and then we will immediately proceed to agenda item #5 to take up the two resolutions on the agenda for today. Proceed, Mr. Clerk.

CLERK: Mr. President, explanation of votes offered by Senators Warner and Kilgarin to be inserted in the Journal.

Mr. President, your Enrolling Clerk has presented to the Governor the bills that were signed this morning. Mr. President, Senator Rumery would like to print amendments to LB 626; Senator Hoagland to 687. (See page 1258 of the Legislative Journal.)

Mr. President, LBs 628, 722, 782, 827, 69, 359 and 435 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LB 628, 722, 782, 827, 69, 359 and 435. Before we take up agenda item #5, the Chair takes pleasure in introducing Greg Krieser from Eagle, Nebraska who is seated under the south balcony. At the present time Greg is in Senator Warner's District and he will be in Senator Carsten's District. So, Greg, would you step forward there if you are still over there and welcome, Greg, to the Legislature. Proceed then, Mr. Clerk, with agenda item 5, resolutions, commencing with LR 249.

CLERK: Mr. President, LR 249 offered by Senators Howard Peterson, Senators Wagner, Cope and Kremer, found on page 1171 of the Journal. (Read LR 249.)

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, so we don't take a lot of time, I just want to say a special word of thanks to this legislative body and to the Governor of this state

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LB 69, 359, 435, 628,  
722, 726, 782, 827

people and if the instrumentalities that they use to control the water situation do not please them ten years down the line they can adjust it. Finally it was suggested that this is a tool for land use control. It is not land use control. It is water use control. Now we all recognize that it has an effect on land use just as limiting withdrawal of water has effects on land use but at the same time not to act, not to act at all, is equally land use control because you will simply dictate that the use of the land will be for the developer who is putting the land into grain crops. That is the land use control that you will dictate by not acting. If you act, then you don't dictate anything. You say to the people in the local community, decide the issues yourself, resolve the differences, determine where your benefits are and where your detriments are and make the best of it in your own local community. In conclusion, I was distressed to hear that many of us who would be voting on this issue have no interest whatsoever in the issue. Time and time again in this Legislature the agricultural interests have pointed out to us and rightfully so, that the cities of this state and the city folk of this state depend in the end on agriculture. To suggest to us today that we should take no interest in agriculture is a contradiction of the grossest type and I don't think anybody believes in that. As the old beer commercial goes, "We're all in this together."

PRESIDENT: The question before the House is the motion to advance LB 726 to E & R initial. All those in favor vote aye, opposed nay. Have you all voted? All right, record vote. Record the vote and a record vote is requested.

CLERK: (Read record vote as found on page 1262 of the Legislative Journal.) 27 ayes, 16 nays, 5 excused and not voting and 1 present and not voting, Mr. President.

PRESIDENT: The motion carries and LB 726 advances to E & R initial. Next, do you have some matters to read in? Go right ahead.

CLERK: Mr. President, a few items to read in. New resolution, LR 255 offered by Senator Schmit. It calls for a study committee of the Legislature to conduct an interim study of the problem of theft of electricity, gas and water. That will be referred to the Executive Board for reference, Mr. President. (See pages 1262-1263 of the Legislative Journal.)

Your Enrolling Clerk has presented to the Governor for his consideration the bills that were read this morning on Final Reading. (Re: LB 628, 722, 782, 827, 69, 359, 435. See page 1263 of the Legislative Journal.)

LB 69, 267, 359, 435, 449, 579, 606, 628,  
630, 654, 662, 692, 702, 703, 717, 718,  
719, 722, 728, 729, 778, 782, 801, 829

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PRESIDENT: The amendment is adopted. We are going to stop now and recess until 1:30 and then we will come right back onto this bill. Senator Nichol, would you like to recess us until 1:30. We have one communication to read in.

CLERK: Mr. President, engrossed LBs 267, 359, 435, 449, 579, 606, 628, 630, 654, 662, 692, 702, 703, 717, 718, 719, 722, 728, 729, 778, 782, 801, 829 and 69 were signed by the Governor on March 19 and delivered to the Secretary of State.

SENATOR NICHOL: Mr. Chairman, I move we recess until 1:30 this afternoon.

SENATOR CLARK: You have heard the motion. All those in favor say aye. Opposed. We are recessed until 1:30.

Edited by:

Marilyn Zank  
Marilyn Zank