

January 9, 1981

LB 72-80

PRESIDENT: Okay, Mr. Speaker, we will read these bills and then we will recognize you for the motion.

CLERK: Read LB 72-79 by title for the first time as found on pages 102-103 of the Legislative Journal.

Mr. President, a final item of business is that Senator Wesely would like to announce that Senator Sieck has been selected as vice chair of the Rules Committee. I guess I have one more that came up.

Read LB 80 by title for the first time as found on page 104 of the Legislative Journal.

Mr. President, that is all I have.

PRESIDENT: The Chair recognizes Speaker Marvel.

SPEAKER MARVEL: I will once more remind the chairmen that we are going to meet at nine o'clock, Monday. The chairmen's meeting is at nine o'clock in Room 1520 and we adjourn until ten o'clock, Monday. With this motion in mind we will also check with the bill drafter and report to you on Monday as to any problems that come up and Senator Lamb and I will be in contact with the bill drafter's office and we will have a report for you on Monday.

PRESIDENT: You have heard the motion of the Speaker to adjourn until ten o'clock, Monday morning. All those in favor signify by saying aye, opposed nay. We are adjourned until ten o'clock, Monday morning.

Edited by *LaVera M. Benischek*
LaVera M. Benischek

February 17, 1981

LR 17, 13
LB 15, 16, 55, 76, 83, 92, 136,
144, 170, 185, 187, 199, 217,
238, 244, 354, 434, 457.

Your Committee on Revenue gives notice of public hearing in Room 1520 for March 9, 16 and 18. (See pages 546 and 547 of the Legislative Journal.)

Mr. President, Senator Maresh would like to have the Business and Labor Committee meet underneath the north balcony upon adjournment.

Mr. President, LB 15, 16, 92, 170, 185, 187, 199, 238 and 244 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 15, LB 16, LB 92, LB 170, LB 185, LB 187, LB 199, LB 238 and LB 244.

CLERK: Mr. President, your Committee on Urban Affairs whose Chairman is Senator Landis to whom was referred LB 434 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 144 General File with amendments; 354 General File with amendments. (Signed) Senator Landis. (See pages 546 through 547 of the Legislative Journal.)

Your Committee on Judiciary whose Chairman is Senator Nichol to whom was referred LB 55 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 76 General File with amendments; 83 General File with amendments. (Signed) Senator Nichol, Chair. (See pages 548 and 549 of the Legislative Journal.)

Your Committee on Miscellaneous Subjects whose Chairman is Senator Hefner to whom was referred LB 217 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 136 General File with amendments; 457 General File. (Signed) Senator Hefner, Chair.

Mr. President, two new resolutions, LR 17 by Senator Hoagland. (Read LR 17 as found on page 550 of the Legislative Journal.) That will be laid over. Mr. President, LR 18 offered by Senator Wagner and others. (Read LR 18 as found on pages 551 and 552 of the Legislative Journal.) That too, Mr. President, will be laid over.

PRESIDENT: The Chair also has an announcement from Legislative Services Coordinator, Harlan Johnson, who reminds all of you that pictures will be taken of all

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LB 55, 76

CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Okay, the next item is LB 76.

CLERK: Mr. President, LB 76. (Title read.) The bill was read on January 9 of this year. It was referred to the Judiciary Committee for public hearing. It was advanced to General File. There are committee amendments pending, Mr. President, by the Judiciary Committee.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, Senator DeCamp would like to take his own amendments on his own bill.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, the amendments are relatively simple, I guess they are simple if I find them. Let me start out by saying, as you know, the issue of police chases, citizen involvement, damage to the public, innocent people, whether there should or should not be chase policies, whether there should be chases even initiated, what the penalties should be has been somewhat of a controversial subject now for a couple of years and different philosophies, different approaches to the problem have been voiced by myself, for example. Senator Chambers has worked long and hard on the subject and tried to bring it to people's attention for a number of years. My approach, quite simply, as the amendments reflect, is to, first of all, strengthen the penalties and strengthen them in a way that is more than just the average bill, saying the fine is now two hundred instead of one hundred, strengthen them in a way that impacts upon the particular type of people who frequently flee. And as Senator Chambers or anybody else will testify, that very frequently is a young person. What is the most penalizing thing you can do to a young person? The most punishing thing you can do is say, "Look! You took your shot. You took your flight. Now we are taking your license and we are taking it for a substantial amount of time and you can't even touch the wheel of a car to drive." So one of the major parts of this penalty is to make a mandatory loss of license for two years when you flee. Even if it is a misdemeanor, you still mandatorily would lose your license. We also increased the penalty so that that young person, if the car is his and he has an equity in it, that he could actually have his car taken and sold. But it does no good

to make a very strong penalty that approaches or hits the particular class that has been fleeing unless they know, so one of the other elements of the proposal is to have involved in the licensing program, when the individual gets their driver's license the information in the book of what the penalties are and the requirement that when they pass their test that be one of the questions on the test, for example. What are the penalties for fleeing? What are the consequences? So they know in advance. So you combine a strong deterrent with an educational program so that they know what the deterrent is and know the risks, and then you address the other aspect, and that is the aspect highlighted so often by, well, a number of people. When should chases be initiated? Why? How? What controls? We would order the Patrol and all law enforcement agencies that would be involved in chases and have been in the past to have a very strict written policy describing some of these things. Let me just read you some of the things which the Patrol, which all law enforcement are going to have to have on their books written so we know, so we can see how they work. They are going to have standards which describe when a pursuit may be initiated taking into consideration the nature and severity of the offense involved. They are going to have standards which describe when a pursuit is to be discontinued which gives special attention to the degree of danger presented to the general public and the pursuing officer, and they are going to have to deal with the probability of later apprehension of the subject based upon his or her identification, so if we know if we have identified the vehicle and the driver one way or another, there is no use risking another four hundred lives if we know we can reasonably get that person later. We are going to make them deal with that subject which apparently has been avoided in the past. We are going to have procedures spelled out governing the operation of pursuits including but not limited to the number and types of vehicles which may be used, the method of operation of such vehicles, and the exercise of supervision during pursuits. Everyone of these issues, everyone of them, have come up in previous pursuits. Everyone of them have had problems. We will get the specifics down so that we will know what the rules of the game are, and I hate to use the word "game", but what the rules are and we will see how these function and operate in the near future and see if we need to make adjustments next year. We are going to have procedures governing pursuits which include other law enforcement agencies or which extend into the jurisdiction of other law enforcement agencies, and then we are going to have, and I think this may be the most important, the committee members know what I am

talking about there, a system of continued planning and training of personnel regarding proper handling of pursuits. So the essence of the bill then is strict known penalties that fix upon the particular type of people that are fleeing, ability of the police to know what the rules are and, of course, the educational procedures so that the individuals who might be inclined to flee know what the consequences are. I would urge you to adopt the committee amendments and I would urge you to advance the bill. In a brief conversation Senator Chambers and I just had, he indicated that he would not oppose the bill or take action at this time with the understanding that once it reached Select File I would agree to delay until his particular proposal can be acted on in the committee. Personally I have no objection to that. The committee can deal with his and we can let that sit on Select a day or week or two weeks, whatever it takes so that his alternate proposal can be acted on if that is the choice. So I urge you to adopt the amendments and I would say that the one concern that everybody had which was my surfaced air, I mean the armor piercing bullets, we have pulled from the bill and tried to make the bill strictly a real honest to goodness system to start cutting damages in terms of loss of lives and loss of property in these pursuits, to start cutting down on the number of pursuits by making it unprofitable and unwise to flee and to try to make it so that when those people do flee we have a system to effectively catch and apprehend the individual and punish them without too much risk to the public. So I urge you to adopt the amendments.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 76. Is there any further discussion? Senator Nichol. As explained by Senator DeCamp. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, Senator DeCamp, we are voting on the amendments at this time. Are you saying that the bill will come back to committee for discussion for further amendments or what are you saying?

SENATOR DeCAMP: Pardon, say it again.

SENATOR NICHOL: Are you saying we will have further amendments to vote on at Select File or what?

SENATOR DeCAMP: I have got one personal amendment myself, a technical amendment so that there is no cost. They won't have to do anything on driver's license tests until they change the test. I said on Select File Senator Chambers has raised the question with me as to whether I am going to

railroad the bill through. If he wants a delay until after his bill is heard, if it is sitting there, I have no objection to a slow down on Select or something but once I get the bill done I am happy with it.

SENATOR NICHOL: Are you inferring anybody can slow you down from railroading a bill through Select?

SENATOR DeCAMP: Senator Nichol, you know I am the most accommodating person there is. One final thing, sheriffs, State Patrol, police officers, I think virtually every law enforcement agency or group in the state is supporting the bill in this form.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I just want to correct one word that Senator DeCamp attributed to me which was "railroaded". What I did was to go over to Senator DeCamp and indicate that I have a bill in the Judiciary Committee which goes into more detail relative to the types of circumstances under which a chase should be initiated, how it should be conducted and when it can be terminated and that it would be good for him to allow his to move to Select and wait for this other bill and perhaps we could combine provisions of both of them, and in exchange for his agreement to do that, I would not even go into much discussion of his bill at this point. So that is the arrangement that I have agreed to with him, and, Senator Nichol, it would not result in his bill coming back to the Judiciary Committee under any circumstances. So I am not going to oppose the committee amendments. I won't oppose the bill at this time or even go into extended discussion because that can happen on Select when both provisions can be considered. And for those of you who might be interested in knowing what kind of provisions would be in the bill that I am talking about, the number is LB 414.

SPEAKER MARVEL: Senator Cullan. Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I have a couple of questions for Senator DeCamp with respect to the committee amendments and the first question is this, Senator DeCamp. It says that...the committee amendment says, one of the things it says is "The motor vehicle used to avoid arrest, when titled solely in the name of the arrested person, may be seized by the arresting officer and held until the disposition thereof is determined by the court." And then later on it provides that the court may ultimately sell a vehicle to satisfy all charges, costs and the like.

Well, the question I really have is this, is whether or not that provision may have some constitutional infirmities solely because the seizure of that vehicle turns on who happens to own the automobile as opposed to who happens to be driving the automobile. In other words, if a young man is driving a car that is in his name, the car can be held and later disposed of. If a young man is driving a car that is in his name and his wife's name, it can't be so held. If a young man is driving a car in his parent's name, it can't be so held. It seems to me there may be...but in each instance, in each instance, the young man is driving the car to flee arrest. Is there some logical basis to distinguish the one from the other?

SENATOR DeCAMP: I originally had it the other way so that the equity of anybody not involved would be protected but that any vehicle could be seized until the court made a disposition of it. That was changed after some recommendations by some law enforcement and some other people. I will check that out and if that needs to be changed back again, I would attempt to do that on Select File.

SENATOR V. JOHNSON: Okay. Thank you, Senator DeCamp. The only question I have is this, and this is kind of a policy question, I notice that one of the things that the committee amendment would do would to increase the time that a young person's...that any person's driver's license is suspended from one year, which apparently is the present penalty, to two years. Now it may be well and good to increase the penalty but it seems to me that the fact that we make it even more difficult on an individual who is fleeing arrest will cause him to speed even more so he doesn't get caught because he knows if he gets caught this time he is going to lose his license for two years as opposed to one year. In fact increasing penalties on the fleeing driver may be the wrong way to go with this kind of legislation, would that not be correct?

SENATOR DeCAMP: No, I disagree completely and the present penalty is not one year, it is the possibility of one year. Court evidence indicates they are not using that. This is a mandatory two year. If we accept your argument, we accept this argument then also. Murderers receiving severe penalties only encourage them then to murder all the witnesses and murder more people. We can pick almost any extreme. You have to have a system of swift, effective known deterrent that is not in anyway capricious. This is not capricious because it is going to apply to everybody the same, and if they are going to be getting a license in this state, for example, they are going to know that. I think that is a deterrent.

I think our history with young people on a number of areas, whether it be minor in possession or other things, when the deterrent is very swift and very well known, it is a control factor rather than an encouragement factor. To say that because they know that they are going to do this that, therefore, they are going to flee faster I think begs the question. They are going to flee, if they are fleeing, to get away whether they are now or not or in the future, they are going to flee to get away. The idea here is that they aren't going to flee in the first place because they know that it is no longer the old system where you just outrun the cop, and if he does catch you, it is a fifteen or twenty dollar fine.

SENATOR V. JOHNSON: All right, thank you very much.

SPEAKER MARVEL: Senator DeCamp has a motion, has an amendment to the committee amendments.

SENATOR DeCAMP: Mr. President, this is the other amendment I talked about and it simply makes it so that there is no fiscal cost because rather than changing the driver's license manual now and changing the test now, we simply wait until such time as they automatically would do that, whether that is a month or six months. When they redo their manual, they put information in there on the penalties, and when they redo the tests, they put a question in there on the penalties for fleeing, and by delaying it until such time as they can do it when they redo the manual, we save nine or ten thousand dollars. So I would urge adoption of this amendment.

SPEAKER MARVEL: The motion is the adoption of the DeCamp amendment to the committee amendments. Is there any further discussion? All those in favor of the adoption of the DeCamp amendment vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: Now the motion is the adoption of the committee amendments as amended. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 26 ayes, 0 nays on the adoption of the committee amendments as amended, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Now we are ready to advance the bill as amended. All those in favor...the motion is the advancement of LB 76

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LB 76, 83

as amended to E & R for review. All those in favor vote aye, opposed vote no. Senator Higgins.

SENATOR HIGGINS: I wanted to add an amendment to it, Mr. President. Evidently I am too late.

SPEAKER MARVEL: The easiest way to do it is a Select File amendment. When it gets to Select File, put the amendment on.

SENATOR HIGGINS: Thank you, sir.

SPEAKER MARVEL: Have you all voted? Clerk, record the vote.

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

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is LB 83.

CLERK: Mr. President, LB 83. (Title read.) The bill was read on January 12. It was referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments pending by the Judiciary Committee, Mr. President.

SPEAKER MARVEL: Senator Chambers, do you want to take up the committee amendments?

SENATOR CHAMBERS: Mr. Chairman, I was not present when this bill was heard so I am going to ask that you look in your book at LB 83 and I would like to ask Senator Stoney to yield to a question. Senator Stoney, are these your amendments? Did you offer them?

SENATOR STONEY: Senator Chambers, the amendments that are to the bill were offered and adopted by the Judiciary Committee. They are not mine. Yes, I would. Mr. Speaker, members of the Legislature, the committee amendments to LB 83 accomplish just one thing. They are more definitive than the bill was in its original form. The bill would provide for adding to Nebraska statutes a charge of felony arson and the committee amendments in defining this would indicate that these items are; when a burglary is committed; a robbery is committed; or felony criminal mischief. Now I have circulated to help you in better understanding what criminal mischief is a memorandum which is directed to my attention and it explains exactly what criminal mischief is, and if you will take the time to read that, I think it is fairly simplistic. I now have been provided with an aid by the Judiciary staff counsel and I will read for your edification more specifically what this amendment accomplishes.

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LB 5, 55, 76, 83, 128,
136, 144, 150, 217, 279,
354, 379, 457, 462

CLERK: Mr. President, Senator Kahle voting aye, Senator Wiitala voting aye, Senator Barrett voting aye.

SPEAKER MARVEL: Senator Goodrich, would you record your presence.

CLERK: Senator Vard Johnson voting aye.

SPEAKER MARVEL: Record the vote.

CLERK: 25 ayes, 13 nays on adoption of Senator DeCamp's amendment to the Beutler amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Do we have other amendments? Senator Beutler.

SENATOR BEUTLER: (Mike not turned on.) ...now, I would move the amendment be adopted.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the Beutler amendment as amended.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. The motion is the advancement of the bill to E & R for engrossment. A machine vote is requested. All those in favor of advancing the bill vote aye, opposed vote no. Record.

CLERK: 27 ayes, 13 nays, Mr. President, on the motion to advance.

SPEAKER MARVEL: The motion carried. The bill is advanced. Items on the Clerk's desk before we go to the next bill. I would suggest to you that in ten or fifteen minutes we will move into General File as per the agenda.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 144 and recommend that same be placed on Select File with amendments; 354 Select File; 55 Select File 76 Select File with amendments; 83 Select File with amendments; 217 Select File; 457 Select File; 136 Select File; 128 Select File; 462 Select File with amendments; 279 Select File and LB 5 Select File with amendments. (Signed) Senator Kilgarin. (See pages 728-730 of the Legislative Journal.)

Mr. President, your committee on Public Health and Welfare whose chairman is Senator Cullan reports LB 379 to General

March 4, 1981

LB 55, 76, 354

SENATOR KILGARIN: I move LB 354 as amended be advanced to E & R for Engrossment.

SPEAKER MARVEL: All those in favor of the motion say aye. Opposed no. The motion carried. The bill is advanced. LB 55.

CLERK: Mr. President, I don't have E & R amendments. I do have an amendment from Senator Cullan. The amendment reads as follows: (Read the Cullan amendment as found on page 743 of the Legislative Journal.)

SENATOR CULLAN: Okay, Mr. President and members of the Legislature, the judges for the Workmens Compensation Court asked if they could be included in this particular bill. It is my understanding and Senator Nichol can correct me if I am wrong but it is understanding there is an Attorney General's Opinion that indicates that a judge for the Workmens Compensation Court cannot perform a marriage and so this simply would allow them to do that. I can see no logical reason to distinguish between the district judges, county judges and judges of the Workmens Compensation Court as far as this is concerned, so I simply offer that amendment.

SPEAKER MARVEL: All those in favor of the Cullan amendment to LB 55 vote aye, opposed vote no. Have you all voted? Senator Cullan. Have you all voted? Okay, Clerk, record the vote.

CLERK: 6 ayes, 15 nays, Mr. President, on the motion. I have nothing further on the bill, Mr. President.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move LB 55 be advanced to E & R for Engrossment.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. The motion carried, bill is advanced. LB 76.

CLERK: There are E & R, Senator.

SENATOR KILGARIN: I move the E & R amendments to LB 76.

SPEAKER MARVEL: 76? All those in favor of the adoption of the E & R amendments to LB 76 say aye. Opposed no. The motion is carried. The E & R amendment's adopted.

CLERK: Nothing further on the bill, Senator.

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LB 76, 83, 217

SENATOR KILGARIN: I move LB 76 be advanced to E & R for Engrossment.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. Motion carried, the bill is advanced. LB 83.

CLERK: E & R, Senator.

SENATOR KILGARIN: I move the E & R amendments to LB 83.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. The motion is carried. The E & R amendments are adopted.

CLERK: Mr. President, I now have a motion from Senator Stoney to add the emergency clause.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker and members of the Legislature, I have been contacted by the State Fire Marshal, Wally Barnett, who suggested and recommended that we add the emergency clause since it may be a tool to be helpful in them in passing it with the emergency clause. So I would offer that for your consideration.

SPEAKER MARVEL: The motion is the adoption of the emergency clause to LB 83. All those in favor of that motion say aye. All those in favor of the motion vote aye, opposed vote no. Record.

CLERK: 29 ayes, 0 nays on adoption of the emergency clause, Mr. President.

SPEAKER MARVEL: The motion is carried and the emergency clause is adopted. Senator Kilgarin.

SENATOR KILGARIN: I move LB 83 as amended be advanced to E & R for Engrossment.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. The motion carried. The bill is advanced. The next bill.

CLERK: Nothing on the bill, Senator.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move LB 217 be advanced to E & R for Engrossment. I also call for a record vote.

March 10, 1981

LB 32, 76, 83, 136, 144,
206, 206A, 354, 457, 492

respectfully reports and examined engrossed LB 76 and finds the same correctly engrossed; LB 83 correctly engrossed; LB 136 correctly engrossed; LB 144 correctly engrossed; and LB 354 correctly engrossed; LB 457 correctly engrossed. (Signed) Senator Kilgarin.

Mr. President, I have a message from the Governor. (Read. Re: LB 206 and 206A. See pages 818 and 819, Legislative Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Vickers regarding LB 32.

Mr. President, Senator Kremer would like to have the Public Works Committee meet underneath the North balcony right now for purposes of an exec session, the Public Works Committee underneath the North balcony, Mr. President, right now if possible.

Mr. President, your committee on Government, Military and Veterans Affairs reports LB 492 to General File, (Signed) by Senator Kahle as Chairman.

PRESIDENT: The Chair recognizes Speaker Marvel for an important announcement. Speaker Marvel. Would the Legislature please pay some attention to the Speaker at this point.

SPEAKER MARVEL: I wish you would get out your paper and pencils because we are talking about deadlines for priority bills. You will find on page 137 of the Journal for the fifth day, January 13, 1981, Rule 5, Section 6 which talks about scheduling of bills and priority bills. Your individual priority selection as well as your committee selection, the deadline is March 13 which is Friday. The deadline for the Speaker is March 17 and the chairmen who met this morning, although the rule does create some misunderstanding, what would happen is that your bills designated by either yourself or the chairman of your committee or committees, those bills would be gathered in by the Speaker's office and we would set them up as priorities on the agenda. Now there is some discussion about a way to maneuver so you can get more priority bills than somebody else and I would assume that no one in this body would operate that way but March 13 is the deadline for priority bills individual and committee and March 17 is the deadline as far as the Speaker's office is concerned and we would implement this through the agenda. If anybody has any questions I will try to answer them, otherwise you can find on your worksheet for this morning the beginnings of a listing of priority bills. There are five listed this morning, 56, 245, 269, 290 and 404.

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LB 13, 76, 83, 204A, 254, 309,
391, 427, 455, 472, 498, 136

CLERK: ...your committee on Education whose chairman is Senator Koch reports LB 309 to General File; LB 427 to General File; LB 455 to General File; LB 472 to General File; LB 498 to General File with amendments; LB 13 as indefinitely postponed; LB 254 indefinitely postponed; and LB 391 as indefinitely postponed, all signed by Senator Koch as Chair.

Mr. President, Senator Wagner would like to print amendments to LB 204A. (See pages 899 of the Legislative Journal.)

PRESIDENT: One more time, if everyone will be at their desks we will commence Final Reading. Would all members please get to your desks so we can start Final Reading. As soon as everyone is at his or her desk we will begin. All right, we will begin, Mr. Clerk. The first bill on Final Reading is LB 76.

CLERK: (Began reading LB 76 on Final Reading.)

PRESIDENT: Yes, for what purpose do you arise, Senator Chambers?

SENATOR CHAMBERS: This bill, Senator DeCamp and I had talked about it. Can we lay it over a day? There are some amendments that are going to be offered and we don't want to try to do it now and the other bills can go ahead and be read?

PRESIDENT: Mr. Speaker, what do you wish to do with...? Under these circumstances? Is that all right? All right, the Speaker says it is all right, Senator Chambers. We will just pass over the LB 76 and commence then with LB 83, Mr. Clerk.

CLERK: (Read LB 83 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 83 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 901 of the Legislative Journal.) 44 ayes, 1 nay, 2 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 83 passes with the emergency clause attached. The next bill on Final Reading is LB 136.

CLERK: (Read LB 136 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 136 pass. All those in favor vote aye, opposed nay. Record the vote.

LB 19, 76, 102, 103, 107, 146,
147, 200, 284, 290, 305, 306,
316, 318, 326, 338, 371, 374,
389, 398, 441, 487

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to LB 290. Have you all voted? One more time, have you all voted? Four. Have you all voted? Okay, record the vote.

CLERK: 16 ayes, 23 nays on the adoption of the DeCamp amendment.

SPEAKER MARVEL: The motion fails.

CLERK: Mr. President, a series of materials to read in: Senator Schmit would like to print amendments to LB 284. (Amendments printed separate and on file in the Clerk's office. Request No. 2118.)

I have an Attorney General's opinion addressed to Senator DeCamp regarding LB 76. (See pages 1026-1028 of the Journal.)

Senator Koch asks to be excused Monday and Tuesday of next week; Senator Fitzgerald excused next Monday.

Your committee on Public Works whose chairman is Senator Kremer reports LB 200 to General File; 326 to General File; 146 to General File with amendments; 147 as indefinitely postponed; 398 as indefinitely postponed, (Signed) Senator Kremer as Chair. (See pages 1028-1029 of the Journal.)

Your committee on Public Health reports LB 389 to General File with amendments and 107 as indefinitely postponed, (Signed) Senator Cullan. (See pages 1030-1032 of the Legislative Journal.)

Senator Chambers would like to print amendments to LB 76. (See pages 1032-1036 of the Legislative Journal.)

Senator Cullan reports LB 487 to General File with amendments, (Signed) Senator Cullan. (See pages 1036-1040.)

Education reports LB 305 to General File; 316 to General File with amendments; 318 to General File with amendments; 338 to General File with amendments; 371 to General File; 441 to General File with amendments, (Signed) Senator Koch. (See pages 1040-1042.)

Mr. President, your committee on Revenue reports LB 19, 102, 103, 306, 374 all indefinitely postponed, (Signed) Senator Carsten, Chair.

SPEAKER MARVEL: Is that it?

CLERK: Yes.

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LB 76

PRESIDENT: All right, we will proceed then with agenda item #5 and the Sergeant at Arms will clear the Chamber. Only members on the floor and all members will return to your desk and be ready for Final Reading. As soon as all members are at their desk we will commence Final Reading for today. If everyone will get to your desks, we will continue with final debate. I just said that to see if anybody was paying any attention. We will proceed with the first bill, LB 76. Motion on the desk. Read the motion, Mr. Clerk.

CLERK: Mr. President, Senator Chambers moves to return LB 76 to Select File for specific amendment. The amendment is found on page 1032 of the Journal.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, if you will turn to page 1032 of the Journal, you will see what looks like a very complex amendment. It is lengthy but it is not complex and I will go through it so that you will know the main points of it. First I should indicate that I think there are problems with LB 76 other than the lack of information which I am going to attempt to add to it, but without going into those items, let me say this. The bill does indicate that all law enforcement agencies should have written policies relative to high-speed chases but there is no real direction given in terms of the actual content. So what these amendments that I am offering will do is to take material which was developed by the International Association of Chiefs of Police and put it into the bill. These amendments will not be required as the only policy of the law enforcement agency because they may want to adopt some local type provisions. This amendment allows them to go beyond what is contained herein. So let me go through briefly what the amendment will do because it is lengthy. The first portion of it deals with some legislative findings and to sum that up in a nutshell the thrust is that law enforcement agencies are allowed to engage in an escalation of force in order to apprehend a law violator so long as no more force than is necessary is utilized. For example, if words will do the job, just words. If it is necessary to handcuff, you can handcuff. But if all it takes is a word, you wouldn't be allowed to shoot somebody in the head or something like that. So the escalation of force is allowed. When we come to the idea of chasing people, this bill establishes some guidelines. It would prohibit negligent or reckless actions by law enforcement officers and it states specifically that if a person being pursued engages in reckless negligent conduct

the officer pursuing is not to duplicate that kind of conduct and the idea is easily understood. If you have one fool doing it, then you should not multiply that by however many officers would duplicate the same thing. And in some instances it is necessary to give a message to police officers so that they know that where trifling incidents are involved nobody's life is to be jeopardized through a high-speed chase. The most recent one that has been in the public's attention involved a state trooper who was run down when he stood in the median out on the interstate while a fourteen year old or sixteen year old was being pursued by the Patrol. Although the traffic was heavy, this car was chased down the wrong lane of the highway against the traffic, shot at twice with shotguns and then came back across the median and struck the officer who was standing there. The child was allowed to plead guilty to manslaughter and the judge states that there was no jury which would convict him of first or second degree murder and went on to add that the officers who pursued and shot at this child were partially responsible for the death of the trooper. That is what the judge said in his opinion and that was carried on the front page of one of the Lincoln papers the other day. So we can see that the judiciary will go ahead and acknowledge from the bench that these practices that are engaged in by officers in high-speed chases are not conducive to the public welfare or the good of the officers themselves. So in order that there can be some specificity in drafting legislation that will regulate these chases without prohibiting them, which is what I would really like to do, you will find the definition of high speed, a definition of overtake, and these words are defined so that we will know what it is we are dealing with. A person who is not aware that an attempt is being made to stop him or her is considered to be in the process of being overtaken rather than pursued. The concept of pursuit or chase does not come into the picture until the individual motorist knows or should know that an attempt is being made to stop him or her. An evader as opposed to a reckless evader is a person who is not attempting to escape by driving at an excess speed or recklessly. The reckless evader is the individual who does disregard safety and common sense in an attempt to actively escape apprehension. Now there are some limitations placed in terms of miles per hour on how fast an officer can drive when he is simply trying to overtake. The purpose for this is that in congested areas or when other traffic is present, the officer should not be made to feel that he or she has to throw caution to the winds and drive at breakneck speed and apprehend the person at all cost especially when most of these people chased are guilty of nothing more than a traffic infraction and a very minor one at that. So if a person is being overtaken, then

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there is a certain miles per hour number over the limit that the officer should not go. However, if it looks like driving at this reasonable rate would unduly extend the chase or the amount of time needed to overtake the individual, then a greater rate of speed can be used. The purpose for writing in that number is to give a guideline. That is what every one of these amendments will do, offer a guideline or a directive so the officers will have some notion of what the policy of the state is when vehicles by law enforcement officers are used in a way that could convert them into lethal instrumentalities. The portion that is of most concern to me relates to the compensation of innocent third parties who are injured as a result of these chases or the family of those persons who may be killed as a result of them. I gave a handout to you several days ago which documented case after case of needless chases where people were injured, some killed, and an innumerable number of vehicles and other types of property damaged and destroyed. So if a person has no connection whatsoever with this chase and he or she is injured or killed, then in the same way that we are passing bills for victims of crimes, then these victims ought to have some consideration also. The state is willing to give money to those who are victims of crimes right now and there is a board established for that purpose. I think when political subdivisions and the state are going to authorize high speed chases, there should be a provision for the compensation of those innocent third parties who are harmed. Now I believe that I have touched on the things that are most significant in the bill except in the last portion which indicates that where a traffic infraction which is minor or a misdemeanor is involved and a chase has been undertaken, when means are available to identify the driver, then the chase should be broken off and that person apprehended later. I am asking that you adopt this amendment, and if there are portions of it that you have questions about, for the sake of procedure, I would ask that you go ahead and adopt the entire package. Then if there is an individual part of it you want to discuss, fine. But since the bill is on Final Reading, you can offer only a specific amendment which cannot be amended itself. I don't want to go through the alternative of taking each one of these individual sections as a specific amendment alone. If you have any questions about any portion of it, I hope you will ask me but this final thing I have got to say. Most high-speed chases involve very young people. The vast majority of them involve a minor traffic infraction. So if high-speed chases were banned altogether, law enforcement itself in terms of apprehending dangerous criminals would not be touched at all. The State Patrol and no other law enforcement agency has been able to show where murderers, rapists, robbers or those who commit serious crimes have been apprehended

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as a result of a high-speed chase. But the cases that I have documented in that handout for you will show where innocent people have been third party victims. There have been shootings by police at the wrong vehicle. They have chased the wrong vehicle. They have caravaned, which means several cruisers will be in a line chasing an individual car, and when the pursued person comes to an abrupt stop or any of the cruisers in front abruptly stop, those in the rear have plowed into those in front. So we have a type of situation...

PRESIDENT: One minute, Senator Chambers.

SENATOR CHAMBERS: ...which is very detrimental, not only to the public safety, but to the concept of law enforcement. Practically every major newspaper in the state at some time or other has editorialized against high-speed chases and present policies and practices in law enforcement agencies are not sufficient to cope with the problem. So although you have not listened very carefully to all of the details that I have discussed, I hope you understand the thrust of this amendment and I am asking that you return LB 76 so that the amendment can be added.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members, Senator Chambers is most sincere, most dedicated, and most knowledgeable in this area of high-speed chases and I think he and I both have the same goals. We do have two completely different approaches. I promised Senator Chambers on repeated occasions I would delay the bill that I had here on chases which has been here for I don't know, two or three months, so that he would have his opportunity to offer these amendments and that I would tell the body simply to use your own best judgment as to which method you want to go with. My method, I guess, I would have to say is more simple and I would hope as a first step would address the high-speed chase problem. I hope it does. I think it will go a long way and let me simply say with respect to the standards, it does have on page 5 very specific standards about what has to be in the written plan. I believe it is a plan that law enforcement in general has decided that they can accept, would like to try for at least a year, and for that reason I am going to continue to support the bill basically or essentially as I have it. I urge the rest of you to use your own best judgment as to which approach you wish to take and simply close on the subject by saying I have tried to do as much as I think is reasonable and possible on the subject at this particular time.

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PRESIDENT: Is there any further discussion on the Chambers motion to return? Senator Chambers, you may close.

SENATOR CHAMBERS: Mr. Chairman, I was asked a question by Senator Goll relative to that point I mentioned about setting a twenty mile per hour over the speed limit limit when an attempt is being made to overtake a person. The word overtake is defined as a set of circumstances where the individual driver is not aware that he or she is to be stopped. So in those circumstances where there is no active attempt by the driver to escape, the officer should not drive at breakneck speed. However, the bill says that if driving only twenty miles over the limit would unduly extend the amount of time needed to overtake this person, then that can be disregarded. The amendment is designed to offer a guideline for the purpose of showing that restraint and reasonableness ought to be used when these chases are to be undertaken. I am telling you frankly I would like to abolish them but I know that is not going to happen. Provisions like the one I am offering have been adopted, I think Buffalo, New York was the most recent one, just a few weeks ago, in densely populated areas as well as the freeway. So here in a nutshell is what would be the situation. An officer is still allowed to use judgment as to how fast to drive, but without a provision like this, there is no direction or guidance whatsoever to let the officer know what the policy of the state would be in these given situations. That is why the definitions distinguish between a high-speed pursuit, between an evader, a reckless evader and so forth so that it is possible to give the officer some idea of what the state is looking for him or her to do and beyond which the state is now telling him or her to go. So if you do have questions, you probably are looking at something that might be a question to somebody else. I hope you will adopt this amendment. Then if you want to refine it by trying to eliminate certain things that you don't think are acceptable, your attempt to address any of those specific parts will give me the opportunity to answer any questions that you may have. I don't think any portion of the amendment is unreasonable. There will still be an allowance for high-speed chases unfortunately. There is no penalty provision in the law itself should an officer violate this law and its provisions. However, as with every law, when a person does not do what his or her duty is based on the law, a cause of action on the general statutes is created for that citizen. So I am hoping that you will take this amendment seriously and that you will adopt it. To simply try to deal with this situation by increased penalties is not going to work because that has never worked. If you take the car away from these young people, and let's forget the legal problems that you have with that, they will

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borrow somebody else's car because in most cases they don't own the car anyway. If you say you will take their license from them or suspend it, that is not going to help because that is why they run in the first place because they have a suspended license. So that is aggravating the problem without going to the source of it. We need more capable, more professional law enforcement activity especially in the area of high-speed chases and I am reminding you that the judge, in the case of the youngster who pleaded guilty to manslaughter in the death of the trooper, the judge stated that the officers who chased that young person and fired at him were partly responsible for the death of the trooper. If current policies result in these types of unnecessary deaths and these kind of statements from judges, certainly the Legislature has an obligation to face up to the matter. I hope that you will return the bill. I hope you will adopt the amendment.

PRESIDENT: The motion before the House is the return of LB 76 for a specific amendment by Senator Chambers. All those in favor vote aye, opposed nay. I'd remind everybody we are on Final Reading so everybody should be at your desks. Have you all voted? Record vote has been called for. Record the vote and give us a record vote, Mr. Clerk.

CLERK: (Record vote read. See pages 1650 and 1651, Legislative Journal.) 8 ayes, 22 nays, Mr. President, on the motion to return the bill.

PRESIDENT: Motion fails. Any further motions on the...?

CLERK: Mr. President, Senator Beutler and Wesely move to return LB 276 (sic) to Select File for specific amendment. (Read Beutler-Wesely amendment found on page 1651, Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I will try to be very quick about this. This is an amendment which I think Senator DeCamp has some sympathy towards. It deals with the provisions of the bill and only with the provisions of the bill having to do with the seizure of property and the holding of property and the sale of property. I have requested an Attorney General's opinion on those provisions because I feel that the odds are that they would be declared unconstitutional and that it is a very high risk that they would be declared unconstitutional. That opinion will not be ready for a couple of days but at Senator DeCamp's urging I am going ahead with the amendment because I think we

are all convinced at this point that probably we are better off with that out of the bill so we can have a good bill and get it signed by the Governor and through. So we are dropping the new language that has to do with the seizure of vehicles. As you remember, as you may recall, a motor vehicle could be seized and held until disposition as determined by the court but there are no standards set up for how long the court can hold it which is a serious problem with the bill. It allows for the sale of it but it doesn't say what happens to the proceeds or who pays the cost. It is tremendously overbroad. It doesn't say what happens to a lot of creditors' rights when this sale is made. So there would be problems and court cases in that regard. Altogether in our criminal law as you are aware we don't say that the law can go out and seize your property because you committed a crime. You pay for your crime by a fine or by going to jail and not by seizure of property. This kind of reflects back to medieval days when the king took all your property when you did something bad from the king's point of view, confiscation. It is really a medieval concept so I would ask that you adopt the amendment and get out the bad portions and move on with the good portions. Thank you.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, I am very much in support of this amendment which Senator Beutler and I cointroduced. I think that it was brought to my attention by a number of residents in my district. I have here about six or seven pages filled with signatures specifically dealing with the concern they have about the seizure of property. I think that they might evidently live with the rest of the provisions of the bill but the concept of taking somebody's property, as Senator Beutler talked about, is something I think we have pretty well abolished in this state. The criminal code revision did that and I think that we have recognized the futility of trying to do that and I think that it really doesn't make much sense. I am pleased that Senator DeCamp is supporting this amendment. I think that probably this is the worst possible time you would want to seize somebody's property in these cases because frequently I get the impression, I am just guessing on this, but my impression is that these people are hotrod people type. They have a car. They are out there and they are causing some trouble and some policeman goes after them and the car is an important part of their lives and then to have the police come after them and to realize that if they are caught their property will be seized and sold might just give them the extra incentive to actually keep running, to keep trying to get from being caught by the police, and in

fact will be a detriment to the police catching them rather than helping the police catch them. We are talking about, you know, the old deterrent to crime and that by the thought of losing their property, they may not do that. Well, in fact, they may not be sure about this law and this seizure of property and they may, in fact, be encouraged to do that. So I think that it could actually be an adverse situation rather than a helpful one so this is a very important amendment to the bill and with it I think the bill would probably be in pretty good shape.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, Senator Beutler says this is a medieval concept but I tried to balance the bill with some modern concepts such as armor-piercing bullets, surface to air missile. No, I think he has a legitimate point here and certainly that was just kind of an extra little or big, medieval or modern penalty we threw in and I would go along with pulling this particular thing out. The balance of the bill has the four elements I think that law enforcement needs and that I think will help address the chase problem, strict penalties, knowledge of those penalties because you are not even going to get a license without knowing that those or that fleeing to avoid arrest is a serious offense and what the penalties are, directions to the law enforcement to come up with their written plans, and as I say, they accept all these things. I would agree to take out this one element to accommodate Senator Beutler and Wesely and those that think I have retreated to medieval times and the Constitution, what the heck.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, I feel as strongly about this issue as I do the death penalty because high speed chases are war against the young people of this country and Senator DeCamp knows it better than anybody else. I think this bill of his is a copout. He ought to be ashamed of it because he, more than anybody besides myself, has sat on these committees. I have articles where he said that there has to be stringent regulation of these chases, not just by taking the license from the child or taking the automobile. He knows that is not going to accomplish anything. He used to be a member of the Judiciary Committee when it was a committee that had more understanding and knowledge of what the law ought to be. Senator DeCamp, we are in the medieval days in this Legislature as far as attitude and you know it. You should feel a responsibility to help me bring this body into the 20th Century and so should every other

lawyer in this body, every moral individual. You are letting the police kill the children, not where these children have robbed banks, not where they have raped somebody, not where they have murdered somebody. You are letting them convert these cars into lethal instrumentalities, and to pass a bill like this is a travesty. Suppose you catch a child who has no driver's license and that is why he runs. Are you going to suspend his license for another two years? The Supreme Court in trying to talk to legislatures that have these backward barbaric notions that punishment is the only way to deal with the problem rather than get to the cause of it said that the state can make the drinking of one glass of liquor a crime but it cannot multiply the number of crimes by saying each drop in that glass is a separate offense to be punished individually and thereby heap a punishment for an indeterminate amount of time. So what does this Legislature do? We will take the car, we will suspend the license. If the license is suspended, we will add two more years to that, and if they run again added two more years to that, and for what? Because a cop saw a taillight out or, Senator DeCamr, they sat and watched a person leave a tavern knowing his driver's license was suspended because they saw it taken in court and wait until he is in his car and then they chase him. And what happens? An individual, who, Senator Wiitala, happens to be a teacher of young people, is killed and he leaves a widow and six orphans and all this yarning that we hear all the time about the victims goes out the window and there is no concern about this. Why? Because the ones who perpetrated the wrong wear uniforms and badges. There are still obligations of decency and proper regard for the lives of citizens that ought to attach to these individuals that you call law enforcement officers. There is no agency in this state right now which has policies which will prevent the kind of things that were contained in the handout I gave you that you probably did not take the time to read. So let me tell you an incident that happened in Indianapolis. They could not see the need to implicate any high-speed chase regulations until the wife of one of the high ranking officers was at a shopping center and a high-speed chase occurred and she became an innocent third party victim. Then you know what the police officials said, and this was in a letter written to the Omaha City Attorney, you can believe that some action was undertaken after that. So what do I have to hope for? Do I have to become like the attitude being shown here where you care not a whit for the young people of the state and you say if they get killed in these chases it is good enough for them. Then I have got to hope that your wives, that your husbands, that your children are killed. Maybe what we need is to have more state troopers wiped out, let more cops be killed like the Omaha Police

killed one in Council Bluffs in a high-speed chase. He was directing traffic. The one being chased missed the officer. The Omaha Police cruiser ran over him and killed him and the individual, when he was finally apprehended, was fined \$20 and the city had to pay over a hundred thousand dollars and that is what you call good law enforcement? What is achieved by creating this havoc on the highways because somebody had an expired safety sticker, a tail-light out or a suspended driver's license or because the cop just wants to talk to him about something, because in some of these cases there was no reason that the officer had for going after the person in the first place? I certainly am for what Senator Beutler is trying to do.

PRESIDENT: One minute, Senator.

SENATOR CHAMBERS: But I will tell you why I am going to vote against it and this will make the rest of you vote for it. I have to treat you like wayward children and that is what I am going to do. If it stays in the bill it is unconstitutional so I am going to vote against it. Now that will make everyone of you vote for it and maybe that is the way the whole bill is going to have to be dealt with and I do feel extremely bitter about the way the Legislature has played with this issue and I feel very bitter about the way Senator DeCamp has dealt with the issue. This is a serious problem and it is not just in Omaha. They are killing children in the rural areas, too. So we can see that as not just big city parents who don't love their children. It is you rural Senators who don't care either and I am going to keep dealing with the issue every year. I am going to bring it back and I am going to say the same thing. Hopefully more children will be killed in the meantime. Hopefully a few more officers will be killed. Then finally you will understand the words of that song, "How many deaths will it take till you know that too many people have died?" What will it take? So, Senator Beutler, I am going to vote against your amendment because my vote against it is part of an overall strategy to defeat the whole bill.

PRESIDENT: Before we go to the next speaker, the Chair would like to introduce some 66 eighth grade students and 9 adults from Our Lady of Lourdes in Omaha from Senator Higgins' District, and as I understand, they are also gallery guests of Senator Labeledz, both Senator Labeledz and Senator Higgins. They are up here in the North balcony. Mrs. Marianne Bonnemier, Mrs. Beverly Johnson, Ms. Sue Wiley, Sister Marietta, Mrs. Rose Pope are teachers. They are up here. Would you welcome the eighth grade students and the nine adults from Our Lady of Lourdes, Omaha. Welcome! We have also in the

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South balcony here from Senator Chambers' District 42 fourth grade students and five adults from Hillside Elementary School and include Miss Pamela Nordine, Ms. Alice Gilmore, Mr. Eddie Chambers, which is Senator Chambers' brother, Ms. Barbara Gates, Ms. Betty Start. They are teachers and they are up here in the South balcony. Welcome to your Legislature. Now the Chair recognizes Senator Higgins.

SENATOR HIGGINS: Mr. Speaker and members of the body, I would just like to ask Senator Chambers a question.

PRESIDENT: Senator Chambers, would you respond to a question from Senator Higgins?

SENATOR CHAMBERS: Yes, Senator Higgins.

SENATOR HIGGINS: Senator Chambers, do you have an alternative to Senator DeCamp's bill?

SENATOR CHAMBERS: Sure. They just voted it down.

SENATOR HIGGINS: Well, I mean have you got any proposal to stop the children from stealing cars, from racing cars? I am sincere in asking this. I am not being facetious. I am not putting you on. Senator, I would really like to know a plan that will put a stop...would you prefer putting them in jail or reform school the first time they do it?

SENATOR CHAMBERS: Let me answer the question in the context of the bill we are discussing. The vast majority of these chases don't involve stolen cars or crimes. So if we would cut out the chases that are for traffic and misdemeanors, minor infractions, we would cut out over ninety percent of the chases. That is what the amendments I was offering were attempting to do. With that out of the way, the law enforcement officers who fritter away so much time on those inconsequentials could give their time to the law enforcement matters that you are talking about, and maybe if the young people stop perceiving the police as enemies, then there would be a way for these officers to come into communities and talk to the children and they could persuade them, not try to threaten them into not doing things because that is like a challenge. But we have to get to the root of the problem and since this is a high-speed chase bill, what I want to do first is take away conduct by the officers that would tend to encourage the young people in thinking that this kind of conduct is all right for them, too.

SENATOR HIGGINS: But my question is this, are you saying

then that when a youngster, and if you are going to say a youngster and adult also, is themselves speeding through a neighborhood and endangering lives, are you saying then that the police should look the other way and say, "Well, let them go and we will try to just catch the ones that are stealing cars but the ones that are really speeding just let them go."

SENATOR CHAMBERS: Senator Higgins, it is difficult to answer a question like that but let me put it this way. Let's say that a car with a young person in it is speeding through a neighborhood endangering people. That is one fool doing ninety miles an hour. So then here comes another fool accompanied by three other cars doing a hundred miles an hour after him. So they aggravate the problem. We have to not aggravate a problem that already exists and make it worse than what it is. We have to try to keep it from escalating, and if we can at least do that, we have accomplished something. Then there are ways to apprehend a car like that without running through the neighborhood. They can notify other officers in the area description of the vehicle and what has happened and to try to get into a position to observe him when he leaves that area. And they have found, this Association of Chiefs of Police that have developed this information, they have talked to doctors and psychologists. There are a lot of people who will stop running if they perceive that they are no longer being chased, and contrary to what some people think, there are people who run when they haven't done anything. There is an example in there that I gave you in the handout where a kid saw a cruiser and thought it was going to chase him and so he ran and ran up into a yard and damaged some property and the cruiser never chased him, did not even see him. But the children see the police as enemies and they will run. Not all of them, but some will run for that purpose. If they think that the cops are not going to chase them for trivial things, a lot of them are not going to run in the first place.

SENATOR HIGGINS: Did you see the article in the World Herald several weeks ago about the fellow that chased a woman on the street with his car till she ran into a house for protection and then the idiot started ramming the house with his truck, and then when the police came, he rammed one of the police cars with the truck and he took off. Now, you know, what I am saying is, how do you tell the police when somebody is speeding or using an automobile in a dangerous manner, don't do anything. Let them go and pray to God that they don't kill anybody and they can go all night long on a tank of gas from one neighborhood to the other. I perceive the problem as you do and I don't think there is anyone in the Legislature...

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PRESIDENT: A half a minute.

SENATOR HIGGINS: ...that wants to see our children put to death but I would like to see a really basic plan to put a stop to kids to using automobiles almost like a gun and I will be happy to work with you on a plan that we could talk together with the police and work something out.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR HOWARD PETERSON: Mr. Chairman, I would call the question.

PRESIDENT: I believe it is unnecessary because you are the last speaker so we are ready for the closing. Senator Beutler, do you wish to close?

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would make just one very brief remark. I think the bill is a good bill if we get these two provisions out. We haven't had much in our law that has been progressive in terms of regulating arrests and chases and I think this bill is a good step in the right direction. Personally, I am somewhere between Senator DeCamp and Chambers. There are a few more things I would like to see done but I think this bill certainly takes a big step in the right direction and it should be supported and I hope you will support the amendment, too. Thank you.

PRESIDENT: The motion before the House then is the motion to return LB 76 for the Beutler-Wesely amendment. All those in favor vote aye, opposed nay. Record the vote.

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

PRESIDENT: Motion carries. The Beutler-Wesely amendment is adopted. Yes, you are right. The motion was to return. So, now Senator Beutler, will you move the adoption of the amendment.

SENATOR BEUTLER: So move, Mr. Speaker.

PRESIDENT: The motion now is to adopt the amendment that we have been discussing. Any further discussion? Now the question before the House is the adoption of the amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 35 ayes, 2 nays on adoption of the Beutler-Wesely amendment, Mr. President.

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PRESIDENT: Motion carries. The amendment is adopted. Senator Beutler, do you want to move it ahead?

SENATOR BEUTLER: I move that it be returned to E & R.

PRESIDENT: Motion is to return LB 76 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 76 is advanced to E & R for engrossing. Anything further on the bill?

CLERK: Mr. President, Senator Chambers moves to return LB 76 to Select File for a specific amendment. That amendment would read as follows: (Read Chambers amendment found on pages 1651 and 1652, Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Higgins and Senator DeCamp, this amendment is as reasonable a thing as you can have. We are talking about the densely populated areas where a very trivial offense is involved, where because of the circumstances defined in the amendment there may be hazards created by the chase itself, and when the identity of the pursued individual becomes known, then the chase is abandoned. You can find this amendment on pages 1035 and 1036 of the Journal because it would be Section 19 of the large amendment that you just voted down. So I am offering that amendment for your consideration and I have other parts of that long amendment that I am going to try to take one at a time because maybe the amendment as a whole was too much to ask the Legislature to accept. And I realize that we are at the time in the session when the people are busy and don't have time to read but I felt that since this was such a serious issue and it is literally killing people and destroying property something might could prevail on the Legislature to do something about the problem. I have no choice other than to hammer on this issue as long as chases occur in this state in the way they do, private, innocent third party citizens are endangered, the person in the pursued vehicle is endangered, and even the officers are endangered. There is something in the Legislature's mentality collectively which produces a blind spot on this issue so that the concern usually shown for law enforcement officers suddenly goes out the window. Many times people must be saved from themselves. When Senator DeCamp was talking about an earlier issue on this bill, the bullets and the things like that, he had mentioned the Dukes of Hazard syndrome, the kinds of things that people see on television, and others of you have talked about it that glamorize these chases but what usually

is not shown on television is the death and havoc that occurs in real life. So the Legislature should adopt a policy that tells the officers what it is that ought to be done and what ought to be avoided. We cannot say that the laws are being properly enforced, that respect for the system as a whole is being upheld when for a trifling cause officers create a greater danger and hazard to the public than the individual they supposedly are trying to apprehend. That trooper who is dead, decaying in a grave now, and left a widow and some children would still be here had somebody used some common sense which the Colonel doesn't have, which the troopers who chased the youngster didn't have, which the Legislature as a whole does not have. We have to tell these people that the Legislature does not require them to be fools, that they do not have to risk their and other people's lives for trifling matters. I think that when a matter is as serious as this and the Legislature is so blind, so hardhearted, then bitter words have to be spoken to at least make a record, and maybe somebody can go to court and show how all these matters were discussed by the Legislature and that the Legislature refused to assume its responsibility, that it was made clear in public debate that the officers were not exercising good judgment and it was known, and in the case of a lawsuit, maybe these things will help a person win, and maybe if enough lawsuits are won, the court will again assume the responsibility that the Legislature will not, in the same way that it has to run the public schools in Boston. It had to create a situation where black children could get some kind of a fair chance in education in Omaha. It had to order the Omaha Police Division to stop discriminating against black police officers. Then the courts are going to have to step in and legislate again for the welfare of the people. Then there will go up a great outcry from the Legislature about the courts and the judges doing what they ought not do. The courts are forced to act when the Legislature will not. So on this amendment that I am suggesting all it says, really, stripped of all of the verbiage that specified these situations, don't do something which is stupid and which needlessly endangers people's lives over some trifling nonsense. That is what the amendment says. Unfortunately that kind of direct language cannot be put in a statute and be considered enforceable law. So I hope you will consider the amendment, and regardless of how you may feel about me, look past me to your own children and this is one of those cases, maybe because our children don't have as many cars, maybe they don't run as much, but where the vast majority of the children killed are white. I just thought of something. This is a good way to equalize the population odds. You are killing up your children, not mine. Why should I care more about yours than you do?

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Maybe because even in yours though the complexion is different I see a reflection of my own children and every child and I think we ought to have some concern. In the same way that we do not say that if somebody steals, eventually they knew it was wrong to steal, you'd cut off their hand because we don't want to be reduced to barbarians ourselves, we should not say that if a child has taken his or her parents car without permission or knows that he or she does not have a driver's license and runs and is killed, then they got what they deserved. I am not able to adopt that attitude. Maybe eventually some of the older senators will either quit or just die out and we will get younger people who can relate to the problems of young people. And do you know why I don't care too much about saying the older senators will die out? Because I see the older senators sitting here saying let the young people be killed. So it is tit for tat, measure for measure, even steven. We have to get brutal because we are brutal in our conduct. The effects of our conduct are brutal.

PRESIDENT: Half a minute, Senator.

SENATOR CHAMBERS: We can use nice words on the floor of the Legislature and say we are dealing with a situation in a responsible way, but when after all of our dealings there is still unrestrained killing of our children, then we have done wrong and I will not be a party to it and I am going to do everything I can to bring this type of carnage to a halt.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I am sure that many of the ideas in that particular amendment will probably be implemented by law enforcement but at least let me read you briefly what is in the bill and then let me tell you at least what the law enforcement officials have said why they would oppose or do oppose that particular amendment. The bill orders, orders by law, law that you would pass, that a policy regarding the pursuit of motor vehicles will be drawn up, written policy, and it says it has got to contain these elements. This is taken out of California law which has been working pretty good as they have developed things there on high-speed chases which have been a problem. It says, "Standards which describe when a pursuit may be initiated, taking into consideration the nature and severity of the offense involved; Standards which describe when a pursuit is to be discontinued, giving special attention to (a) the degree of danger presented to the general public and the pursuing officer and (b) the probability of later apprehension of the subject based upon his or her identification;

(3) Procedures governing the operation of pursuits including, but not limited to, the number and types of vehicles which may be used, the method of operation of such vehicles, and the exercise of supervision during pursuits; and so on and so forth". Now what is the difference between what I have got right here and what Senator Chambers has got? Senator Chambers has put into statute all the exact specifics as he views them that they should be in this written policy, this written procedure that the patrol or law enforcement would develop. They say rather than have it all written into statute, they want some flexibility. They want some flexibility to draft what works for them, what they know from experience, so on and so forth, with the very specific guidelines we have given them. Now that is not to say that most of what he has got there or all of it, I don't know, all of it might well be adopted or written into their high-speed pursuit policy, but since law enforcement has agreed to go along with the bill and has worked to get support for it and since the bill does, at least in my humble opinion, make some big steps, some big steps, forward in the area of high-speed chases from the standpoint of more severe penalties, yes, but more standards, very specific standards, on police. It covers both sides of the question, and as Senator Beutler says, he would go a little further, maybe not as far as Senator Chambers in what he'd do, but a little further than this bill. This bill is step one. Let's watch this summer how quickly these things are drafted. Let's use some legislative oversight and see if we can't really make some progress in the area and I believe with the bill as it is now, without adding to it, you are going to accomplish these goals particularly, particularly, Senator Chambers,...

PRESIDENT: One minute, Senator.

SENATOR DeCAMP: ...who has been and will be I am sure the watchdog over law enforcement. I am sure he will make sure that the standards and practices that are drafted by the law enforcement will be reasonable and effective, and so I would urge you to take that into consideration in whatever you do on your vote on this.

PRESIDENT: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to support Senator Chambers in this amendment, much for the same reasons as Senator Chambers pointed out, but as Senator DeCamp so aptly pointed out, the bill, and I disagree with Senator Chambers in this, I think the bill is a good bill, and I think that the notion that Senator Chambers is attempting to amend into this bill out of his original amendment is a good, some good criteria that it should be our job and our prerogative to put in. As Senator DeCamp mentions, the bill

as it is drafted right now would give the police, the law enforcement agencies of this state the opportunity to draft regulations which probably, probably would include at least some of the criteria that Senator Chambers is attempting to amend in out of his amendment, but since I believe those criteria should be there and since I believe that it is our job to put the criteria in the law that we really and truly believe should be part of the policy of this state, then I certainly support Senator Chambers' amendment and would urge this body's adoption of his amendment and I would also mention that when I first looked at Senator Chambers' amendment I suggested this to Senator Chambers that Section 19 was the one that should be as part of the bill and I commend him for attempting to do that at this time.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, I rose for the purpose of asking Senator Chambers a question and he is up at the desk.

PRESIDENT: Senator Chambers, would you respond?

SENATOR LANDIS: If you have to pass me over to the next speaker, I will ask my question hopefully at that time.

PRESIDENT: No, you are the final speaker. Senator Chambers was going to speak again, I think. So, Senator Chambers, will you respond?

SENATOR CHAMBERS: Yes, I will.

SENATOR LANDIS: Senator Chambers, in your description of Section 19 in your opening remarks, you indicated that those factors should be read cumulatively. That was just the way you did in your narrative description. As I read Section 19, there is a connector in line 26 of "or" making those four factors operate independently and I guess I want a clarification because I am inclined to support the amendment if they are read cumulatively. I am inclined not to support the amendment if they are read individually and I guess I need to know because at this point the legislative history would be unclear on that.

SENATOR CHAMBERS: Senator Landis, I want them to be read individually because the only way that you could say that the...the only time you say that the chase would be abandoned in high density areas is if you have all of these things in every situation and I am not sure that that would occur.

SENATOR LANDIS: Then let me just respond to that. I am

very, very supportive of particularly subsection (4) of this language. It is language that parallels existing policies in other states, Colorado being one of them, where you terminate a chase when you know the identity of the person you are chasing because you can run them down later but... Okay, I guess this is the problem that I have. Let me explain one qualm I have about the bill. If we read these cumulatively and a chase is to be broken off under any of those four situations, I think it can be very difficult to interpret. Number one says, "The original violation was a traffic offense", possibly this example. There is a taillight, the policeman sees the taillight. He initiates the normal procedure pulling over for a defect ticket. At that moment the person jumps, increases speed tremendously, and a felony is committed, a felony act is committed at that moment by a homicide or a manslaughter action. There could be no pursuit under Section 19 since the original violation was a traffic offense, and if that cannot be read cumulatively with other sections of the bill, the policeman who observes that felony is by this law not allowed to give pursuit because the original infraction was a traffic infraction. If these are read cumulatively, however, if the original thing is a traffic violation, plus the fact that there has been no felony committed during the pursuit, plus the fact that we are not talking about a known felon, if we add those factors up, then it becomes far more reasonable. I do want to add one piece of information to this body as we talk about high-speed chases. There are 250,000 of them a year according to the National Highway Traffic Safety Administration. 8,000 of those end in crashes. 400 people a year are killed in them and 5,000 people a year are injured in high speed chases. They are serious and they are relatively common. It just seems to me that if we read Section 19, however, as only four separate acts each of which then presupposes a high-speed chase, I guess that is too restrictive, and if they are to be read cumulatively I certainly can support Section 19, but as I understand Senator Chambers, that is not to be so.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR HOWARD PETERSON: Mr. Chairman, I call the question.

PRESIDENT: Okay, we are ready for a closing anyway. Senator Chambers, would you close on your motion?

SENATOR CHAMBERS: Yes, Mr. Chairman, members of the Legislature, I misunderstood the thrust of Senator Landis' question and while he was asking it I was working on another amendment up at the desk and he is absolutely right in the way the

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bill should be read. I won't try to repeat all of the things that he said but I agree with what he said when he was explaining what he meant by reading the terms cumulatively. That is the way I would want the provision read and understood. Otherwise we could be creating loopholes of the kind that I am not interested in creating. So for the sake of the record, I endorse the comments that Senator Landis made with reference to what would be meant if these provisions were read cumulatively and I agree that that is the way they should be read.

PRESIDENT: The motion before the House is the Chambers motion to return to Select File for the specific Chambers amendment. All those in favor vote aye, opposed nay. Senator Chambers, do you wish any record vote on this?

SENATOR CHAMBERS: Mr. Chairman, it is Section 19 for those who were looking at it. I would ask, since we are on Final Reading, could we check in and then I would want a roll call vote on this particular amendment.

PRESIDENT: You want a roll call vote.

SENATOR CHAMBERS: Yes.

PRESIDENT: All right, a roll call vote has been requested. Mr. Clerk, we will proceed then with a roll call vote. First you want to make sure everybody is here. All right. Would you all push your green buttons. The board is cleared. Show your presence so we make sure because we are all supposed to be here and at our desks. We are technically on Final Reading. Sergeant at Arms, make sure that all those that are not in the Chamber be here because we are not going to take a roll call vote until everyone is here. The only ones that are excused are Senator Hefner, Marsh, Nichol, Kilgarin and Wagner. All the rest should be here. Senator Wesely, Senator Schmit, Senator Clark. Clark is right here. Senator Higgins and Haberman. While we are waiting for the members to return, we have from Senator Goll's District 14 ladies from Lyons, Oakland and Tekamah, Nebraska, from the Republican Women of Burt County, Ms. Jackie Moseman, President; Ms. Connie Wesely, Treasurer. They are under the South balcony. Ladies, would you stand up and be recognized? Welcome to your Unicameral. Senator Higgins, Senator Schmit, Senator Haberman and Senator Wesely, right. I might say this is the problem of the technicalities in handling final debate which there aren't any rules on, so we have to bear with it I guess. Senator Wesely and Senator Haberman are here. Senator Higgins, Senator Schmit and Senator Kremer. Senator Higgins is here. Senator Schmit and

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Senator Kremer are not here. Senator Chambers, we have only Senator Schmit and Senator Kremer now. Do you wish to hold up or do you wish to proceed?

SENATOR CHAMBERS: Mr. Chairman, in the interest of time, there is some concern about the word "or" in the amendment maybe not causing the things...the provisions to be read cumulatively. Since the bill is not going to be read today anyway because an amendment was adopted, we have to go through with the vote. So what I think I can do is withdraw my request for a roll call vote. Can I do that, Mr. Clerk? And since there was a vote on the board just let that be the vote and then I will take care of some people's concern about that word "or" in the amendment.

PRESIDENT: All right, if you would comply with Senator Chambers request, it's workable. Proceed, Mr. Clerk.

CLERK: All right, Mr. President, on the motion to return, there were 12 ayes, 13 nays.

PRESIDENT: The motion fails and at this time, Speaker Marvel, since the time...Speaker Marvel, since the time is up for Final Reading, I guess we look at you for guidance as to where you want to go from here.

SPEAKER MARVEL: The time as scheduled on the agenda as far as Final Reading is concerned is one hour. That has expired. Now there are...so I guess I am going to put it this way and then my popularity is going to decrease from now on so I am prepared, and that is that after today if we find ourselves in this position, and I am not passing judgment on any piece of legislation, when we reach the end of Final Reading, then that is it, regardless of what bills are left over and it will stay that way until next time. Unless we do something like this we are not going to complete, even come close to completing the work. Now I have another comment to make and that is that since we have slowed down and since some of you are interested in priority bills, there is only way that you can confront these priority bills and that is to set up a list of priority bills and give you an hour on each one, vote it up or down after an hour. That is the only way some of you are going to get any exposure as far as priority bills are concerned. I suggest you think about this and Monday we will start this process. So that is a long-winded way of saying that Final Reading after today in this situation, when the time is up, then we proceed to the next order of business. Today, there are two or three bills still remaining and since the introducers are not warned ahead of time

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LR 66
LB 76, 284A, 284, 290, 536

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Ralph Sturdy, Pastor of the First Evangelical Covenant Church here in Lincoln.

REVEREND RALPH STURDY: Prayer offered.

PRESIDENT: Roll call. Have you all registered your presence? Has everyone registered your presence? Record the presence, Mr. Clerk.

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

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

CLERK: Mr. President on page 1066 we should strike the word "lost" and insert "adopted".

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

CLERK: Mr. President, I have a Report of Registered Lobbyists for the week of April 24 through April 30.

Mr. President, it seems like there is an echo in this. Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 284A and find the same correctly engrossed, and LB 76 correctly reengrossed.

Mr. President, I have an Attorney General's Opinion addressed to Senator Vard Johnson regarding 284. (See pages 1675 through 1677 of the Legislative Journal.)

Mr. President, LBs 290 and 536 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 290. We are ready for agenda item #4, Mr. Clerk, resolutions, and LR 66 is the first resolution, and I guess the only one.

CLERK: Mr. President, LR 66 was introduced by Senators Pirsch, Goodrich, Kilgarin, Labedz, Higgins, Vard Johnson, Koch, Witala and Hoagland, and it is found on page 1622 of the Journal. (Read LR 66.)

PRESIDENT: Before I call on Senator Pirsch, just to announce that while the Legislature is in session I also have signed LB 536. And now the Chair recognizes Senator Pirsch.

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LB 35, 76, 284A, 555

CLERK: 32 ayes, 1 nay, Mr. President, on the motion to withdraw the bill.

PRESIDENT: The motion carries. LB 555 is withdrawn. Anything further, Mr. Clerk, to read in?

CLERK: I have nothing further, Mr. President.

PRESIDENT: Ready then for agenda item #6, ready for Final Reading. Speaker Marvel, do you wish to make the motion to suspend the rules so that we may allow the bills mentioned in the agenda to be read?

CLERK: Mr. President, Senator Marvel moves to suspend Rule 6, Section 7 (b) so as to permit the reading of LB 76 and 284A today on Final Reading.

PRESIDENT: All right, Speaker Marvel.

SPEAKER MARVEL: I so move.

PRESIDENT: Any discussion on Speaker Marvel's motion to suspend the rules? If not, all those in favor vote aye, opposed nay to suspend the rules. It requires 30 votes. Have you all voted? Record the vote.

CLERK: 31 ayes, 0 nays on the motion to suspend the rules, Mr. President.

PRESIDENT: Motion carried. The rules are suspended to allow 284A to be read with LB 284. We are then ready as soon as everyone is in your place. The Sergeant at Arms will see that all unauthorized personnel are off the floor. We are on Final Reading. All right, Mr. Clerk, we will begin then with reading final reading of LB 35.

CLERK: (Read LB 35 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 35 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record the vote. Well we have waited for an indetermined amount of time. Everybody is here that is going to vote. How long do you have to wait? Do you want to have a roll call? All right, let's have a roll call then. I am not going to wait any longer though. All right, we will have a roll call vote, Mr. Clerk. Proceed with the roll call.

CLERK: (Read roll call vote as found on page 1743 of the Legislative Journal.)

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LB 384, 284, 284A, 76

SPEAKER MARVEL: The motion is carried. The amendment is adopted. The motion now is the advancement of the bill. All those in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The next bill...

CLERK: Mr. President, LB 284 and 284A are ready for your signature.

SPEAKER MARVEL: While the Legislature is capable of transacting business, I am about to sign and do sign reengrossed LB 284 and reengrossed LB 284A.

CLERK: Mr. President, I have two motions on LB 76. The first is...I'm sorry. I guess I have three and, Mr. President, the first is offered by Senator Chambers. Senator Chambers would move to return the bill to add the following amendment: In case of death, injury or property damage to any innocent third party as a result of action taken by an officer in conducting a high-speed....(interruption.)

SENATOR CHAMBERS: (Mike not on.) ...amendment.

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: Mr. President, the next one I have is offered by Senator Chambers, to return the bill to strike the enacting clause.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, that amendment I do want to take up. I doubt that the votes are here for me to put the amendment on this bill that would protect innocent third parties who are hurt or killed as a result of high-speed chases. There just is not enough concern in the Legislature for the victims. So I withdrew the amendment attempting to add that to the bill. I had another amendment which was defeated in the past which would have placed certain restrictions on when chases would occur and when they ought to be terminated, primarily related to trivial offenses or traffic violations but now after reviewing the bill, the blue copy, I have found some serious problems as I read the bill. I am saying what I say for the record because somebody may be prosecuted under this piece of legislation and I think the record should be clear that on the floor of the Legislature, the issue was raised as to the possible unconstitutionality of provisions in this bill. I would want to call your attention to a case that was decided by the State Supreme Court in 1967 which invalidated another high-speed chase bill because of unconstitutional vagueness. I

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LB 76

think there is not only a vagueness in this bill but an over abundance of punishment placed upon those charged with a misdemeanor because a heavier sentence would be placed on them than those who committed a felony. I hope that the lawyers will listen to this. LB 76, the blue copy on page 2 has new language in subsection 3 beginning at line 16 and going through line 20. We are talking in this subsection about fleeing to avoid arrest for commission of a misdemeanor and if you flee in such a case the offense of which you are guilty of as a result of that flight, is a misdemeanor. Do you know what part of the punishment is for fleeing in a misdemeanor case? The courts shall as part of the judgement of conviction order such person not to operate any motor vehicle for any purpose for a period of two years. So for a misdemeanor you lose your right to drive for two years. Now go down to the next section, subdivision 4. Operating a motor vehicle to avoid arrest under subsection 2 of this section is a Class IV felony. But the Class IV felony does not carry a two year revocation of your driving privileges. So you are faced with a mandatory sentence in the case of a misdemeanor which is more severe than the punishment for a felony. Now for those of you who may not be aware of what the punishments are aside from those imposed in this bill, I will tell you. The punishment in the misdemeanor subdivision is to change from a Class III misdemeanor to a Class I. A Class III misdemeanor carries a punishment of from no time to three months maximum and up to a \$500 fine but there is no minimum sentence. That would be changed to a Class I misdemeanor which is a zero to one year term of imprisonment and up to a \$1,000 fine. So in neither case of the misdemeanor is there a minimum sentence. You need not be given any time in prison or lockup. You need not be given any fine but a judge can give you up to one year and a \$1,000 fine in the misdemeanor section. On top of that is the mandatory loss of driving privileges for two years. Now in subsection 4 where you will be guilty of a Class IV felony, again, there is no minimum in terms of the imprisonment, from zero to five years or a \$10,000 fine but again you need not be fined anything or given any time in jail and there is no mandatory loss of driving privileges. So let me give you a concrete example. Senator DeCamp flees in a situation to avoid arrest under a law which would be a felony so his fleeing constitutes a felony. I flee or am alleged improperly to have fled to avoid arrest on a misdemeanor so I am charged with a misdemeanor. The judge decides that he will not fine or imprison either one of us but I who am charged with a misdemeanor am required to lose my driving privileges for two years. Senator DeCamp charged with a felony and convicted will not lose any driving privileges. That is where the inequity of the pun-

ishments come in. Now I want to mention what appears to me to raise a constitutional problem. On the same page 2 in subdivision 5, the language says this. The court may as part of the judgement of conviction under this section and subject to the mandatory provision of subsection 3 of this section order such person. That is the constitutional question. The term "such person", to whom does it apply? The one charged with the misdemeanor in subdivision 3 or the one charged with the felony in subdivision 4? It does not specify and if you go to the top of page 3 which refers to imprisonment or fine, then the imprisonment can attach to one charged with a felony or a misdemeanor or the fine could attach to one charged either with a felony or a misdemeanor. So I think there is an unconstitutional vagueness here but because I know the Legislature is not too concerned with constitutionality, I have a question or two I would like to ask Senator DeCamp about all of this if he is here. Senator DeCamp, wherefore art thou? Actually people think that question means it is referred to your whereabouts but it is really not asking that at all. It is asking why. I just did, Senator Kahle. I explained it but you were not listening. Senator DeCamp, here is my question. Are you still willing to fly with this bill with the comments that I have made? Are you willing to risk letting the bill go in its present form?

SENATOR DeCAMP: Senator Chambers, thou full well knowest that we have discussed this and I am ready to go ahead with the legislation as drafted. The essence of your comments deal with the severity of a two year suspension mandatory on fleeing...

SENATOR CHAMBERS: Do that on your time. My questions are this, so that people that, you know, you still want the bill as it is and I am not trying to amend it. Do you see a problem about innocent third parties not being able to obtain damages?

SENATOR DeCAMP: Again, Senator Chambers, you and I have discussed this. I think it is a major problem. It is a major problem in other states. I have offered you a suggestion. I think it is a proper suggestion. I will support it if you attempt it.

SENATOR CHAMBERS: And that is to put an amendment in LB 273 which deals with similar matters.

SENATOR DeCAMP: LB 273 has been sitting on Final Reading. It is one of the major bills because it redoes, rewrites, sets up a whole new system of how the state handles...

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liability, makes the state a self-insurer. It is supported by the administration. It also has some other things. I feel that is the place to put what you are trying to do and I will support it there if you put it there.

SENATOR CHAMBERS: Very well, now rather than try to take additional time to put individual propositions into this bill that I think ought to be a part of every law enforcement agency's written regulations of high-speed chases, you know and I know because we have both served on a committee that down through the years, at least the past three in succession, we have by resolution created a committee called the law enforcement committee or whatever, that works with law enforcement and deals with problems that arise during the interim. Would you be willing to support the establishment of such a committee again and serve on it and I will obligate myself to do the same so that we can work with those who are to draft these propositions, then I will not seek an amendment to this bill?

SENATOR DeCAMP: Well, irrespective of whether you sought it or did not seek an amendment, I think that is something that the Legislature has been doing for, what, five, six years now. It has been very productive and very important and I and some others have been working on putting that together anyway, so, certainly I would say yes, but I would say yes in the context of irrespective of whether you offer the amendment or not, should be done.

SENATOR CHAMBERS: Thank you. Mr. Chairman, having made my point clear and making it clear why I cannot vote for the bill, having gotten the things into the record that I feel need to be there, I will ask unanimous consent to withdraw the motion.

SPEAKER MARVEL: Hearing no objections, so ordered. The Clerk will read LB 76 on Final Reading.

CLERK: (Read Lb 76 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 vote no. Voting aye, Mr. Clerk.

CLERK: Senator Clark voting aye.

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

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LB 76, 209

CLERK: (Read record vote as found on page 1752 of the Legislative Journal.) 42 ayes, 1 nay, 3 excused and not voting, 4 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. We are now ready for item #7, General File, priority bill LB 209.

CLERK: Mr. President, if I may, right before that...

SENATOR CLARK: Do you want to read something in?

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LB 35, 76, 364
LR 64, 75, 90

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Rev. Charles L. Wildman, Vine Congregational Church here in Lincoln.

REV. WILDMAN: Prayer.

PRESIDENT: Roll call. While we are waiting for members to arrive and register your presence, the chair would like to introduce Senator Beyer's guests from Papillion High School, American Political Behavior Class, five students, Toby Tortorilla, Valery Hooper, Eric Lambert, Susan Thornhill and Kay Pesek. They are over here. Will the class stand up and be recognized by the Unicameral Legislature. Welcome. Senator Howard Peterson if you would give us your light we will be here, we will be able to be in session. Record the presence, Mr. Clerk.

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

PRESIDENT: Quorum present. Are there any corrections to the Journal?

CLERK: I have no corrections to the Journal, Mr. President.

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

CLERK: Mr. President, your committee on Public Works whose chairman is Senator Kremer reports LB 364 to General File with amendments (signed) Senator Kremer.

Mr. President, a study resolution offered by Senator Nichol, LR 90. Read title to LR 90. That will be laid over Mr. President, or referred to the Executive Board, excuse me.

Mr. President, LB 35, 76 and LR 64 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and do sign LBs 35, 76 and LR 64. We are ready then for the first order of business, agenda item number four, resolutions. Senator Beyer, if you are ready, Mr. Clerk, if you will read LR 75 found on page 1718 of the Journal.

CLERK: Read LR 75.

May 6, 1981

LR 95 - 100
LB 35, 76, 472

RECESS

SENATOR CLARK PRESIDING

SENATOR CLARK: While we are waiting for you to register in, I would like to announce there is 22 students from Superior, Nebraska, juniors and seniors of the high school there. Gary Kile is their teacher. They are in the North balcony. Will you stand up and be recognized? Welcome to the Unicameral. Would everyone record in please? Will everyone push their green button please? Senator Goodrich, Senator Cullan. Has everyone registered their presence please? Record.

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

SENATOR CLARK: We are still on LB 3. We have got some things to read in first before we continue.

CLERK: Mr. President, your Enrolling Clerk respectfully reports that she has on this day presented to the Governor LB 35 and LB 76.

Mr. President, study resolutions, LR 95 by the Telecommunications Committee calls for a study of a comparison of Nebraska's system with other states especially the State of Washington which has been a figure of leadership in State Telecommunications. LR 96 by Senators DeCamp, Wesely and Fowler. The purpose of the study being to study the energy crisis and how to resolve same. LR 97 offered by Senator Clark. The purpose of the study is to consider all aspects concerning the taxation of motor vehicle fuels when used for food processing, especially Hexane, a highly combustible motor vehicle fuel. LR 98 by Senator Maresh. The purpose of the study is to investigate possible shortage of nurses and other health care personnel in Nebraska's rural and urban areas. LR 99 by Senators Fowler, Rumery, Schmit, Goodrich, Cullan and Warner calls for a study of mandatory retirement ages for public employees of the State of Nebraska and its political subdivisions. LR 99...LR 100 offered by the Retirement Committee. The purposes of the study is to consider the various aspects of retirement plans for public employees in the state.

Mr. President, finally, Senator Hoagland would like to print amendments to LB 472 in the Journal.

SENATOR CLARK: Is that all you have got?

CLERK: Yes, sir.

May 8, 1981

LR 164
LB 326, 35, 76, 327, 331

public bodies and agencies created, and I just think that while we are at it we might as well take this opportunity to vote against another...to nip in the bud another new agency or commission. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Hoagland amendment to LB 326. Senator Wagner, do you want recognition?

SENATOR WAGNER: Mr. Speaker and members, I had my light on. Was Senator Hoagland closing on his amendment?

SPEAKER MARVEL: Well, you will have to wait until we close with Senator Hoagland and then I will recognize you. Senator has closed, yes. Okay. The motion is the adoption of the Hoagland amendment. All those in favor vote aye, opposed vote no.

SENATOR CLARK PRESIDING

SENATOR CLARK: Have you all voted? Once more, have you all voted? If we could get it a little bit quiet in here we could get something done. Record the vote.

CLERK: 10 ayes, 16 ayes, Mr. President, on adoption of the amendment.

SENATOR CLARK: Is there another amendment?

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

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Mr. Chairman, I move the bill be advanced with the amendments....adopted this afternoon.

SENATOR CLARK: The motion is to advance the bill. Senator Wagner, did you want to talk on the advancement? Senator Warner, did you want to talk on the advancement? The question before the House is the advancement of the bill. All those in favor say aye. All those opposed nay. The bill is advanced. Go ahead and read it in.

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read communication regarding LBs 35, 76, 327 and 331 as found on page 1883 of the Journal.)

Study resolutions, LR 164, by Senators Newell, Beutler, Kahle and Sieck and Wesely. It calls for a study of the rules of the Legislature as they pertain to certain particulars.

February 17, 1982

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Reverend Ralph Sturdy, First Covenant Church, Lincoln, Nebraska.

REV. STURDY: Prayer offered.

SPEAKER MARVEL: Item #2, please record your presence. We need one more vote. Okay, record.

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

SPEAKER MARVEL: Do you have any other items for #2? #3?

CLERK: Mr. President, an Attorney General's opinion to Senator DeCamp regarding LB 76. That will be inserted in the Journal. (See pages 715-716 of the Journal.)

I have amendments from Senator Kremer to be printed in the Journal on LB 852. (See page 717 of the Journal.)

Mr. President, LRs 219, 220 and 221 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 LR 219, LR 220 and LR 221. Okay the next item of business item #4, Select File. The first bill, LB 431.

CLERK: Mr. President, LB 431 was on Final Reading on February 11. At that time Senator Newell made a motion to return the bill for a specific amendment. We did return the bill. The amendment is pending. I understand, Senator Newell, that you wish perhaps to withdraw?

SENATOR NEWELL: (Mike not on.) ...withdraw the amendment. Yes, just withdraw the amendment.

SPEAKER MARVEL: Any objections? If not, so ordered. The motion is to readvance the bill to E & R for engrossment. All those in favor of that motion say aye, opposed no. The motion is carried. The bill is readvanced.

CLERK: Mr. President, in that event, Senator Labeledz would now move to return LB 431 to Select File for a specific amendment, that amendment being to add the emergency clause.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Yes, very briefly, the amendment that I withdrew dealt with credit cards, a very complicated issue.