

January 11, 1982

LB 472A, 764, 765.

RECESS

SENATOR CLARK PRESIDING

SENATOR CLARK: The Legislature will come to order. Everyone check in please. Will everyone record their presence, please. Senator DeCamp, will you record your presence, please. Has everyone recorded their presence please? The Clerk will record.

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

SENATOR CLARK: The first thing we're going to take up is... you have some things to read in. Go ahead.

CLERK: Mr. President, new bills: (Read by title for the first time, LBs 764, 765 as found on page 219 of the Legislative Journal.)

SENATOR CLARK: The first thing we will take up is the return of LB 472A to committee from Final Reading. Senator Koch.

SENATOR KOCH: Would you read the motion, Mr. Clerk?

CLERK: Mr. President, Senator Koch on behalf of the Education Committee and it is signed by Senators Wiitala, Goll, Hoagland, Vickers, Kremer, Beutler and Lamb, move that pursuant to Rule 6, Section 8, part (b) the Legislature recommit LB 472A to the Education Committee for the purpose of a public hearing.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. As...if you'll allow me I'll recap the history of 472A. 472A was an Appropriations bill that was introduced by Senator Hoagland and last session, late in that session, we were involved in the issue of offering the alternatives for Christian education to function in the State of Nebraska within the law. As you recall, we argued first of all on germaneness of the subject to 472A. Second then, we argued to some degree over whether or not the body of that bill had had an appropriate hearing under the standing committee of this Legislature. In both cases it was not germane possibly and, secondly, it did not have a public hearing. Since the committee has two bills before it at the present time which will be heard next Tuesday, those bills are LB 607 and LB 652, one is a committee bill and one is a bill introduced by Senator Peterson and possibly several others on this floor both dealing with Christian education. Rather than for us to be sitting here with 472A on Final Reading with approximately seventy-six amendments, it is appropriate that we take

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LB 126, 139, 139A, 572  
659, 764

Senator Barrett to whom we referred LB 659 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File. That is signed by Senator Barrett, Mr. President; also LB 764 advanced to General File, also signed by Senator Barrett.

Mr. President, Senator Beutler would like to print amendments to LB 126 in the Journal and I have an Attorney General's opinion addressed to Senator Kahle. That will be inserted in the Journal. (See pages 473, 474.)

Mr. President, I have a report of registered lobbyists for the week of January 20 through January 28.

SENATOR CLARK PRESIDING

SENATOR CLARK: We are ready for Select File. The Speaker has an announcement.

SPEAKER MARVEL: If you want to take a sheet of paper with you and sit down and be comfortable for a minute and I will read off the bills that we will be processing in a few moments. The first bill is LB 572. The second one is LB 139, 572, 139, 139A, 305, 449, 450, 263, 212, 370, 353. Okay, 212 will be crossed off.

SENATOR CLARK: The first bill is LB 572.

CLERK: I have no E & R, Mr. President.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 572.

SENATOR CLARK: You heard the motion. All those in favor will say aye, opposed. The bill is advanced. LB 139.

SENATOR KILGARIN: I move we advance LB 139.

SENATOR CLARK: No E & R amendments?

CLERK: No, sir, no E & R.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 139A.

SENATOR KILGARIN: I move we advance LB 139A.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. LB 139A is advanced. LB 305. I think we

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LB 659, 764

SENATOR CLARK: Senator Barrett, on the bill.

SENATOR BARRETT: Mr. Chairman and members, LB 659 simply enacts a statutory definition of elevator for purposes of inspection by the Department of Labor. Current Nebraska statutes provide state elevator inspection shall be made by the Department of Labor for all freight and passenger elevators. The inspector, of course, is appointed by the Department of Labor. The Department has for sometime had the authority, for many years had the authority to inspect freight and passenger elevators but apparently there has never been a definition of elevator in the statutes so the Department has brought this bill to the Business and Labor Committee. You will notice that there was no opposition to the bill in the hearing. The bill was advanced on a unanimous vote. I would, therefore, urge the body to advance LB 659 to E & R Initial.

SENATOR CLARK: The question is the advancement of 659. Any discussion? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote. We have got to vote again. He hit the wrong button. All those in favor vote aye, opposed nay. I guess the Clerk is allowed one mistake in a session.

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

SENATOR CLARK: The bill is declared advanced. LB 764 is the next bill.

CLERK: LB 764 offered by the Business and Labor Committee and signed by its members. (Read title.) The bill was read on January 11 of this year, referred to Business and Labor. The bill was advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CLARK: On the bill itself, Senator Barrett.

SENATOR BARRETT: Thank you, Mr. Chairman, and members. LB 764 simply provides that an individual employer or partner or a self-employed person may elect to come under the provisions of workmen's compensation. Such a person would have to actually be engaged in the business on a substantially full time basis in order to be eligible and that particular person would also have to file written notice of intent with the insurer if he or she decided to come under the provisions

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of workmen's compensation. One note of explanation, in the hearing conducted by the Business and Labor Committee a question was raised as to whether the bill includes owner-operated motor carriers and it is the intent of the committee as introducer of the bill and the terms of the bill on its face should be reasonably construed to include such individuals within the provisions of LB 764. Accordingly, such individuals and similar self-employed persons are to be afforded the same option to be treated as employees for the purpose of workmen's compensation benefits. LB 764 is a very rare bill in that it is simple. It has no cost to anyone and it is optional. It is not mandatory but it does offer an alternative to those individuals or self-employed persons who wish workmen's compensation coverage. I would move that LB 764 be advanced to E & R Initial.

SENATOR CLARK: Senator Rumery.

SENATOR RUMERY: Mr. President, members of the Legislature, I would like to ask Senator Barrett a question. It seems to me like that a good many small businesses, partnerships and so forth asked to be left out of this insurance just a few years ago. Have they changed their minds on it and that they want to come in now or want the ability to come in if they vote for it?

SENATOR BARRETT: Yes, there are a goodly number of them, Senator Rumery, who do want that option. Yes.

SENATOR RUMERY: Thank you.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I would like to ask Senator Barrett a question also. Workmen's compensation's premiums are paid a hundred percent by the employer, right?

SENATOR BARRETT: That is correct.

SENATOR NICHOL: Why would they want to be included in this when they are only covered during their working hours or during their working activity and I would think employers would want to have more complete coverage and that is the first question.

SENATOR BARRETT: Oh, that was the first question, Bill.

SENATOR NICHOL: That is the first question.

SENATOR BARRETT: There are some who do very definitely want

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to be covered under workmen's compensation for accident related injuries, yes.

SENATOR NICHOL: Okay, the other question is, if they were allowed to do this, even on a voluntary basis, and some did wish to be included, would this have any bearing on the rates of workmen's compensation for other employers who do not wish to have this coverage?

SENATOR BARRETT: The answer to that would be no, Senator Nichol.

SENATOR NICHOL: I assume you have looked into this to make sure that that is true because my only concern is the increase of cost if some wish to be included and I wouldn't want to see that cost transferred over to those who are not included in the coverage.

SENATOR BARRETT: Absolutely, and I might add, we did confer at great lengths with the Workmen's Compensation Court in order that the bill might be drawn properly and in proper form for the Legislature.

SENATOR NICHOL: I am really not concerned...excuse me...I wasn't really concerned with the thinking of the Workmen's Compensation Court as I am the people buying workmen's compensation coverage so that they would not transfer some of that cost, if there is additional cost, over to those companies or institutions who are buying the coverage and this would not increase their cost. So somewhere between now and Select File or somewhere along the line, I would like to see something from some insurance company to the effect that this would not affect the rates of others, and thank you.

SENATOR BARRETT: Thank you, Senator Nichol.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Mr. President, colleagues, I think we are going halfway on this bill. I think if Senator Barrett wants self-employed, partners covered under workmen's compensation he ought to say so and mandate it. I think, Senator Nichol, you are right on target because it could affect the cost because you are setting up the potential of discrimination where depending on the hazard of the industry, depending on availability of other coverage through your regular group health and accident coverage where they have a choice between occupational coverage and away from the occupation. There is a strong tendency because of this option of selecting that we could affect

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adversely experience of the pool. It is the same old story that if coverage isn't available any place else or if it is more expensive here, they are going to make the choice not necessarily on benefits but basically on rates. When you do that you adversely affect makeup of the pool. I am not going to vote for this bill like Senator Nichol until I see some kind of substantiation that this will have absolutely no affect on the overall workmen's compensation pool.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I have a question I would like to address to Senator Barrett.

SENATOR CLARK: Senator Barrett, will you yield?

SENATOR BARRETT: Yes.

SENATOR HEFNER: Senator Barrett, I see that Ben Novicoff testified in a neutral position. Would you like to share some of his remarks to the body here this morning?

SENATOR BARRETT: Senator Hefner, he didn't testify as such as I recall. He was there to answer questions for informational purposes only.

SENATOR HEFNER: And what were some of the questions that were addressed to him, whether this system would work under the present system that we have now?

SENATOR BARRETT: It was Judge Novicoff's opinion that it would, Senator Hefner, yes.

SENATOR HEFNER: Okay, thank you.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, perhaps a question of Senator Barrett. I will admit I haven't studied this bill like I should have but does this include...well, I will just come right and ask, does this include farmers?

SENATOR BARRETT: It is my understanding, Senator Kahle, that it would be optional for farmers as it is optional now for farmers.

SENATOR KAHLE: And how would the employer, the farmer doing the hiring, pay into the fund?

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LB 764, 778

SENATOR BARRETT: Workmen's compensation, Senator Kahle, is based on a premium. You are paying a rate, so much per thousand dollars of remuneration.

SENATOR KAHLE: So it could affect them in the same way it would affect any other business, that is what you are saying?

SENATOR BARRETT: I would think so, yes.

SENATOR KAHLE: Okay, thank you.

SENATOR CLARK: Any further discussion? Do you wish to close on the motion to advance?

SENATOR BARRETT: I think only to say, Mr. Chairman, that I will attempt to address Senator Nichol's concerns and Senator Dworak's concerns on Select File. Thank you.

SENATOR CLARK: No further discussion, he has closed. All those in favor of advancing the bill, 764, vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 27 ayes, 1 nay, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. LB 778.

CLERK: Mr. President, LB 778 (read title). The bill was read on January 12 of this year, referred to the Banking Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CLARK: Senator DeCamp, on the bill please.

SENATOR DeCAMP: Mr. President, members of the Legislature, this bill is another one of those bills, we have to kind of keep devising a system to keep money in the country and keep agriculture financed, keep business in this state going. One of the questions that has arisen in recent months, recent years has to do with variable interest rate loans and this legislation simply clarifies the fact that they are legal. They are an allowed thing, and in the case of consumer loans, it puts some standards that don't exist now in the law and those are that before on a consumer loan,

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LB 264, 309, 347, 403, 418, 542  
563-66, 572, 579, 642, 659, 677  
703, 705, 718, 719, 722, 724,  
764, 774, 778, 779, 797, 852,  
879, 606, 32, 229, 490, 492

SPEAKER MARVEL PRESIDING

RABBI BISMAN: Prayer offered.

SPEAKER MARVEL: Item #2, roll call. Please record your presence. Record your presence. Pat, do you want to record.

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

SPEAKER MARVEL: Do you have anything under #3?

CLERK: Mr. President, I have several items. First of all I have a reference report referring LR 218 to the Banking Committee for public hearing.

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication re: 264, 309, 347, 403, 418, 563, 564, 565, 566 and 572 as found on page 613 of the Legislative Journal.)

A second communication. (Read re. LB 542.) And a third, Mr. President, from the Governor addressed to the Clerk. (Read re. 32, 229, 490 and 492. See pages 613-614 of the Legislative Journal.)

Mr. President, your committee on Education whose chairman is Senator Koch reports LB 642 advanced to General File; LB 774 advanced to General File; LB 797 advanced to General File with amendments. Those are signed by Senator Koch.

Your committee on Public Works whose chairman is Senator Kremer offers a corrected statement to LB 852. (See pages 614-615 of the Legislative Journal.)

Mr. President, your committee on Government, Military and Veterans Affairs whose chairman is Senator Kahle reports LB 879 advance to General File with committee amendments attached. That is signed by Senator Kahle. (See page 615 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 606 and recommend that same be placed on Select File; 579 Select File; 703 Select File with amendments; 705 Select File; 718 Select File; 719 Select File; 724 Select File; 677 Select File; 722 Select File with amendments; 659 Select File; 764 Select File with amendments and 778 Select File with amendments and 779 Select File with amendments, all signed by Senator Kilgarin as Chair. (See pages 615-616 of the Legislative Journal.)



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of the Barrett amendment. All those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Is Senator Chronister in the room? Okay, thank you. I just noticed his light was turning on and I couldn't spot him. Have you all voted? It takes 25 votes. We would appreciate it if there are enough Senators here to get a vote on this. We need one more vote. Record the vote.

CLERK: 25 ayes, 0 nays on the adoption of Senator Barrett's amendment.

SENATOR CLARK: Senator Barrett's amendment is adopted. Do you have anything further on the bill?

CLERK: Nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 659.

SENATOR CLARK: You heard the motion. All those in favor will say aye, opposed. The bill is advanced. 764. It is on the reverse side of your sheet. Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 764.

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

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

SENATOR CLARK: Senator Kilgarin. Senator Beyer, did you want to talk on the advancement?

SENATOR BEYER: Yes, Mr. Speaker. Mr. Speaker and colleagues, I have a question of Senator Barrett. Senator Barrett, it is my understanding that during the committee hearing on 764 that a representative of the Nebraska Motor Carriers Association proposed two amendments to ensure that independent contractors were included within the scope of LB 764 or that the provisions of 764 did not inadvertently create employer obligations for recipients of the service of independent contractors. Were those proposed amendments to LB 764 given full consideration and why were they not incorporated within the text now before the Legislature?

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LB 764

SENATOR BARRETT: Senator Beyer, I will attempt to answer the question by saying, yes, the committee did fully consider the recommendations made by the Motor Carriers Association. The committee felt that LB 764 would include within the scope of the bill itself self-employed persons such as independent contractors, in the case of the Motor Carriers, sometimes called owners and operators. Also the committee felt very strongly that the provisions of LB 764 should not impose employer obligations on the recipients of those services of those independent contractors, specifically, for example, other obligations meaning social security tax, unemployment, withholding tax and that type of thing. So specifically the committee did consider it. The committee also consulted the workmen's compensation court in an effort to help draft the bill. The court agreed with the position of the Motor Carriers organization. The court also felt as the committee felt that these recommendations were incorporated within the provisions of LB 764 at the present time. The amendments were not necessary. So the legislative intent is that independent contractors, and more specifically if that is what you are asking, owners and operators of motor carriers are to be included within the scope of LB 764. We considered it. We felt that it wasn't necessary but it is our intent that they be included, yes.

SENATOR BEYER: Okay, thank you.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 764.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. Motion is carried. Senator Kilgarin, the E & R amendments.

LB 577, 579, 601, 605, 642, 644, 651, 662,  
677, 678, 696, 697, 718, 718, 719, 720,  
728, 729, 739, 743, 764, 767, 767A, 775,  
776, 778, 784, 792, 796, 807, 824, 825,  
828, 839, 845, 869, 877, 890, 892, 931,  
941, 951, 952, 961, 962

March 9, 1982

SPEAKER MARVEL PRESIDING

REV. MORRIS VENDEN: Prayer offered.

SPEAKER MARVEL: If I could have your attention for a moment before we proceed. The chairmen had a meeting today and it was agreed that we would attempt to control debate as we have not done too well in the last few months and that we would try, for instance, with 652 to have the debate and the vote on advancement after one hour and that we try to have the pros and the cons of these issues so it doesn't take forever to get the point across. This time we're in a position where we either try to limit debate or many of the other issues will simply go down the drain. So the Chair would appreciate, the chairmen would appreciate your cooperation in trying to give people an opportunity on both sides and not spend all day in the discussion. Record.

CLERK: There is a quorum present, Mr. President. Yes, sir, I do have some items to read in. Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 579 and find the same correctly engrossed; 662 correctly engrossed; 677 correctly engrossed; 718 correctly engrossed; 719 correctly engrossed; 728, 729 correctly engrossed; 764 correctly engrossed and 778 correctly engrossed. (See page 1060 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 720 and recommend that same be placed on Select File with amendments; 767 Select File with amendments; 767A Select File; 807 Select File with amendments; 941 Select File; 877 Select File; 577 Select File; 792 Select File; 605 Select File; 931 Select File with amendments; 796 Select File; 845 Select File; 644 Select File; 739 Select File; 696 Select File; 828 Select File; 642 Select File; 678 Select File; 775 Select File; 776 Select File; 951 Select File; 961 Select File; 952 Select File; 784 Select File; 651 Select File; 716 Select File with amendments; 743 Select File; 601 Select File; 869 Select File with amendments; 697 Select File; 825 Select File; 892 Select File; 962 Select File with amendments; 839 Select File and 890 Select File with amendments. Those are all signed by Senator Kilgarin as Chair, Mr. President. (See pages 1057-1059 of the Legislative Journal.)

Mr. President, I have a motion from Senator Labeledz to place LB 824 on General File pursuant to Rule 3, Section 18(b). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Okay, we go to item #4 and we're talking about LB 924 and I would caution you to do your best to get

April 14, 1982

LB 714, 714A, 764, 89

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

ASSISTANT CLERK: (Record vote read. See pages 1928 and 1929, Legislative Journal.) The vote is 44 ayes, 2 nays, 3 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. The Clerk will read LB 714A.

ASSISTANT CLERK: (Read LB 714A on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay. It takes 30 votes.

CLERK: Senator Clark voting no.

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

CLERK: (Record vote read. See page 1929 and 1930, Legislative Journal.) 41 ayes, 4 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. I understand that LB 764 is to be passed over. Is that all right with you, Senator Lamb? Unanimous consent from Senator Barrett to lay it over.

SENATOR LAMB: This bill is not going to be read at all, is that correct, Senator Barrett?

SENATOR BARRETT: Yes, Senator Lamb, as far as I am concerned, the bill will not be read this year. This is not a devious effort to hold it over for any particular reason. I am surprised it is on Final Reading today. I asked the Speaker's Office that it be held earlier because of a possible flaw in the bill. It would not be in the public interest as far as I am concerned as Chairman of the committee to have the bill read today. I would like to have the interim to take another good look at this issue.

SENATOR CLARK: All right, the bill will be passed over then. LB 89.

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

SENATOR CLARK: Read the motion.