

out of the general fund today, why we'd all be working at it. Well I'm telling you, this is a \$50 million minimum savings over the not too distant future. Anyone that has doubts I can take and show you, show you the cases, names crossed out but you won't have any doubt once you read them what is going on. This needs to be done. I urge you to do it because remember this final fact. Insurance companies are simply an agency for collecting a lot of money and paying it out. They are going to always collect long-term, whether it is two, three, five years more, that is their profit, than they pay out. If they are paying out \$50 million fraudulently they're going to collect \$50 million fraudulently from everybody in the state and that is what is occurring. This is a major savings in cost containment for the state. It will help in your medical insurance. It will help in the overall medical costs. I urge you to adopt it.

SENATOR CLARK: The question before the House is the advancement of 421. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 30 ayes, 6 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The Chair declares the bill advanced. The Clerk wants to read some things in.

CLERK: Mr. President, new bills, LB 775 (read title); LB 776 (read title); LB 777 (read title); LB 778 (read title); LB 779 (read title); LB 780 (read title); LB 781 (read title); LB 782 (read title); LB 783 (read title); LB 784 (read title); LB 785 (read title); LB 786 (read title); LB 787 (read title); LB 788 (read title); LB 789 (read title). (See pages 234-238, Legislative Journal.)

Mr. President, I have notice of hearing by the Public Works Committee for gubernatorial appointments. I also have notice of hearing by the Public Works Committee for bills for Wednesday, January 20, and Wednesday, Thursday and Friday of next week. I have notice of hearing for Judiciary Committee for January 19.

Mr. President, Senator Marsh asks unanimous consent to print amendments to LB 139 in the Legislative Journal.

Mr. President, your committee on Constitutional Revision and

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LB 259, 623, 787, 847

will return to their seats and check in, please. Senator VonMinden, would you check in, please. We're looking for Senator Cullan, Senator Schmit, Senator Beyer. Senator Koch, did you want a roll call vote?

SENATOR KOCH: Yes, I do, sir.

SENATOR CLARK: We're short Senator Beyer and Senator Schmit. Do you want to start in the roll call?

SENATOR KOCH: Are they excused?

SENATOR CLARK: Those two are not.

SENATOR KOCH: Well I'm in no hurry for lunch. I'll wait around a while.

SENATOR CLARK: Senator Marvel and Senator Kremer are excused. Could you find Senator Schmit, Ray? Do you want to start in, Senator Koch? The Clerk will call the roll. I hope we can have it quiet enough the Clerk can hear the response, please.

CLERK: (Read roll call vote as found on pages 944-945 of the Legislative Journal.) 24 ayes, 22 nays, Mr. President.

SENATOR CLARK: The motion carried. It takes a simple majority on General File. It is an amendment to an amendment. Senator Haberman, would you like to recess us until one-thirty which we will continue this same bill at that time. We have to read something in first, please.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 623 in the Legislative Journal. (See page 945 of the Legislative Journal.)

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit reports LB 847 advance to General File with committee amendments attached. And your committee on Judiciary whose chairman is Senator Nichol reports LB 787 advance to General File with committee amendments attached. (See apges 945-946 of the Legislative Journal.) That is all that I have, Mr. President.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, I move that we recess until one-thirty.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed no. We are recessed until one-thirty. We will continue this bill at that time.

EDITED BY

  
Mary A. Turner

8172

SENATOR BEYER: Mr. Speaker and colleagues, the purpose of this amendment is to prevent the issuance of new licenses to sell alcoholic beverages at the same location where motor vehicle fuels are sold. It is not in the interest of the health, safety and welfare of the public, particularly the traveling public, to make liquor or beer readily available to travelers at locations where they might otherwise stop for gasoline only. In other words, if alcohol is too easily available while traveling it makes the temptation to drink and drive easier to follow through on. The hundred and fifty foot standard that is in there is the proximity that has been chosen as a matter of precedence. It is used for churches, schools, hospitals and homes for the aged, indigent or veterans. It has been acceptable since 1935. It is a standard that can easily be enforced by the Liquor Commission. It is not vague. I urge your adoption of this amendment.

SENATOR CLARK: Senator Wiitala.

SENATOR WIITALA: Thank you, Mr. Speaker. Senator Beyer, would you yield to a question? Senator Beyer, would this in any way affect resort areas that have a license to sell alcoholic beverages and yet pump gas for boats and for vehicles? Would it impact on them at all?

SENATOR BEYER: This would be grandfathered in so those that have got it would not be affected but it is on new applications.

SENATOR WIITALA: Okay, thank you very much. Thank you, Mr. Speaker.

SENATOR CLARK: Any further discussion on the Beyer amendment? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Have you all voted, one more time? Record the vote.

CLERK: 18 ayes, 10 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The motion failed. The time has expired on this bill. We will now go to the next bill, 787.

CLERK: Mr. President, LB 787 was a bill introduced by the Judiciary Committee and signed by its members. (Read title.) The bill was read on January 12th of this year, referred to

the Judiciary, advanced to General File. Mr. President, there are committee amendments pending.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, the committee amendments provide for two changes in the bill. First, it makes technical changes in Section 43-247 which is the provision of law which sets forth the jurisdiction of the juvenile court. It, second, provides that when any judge of a separate juvenile court is disabled or disqualified to act or is temporarily absent from the county, the presiding judge of the district court or Chief Justice of the Nebraska Supreme Court shall appoint another district judge to sit in their place. Current law provides that the presiding judge of the district court shall make this designation. I move for the adoption of the committee amendments.

SENATOR CLARK: Any discussion on the committee amendments? If not, those in favor vote aye, those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on the committee amendments? Once more, have you all voted? Record the vote.

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

SENATOR CLARK: The committee amendments are adopted. Now on the bill. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, LB 787 represents the conclusion of what has been a three year project undertaken by the Judiciary Committee to recodify the Nebraska Juvenile Code. This body last session enacted LB 346 which is the juvenile code recodification. LB 346, however, contained a delayed enactment date of July 1, 1982. This was done to allow the Judiciary Committee further time to study the recodification and to facilitate input on the recodification by groups of individuals interested in the juvenile justice system. Last session the Judiciary Committee introduced LR 105 and conducted public hearings during the interim on the recodification and those with an interest in the recodification, after having time to review and study LB 346, had the opportunity to give the committee their comments and suggestions for changes what they felt were needed in the juvenile code. The result of this interim work by the Judiciary Committee is LB 787 and briefly it would propose the following changes

in LB 346. For the most part the bill consists of technical changes by various juvenile justice advisory groups. The bill adds guidelines for guardian ad litem. These guidelines are included to provide a legislative statement as to just what these individuals should be doing when they are appointed by a court to represent the interest of juveniles. The bill also prohibits the imposition of jail time as the disposition of juvenile court. LB 346 contained a section similar to this which was removed from the bill on the floor last year and at the conclusion of its work this interim, the Judiciary Committee decided that this prohibition should be included in LB 787 for the consideration once again by the Legislature. I want to point out there is just one thing so that everybody understands it, this would only prohibit the imposition of a jail sentence as a disposition of the juvenile court. It does not prohibit the jailing of a juvenile for security reasons prior to an adjudication nor does it prohibit the imposition of a jail sentence when a juvenile is charged as an adult and tried for a felony or sixteen or seventeen years old tried as an adult for a misdemeanor. What it does prohibit is the use of jail time as a sentence when a juvenile is processed through the juvenile courts. As I stated earlier this recodification has spanned three years. This is not something which has been hastily slapped together for your consideration. There has been a lot of time, effort and thought which has gone into this and when we're finally done it is going to result in a juvenile code which is better structured than the present code and the first time in a long time a code which is readable, not only to the lay people but to the judges and attorneys who have to work with it. I move for the advancement of the bill.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I do not want to hold up the bill at this time. I have an amendment for this bill which is similar to the one which I offered on LB 346. I will print it in the Journal and hope to have it on Select File.

SENATOR CLARK: Any further debate on the bill? Senator Nichol, do you have any further closing? All right, the question before the House is the advancement of 787. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to advance the bill.

March 16, 1982

LR 229  
LB 591, 408, 694, 787

tion because the Legislature made this policy determination a year ago and I'm willing to accept this if, in fact, it is genuine. I ask this body, however, to give me a reading of that by the votes on this amendment. If you support this concept and intend to support the bill, I'll wait and I'll watch and if there are 24 of you that are willing to stand by this concept and to give this treatment across the board, I'll be your 25th vote but I won't do this if what you try to do is har this bill to death.

SENATOR CLARK: The agenda says that at three o'clock we go to the resolutions so we'll go to the resolutions now and after the resolutions if we have time we'll come back right where we left off. The first resolution is LR 229. Pardon? Yes, I am.

CLERK: Mr. President, if I may...(interruption.)

SENATOR CLARK: I've only got nine speakers on that.

CLERK: ...quickly, Senator Nichol would like to print amendments to LB 787, Senator Kremer to LB 408, Senator Kremer to LB 694 and Senator Kilgarin to LB 787. (See pages 1201-1203 of the Legislative Journal.)

Mr. President, LR 229 offered by Senators Beutler, Higgins, Kilgarin, Wesely, Wiitala, Fowler, Burrows, Rumery and Labeledz is found on page 822 of the Legislative Journal. (Read LR 229.)

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, I'd be glad to introduce the resolution. I know there is several cosponsors and I'd be glad to let one of them have the opportunity to close. LR 229 is introduced to express some concern of this Legislature with regards to the current decisions to be made with regards to the federal deficit in the tax program in Washington. Legislators may recall that last May towards the end of the session there was a resolution with twenty-eight sponsors dealing with support for what was named the Economic Recovery Program and that that resolution passed with few dissents although there were some voices questioning whether or not, in fact, that should be accepted as quickly as this Legislature adopted it. Now we've had time as a nation and as a Legislature to evaluate the impact of this Economic Recovery Program and I would say as one observer that, in fact, the impact has been very damaging, has not succeeded. I would indicate that there were those on this floor who raised questions last year that not all the information was in and that we should not be quick to endorse it. Among

March 19, 1982

LR 249, 250, 256  
LB 480, 571, 602, 609A, 688,  
787, 799, 835, 854, 854A, 868, 909

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend John Ross, Pastor of Faith Lutheran Church in Seward, Nebraska.

REVEREND JOHN ROSS: Prayer offered.

PRESIDENT: Roll call. 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: I have no corrections, Mr. President.

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

CLERK: Mr. President, LR 249 and 250 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 249 and LR 250.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 854 and recommend that same be placed on Select File with E & R amendments; 854A Select File with E & R amendments; 909; 480; 835; 688; 799; 868; 602 and 787, all placed on Select File, Mr. President. (Pages 1227-1280.)

Mr. President, I have a new resolution, LR 256 offered by Senator Nichol and many of the members. (Read LR 256 as found on pages 1280 through 1283 of the Journal.) That will be laid over, Mr. President.

Mr. President, new A bill, LB 609A offered by Senator Marsh. (Read title for the first time.)

Mr. President, I have a report from the Buildings and Grounds Commission on proposed lease renewal for the Department of Correctional Services, and the Nebraska State Highway Commission files their quarterly report.

PRESIDENT: We are ready then to immediately go to Final Reading, agenda item #4 commencing with LB 571. Would the Sergeant at Arms secure the Chamber and make sure that all members are at their desks, and all other unauthorized

March 30, 1982

LB 611, 761, 787

reasonable in terms of their upkeep and evidently the standards that are proposed in this legislation do conflict with past case law and judicial interpretation and so the evidence from the Attorney General's opinion is that previous case law and judicial interpretation in conflict will take precedence over this new standard. So you may talk about minimum maintenance roads but the liability question which is at the heart of the problem still would be there and I think we want to protect people. If a road is not kept up and it is open to the public and as a result somebody is injured from the use of that road, there would still be a liability by the county. I wanted to point that out to you. I know that you want to move on with other things but there is an Attorney General's opinion you may want to look at in regard to this legislation.

SENATOR LAMB: Senator Kahle, to close on the bill.

SENATOR KAHLE: No closing, go ahead.

SENATOR LAMB: The motion is to advance the bill. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 35 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR LAMB: LB 611 is advanced. Do you have something to read in, Mr. Clerk?

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 787 and Senator Fenger amendments to LB 761. (See page 1508 of the Legislative Journal.)

SENATOR LAMB: Thank you for staying this late. Would... Senator Pirsch, would you care to adjourn us until nine o'clock in the morning and this worked so well that we will plan to stay until five o'clock tomorrow night.

SENATOR PIRSCH: Thank you, Senator Lamb. I move to adjourn us until nine o'clock, March 31.

SENATOR LAMB: All those in favor say aye, those opposed no. We are adjourned.

Edited by Arleen McCrory  
Arleen McCrory



April 7, 1982

LB 602A, 787

SENATOR FENGER: I want to speak very briefly on the bill, sir.

SENATOR LAMB: All right, go ahead.

SENATOR FENGER: I just want to advise the body that I intend to vote against the advancement of this bill. I am going to do so without regard to the merits of the bill. When we suspended the rules, we, in effect, took a Speaker's priority bill and we gave it a higher level of priority in the body than we did 16 Senator's priority bills. I think it's changing rules toward the end of session. I don't think it is good policy. My apologies to Senator Labeledz for voting against her bill. Thank you.

SENATOR LAMB: Now would you care to close, Senator Labeledz.

SENATOR LABEDZ: Again I say no closing and move for the advancement of LB 602A as amended.

SENATOR LAMB: The motion is the advancement of LB 602A. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Have you all voted? Record.

CLERK: Senator Kahle requests record vote. (Read the record vote.) 32 ayes, 3 nays, Mr. President, on the motion to advance the bill.

SENATOR LAMB: The bill advances. The next bill is LB 787.

CLERK: Mr. President, LB 787 does have E & R amendments pending, Senator.

SENATOR LAMB: Senator Kilgarin.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 787.

SENATOR LAMB: All those in favor of adopting the amendments signify by saying aye, those opposed no. The amendments are adopted.

CLERK: Mr. President, Senator Nichol would now amend the bill. His amendment is on page 1201 of the Journal.

SENATOR LAMB: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, you remember last year we passed the juvenile code bill and we made the effective date July 1, 1983, and to make this commensurate with that, as you know this bill we're handling has to do with revisions in that particular bill that have been brought forth by judges across the state as to various changes they would like to have, so that they will go into effect at the same time we're asking for the emergency clause to make them effective at the same time. Move for the adoption of the amendment.

SENATOR LAMB: The motion is the adoption of the Nichol amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 27 ayes, 0 nays. Mr. President, the next amendment I have to the bill is offered by Senator Kilgarin. It is on page 1201 of the Journal.

SENATOR LAMB: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Senator Lamb. There is a hand-out being distributed right now by the pages that basically outlines the amendment that I am proposing to the juvenile code. Essentially I'll run through it real quick. There are five basic provisions that are being added. The first one is just a little bit more clarifying setting out policy in the Legislature's general intent with the juvenile code. It provides for a stable living condition. We've talked about this on LB 714 which is a Foster Care Review Board and that is for one particular type of child. This deals with all the children that go through the juvenile system and I'd urge you to adopt that section. Section 2 again provides essentially that we have a written evaluation of the juvenile's basic needs and assess their needs and present that to the court for their review so that disposition will take that into consideration. Section 3 is kind of again along the lines of 714. It deals with the Foster Care Review Board except this is through the judiciary branch where the judiciary will have to review each of these children and where they are at in the system every six months and initially they have to do it within thirty days after the child is placed or taken care of and after that every six months they have to keep track of the child. Again, that is through the judiciary as opposed to the Foster Care Review Board which is another entity. Number 4, it provides that when the court appoints a guardian ad litem the guardian

shall be appointed at the commencement of the proceedings as opposed to at any stage in the proceedings. This is just for the juvenile's sake so that he will have legal counsel representing him. Number 5 is probably the most important to me other than number 3 with the six month review but number 5 is extremely important. Once again, we as a Legislature will be telling our courts and the guardians that are appointed what we expect of them. It is not mandatory but it lays out kind of how we feel we want the guardian ad litem to visit the child within the first two weeks. That is not mandatory but we're asking them to do that, laying a policy statement out and then after initial appointment after that first two week visit every six months we are requesting that they visit the child and see how things are going so they can better represent the juvenile and provide that the guardian ad litem can also file petitions for the juvenile or, excuse me, on the juvenile's behalf so I would ask for your support of this amendment. Thank you.

SENATOR LAMB: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I just rise to support Senator Kilgarin's amendment. We hear over and over in judiciary of children of this nature where a guardian ad litem is appointed and nothing happens, and nothing happens, and nothing happens and it is the same old story over and over and what Senator Kilgarin is attempting to do is to have something happen, to have a guardian ad litem at least do something so that they know that this child is having some attention paid to it and also have the case reviewed every six months so that it just doesn't sit there forever and nothing happens. I support her amendment.

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Senator Kilgarin, a couple of questions if I may just to get this straight in my own mind.

SENATOR KILGARIN: Yes, sir.

SENATOR BEUTLER: One of the provisions is that the guardian ad litem must visit once every six months. Is that correct?

SENATOR KILGARIN: If you turn to page 16 of the bill it is not "must". It reads...let me just quick read it, it says, "shall make every reasonable effort to become familiar with the needs of the protected juvenile which may include one visitation with the juvenile within two weeks after the appointment and once every six months thereafter." Again, it's laying out our intent, what we as a Legislature feel

would be proper. It is not mandated. It does say "may", but we're trying to give them some direction and let the guardian ad litem know what we expect from them. In Judiciary Committee we hear all too often that the guardian ad litem are not doing their job and I don't know that that is fair as a general statement covering all attorneys representing juveniles but this would just be laying forth what we feel would be proper.

SENATOR BEUTLER: Okay, and then the other provision that within thirty days and after such notice and once every six months the "Department or association or individual shall file with the court a report." What does that have reference to?

SENATOR KILGARIN: Okay, that again, if you're familiar with LB 714 which is the Foster Care Review Board, that takes care of one particular set of juveniles with one particular set of problems. They are in foster care homes and you know how we heard about children being lost in the system, this will take care of all juveniles, not just those placed in foster homes but those that end up in the corrections centers and the other areas and places where juveniles can be placed when they are taken out of the home. Again, this is judicial review, not a citizen board. This is just the judiciary looking and keeping track of where these children are.

SENATOR BEUTLER: So it is requiring judicial review every six months?

SENATOR KILGARIN: Right. Until final adjudication of the case, just while they're still under the courts (interruption.)

SENATOR BEUTLER: Some of these juveniles are within the courts' system for a number of years, are they not?

SENATOR KILGARIN: That is right. And some of them shouldn't be and that is one of the reasons I am proposing this, Senator Beutler. They do get lost in the system, not just foster children but many of the juveniles that go through our juvenile justice system are lost in the system and this will hopefully prevent that. It doesn't set up an individual board and it is just through the judiciary which I personally think is probably the proper place for it.

SENATOR BEUTLER: Yes, I like that much better actually. Okay, thank you.

SENATOR LAMB: Senator Kilgarin to close.

SENATOR KILGARIN: Just very quickly, we've worked, the Judiciary Committee under the direction of Senator Nichol has worked very, very long and hard on the juvenile code. I think we have an excellent bill. These amendments, I think, are essential and I would urge you to support them and thank you.

SENATOR LAMB: The motion is the Kilgarin amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of Senator Kilgarin's amendment.

SENATOR LAMB: The amendment is adopted.

CLERK: Mr. President, Senator Schmit had an amendment on page 1508. I understand he wishes to withdraw that. Mr. President, the next amendment I have is offered by Senator Chambers.

SENATOR LAMB: Senator Chambers, on your amendment.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is an amendment that would put into the juvenile law in Nebraska a provision that exists in the law in many states in the Union. It simply says that, "Notwithstanding any other provision of law, the death penalty cannot be imposed upon any person who was under the age of eighteen at the time of the commission of the crime." It is not an attempt to abolish the death penalty. It does not really directly impact on the death penalty. To my knowledge, as I told you the other evening, I'm not aware of anybody who is below the age of eighteen being sentenced to death in Nebraska and I certainly know none that young that have been executed. But since provisions are being put into the juvenile code and it is somewhat of a comprehensive approach, I'm asking that this provision be put in. I mentioned it to Senator Nichol and a few others who have been involved and interested in the criminal code and especially the juvenile code to let you know that it is not a jesting amendment, it is not an attempt to filibuster or harrass this bill to use the term that some people find a favorite term and I am asking that you adopt it.

SENATOR LAMB: Senator Kilgarin.

SENATOR KILGARIN: I would just rise to support Senator Chambers' amendment. I don't think I've ever spoken on the

death penalty although I am opposed to it. Can you be especially opposed to the death penalty for those people who are children or young adults under eighteen? I guess I am if that is possible. I would certainly appreciate your favorable vote on this amendment. I think a lot of times we talk about the juvenile justice system and I know a judge up in Sarpy County who says we have a lot of juveniles, some justice and no system and through working in the juvenile code I have become very involved in some of the youths services and the juvenile justice system. One thing I found out is that if we can catch these children, these young adults, when they first get into trouble and get them into a program that can turn them around, it is a lot better than having them in the pen after they are nineteen or twenty and I think what we have to do is definitely, if you don't believe in any other rehabilitation, I think definitely the young adults of today, that is when you have to catch them, that is when they can be rehabilitated and I would just certainly appreciate your support for this amendment. I think it is...I don't think it is made in jest or to filibuster. I think it is a very reasonable amendment. Thank you.

SENATOR LAMB: Senator Hefner.

SENATOR HEFNER: Mr. President, members, I rise to oppose this amendment. As most of you know by this time you know that I think we ought to keep the death penalty and of course Senator Chambers is coming back with an amendment and it says that the death penalty shall not be imposed upon any person who was under the age of eighteen years at the time of the commission of the crime. I submit to you this evening that fifteen, sixteen and seventeen year olds are responsible citizens in our state and, therefore, I would urge you to reject this amendment.

SENATOR LAMB: Senator Koch.

SENATOR KOCH: Mr. Chairman, I move the previous question.

SENATOR LAMB: Do I see five hands? Yes, I see five hands. Those in support of ceasing debate vote aye, those opposed no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

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

SENATOR LAMB: Debate has ceased. Senator Chambers to close.



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LB 787

SENATOR CHAMBERS: Mr. Chairman, I meant what I said when I opened as to the intention of this amendment. It does not impact on the existence or nonexistence of the death penalty. I'm not even arguing the death penalty as such. Everything that I could say on the proposition I said during my opening. I don't know what point Senator Hefner is trying to make but his comments don't relate at all to what I am saying and I will add this and then I am through. There are states which would carry out the death penalty with a vengeance and, in fact, when California had a mandatory death law before it was struck down they had a provision exactly like this to protect the very young and I think it is a worthwhile proposition and ought to be adopted. I hope that you will support it.

SENATOR LAMB: The motion is the adoption of the Chambers amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Record. Senator Koch, for what purpose do you arise?

SENATOR KOCH: Mr. Chairman, I want a record vote.

CLERK: (Read record vote as found on page 1788 of the Legislative Journal.) 27 ayes, 15 nays, Mr. President, on adoption of the amendment.

SENATOR LAMB: The amendment is adopted.

CLERK: Mr. President, Senator Nichol would move to amend the bill by adding the severability clause.

SENATOR LAMB: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I think what we just have done is to create a problem with the equal protection problem and if you have it eighteen, why can't you have it twenty, and it could be that you've just repealed the death penalty, I don't know. But at any rate, whether that is true or not I think we should have the severability clause in case that is true so that the rest of the bill is not in jeopardy so I would ask for the severability clause.

SENATOR LAMB: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'll support what Senator Nichol is saying as far as adding the severability clause but I'll tell you this. If I were going to seek to abolish

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LB 787

the death penalty I would do it directly. If Senator Nichol gets an Attorney General's opinion saying that a provision like this which protects children from the death penalty would abolish the death penalty or violate equal protection and you feel that I have tricked you, I'll make the motion to strike the amendment that was just offered.

SENATOR LAMB: Senator Nichol, do you care to close?

SENATOR NICHOL: No, I'd just ask for the adoption of the amendment.

SENATOR LAMB: The motion is the adoption of the Nichol amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 38 ayes, 1 nay, Mr. President, on adoption of Senator Nichol's amendment.

SENATOR LAMB: Anything else on the bill?

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

SENATOR LAMB: Senator Nichol do you care to...there are no other lights on the bill. Anyone want to argue on the bill? Senator Nichol to close.

SENATOR NICHOL: Well I think I should mention one thing and it came up last year. Senator Schmit was interested in it and and was interested in it again this year and it has to do with with jailing of juveniles and as you know, we cannot now under the present law and cannot under this bill jail juveniles as part of the sentence. You can jail juveniles who have committed an adult crime or a serious crime but you cannot use it as a shock to them to attempt to get them to straighten out. They are not specifically charged with various crimes such as breaking and entering and so forth. They are usually charged with being a juvenile delinquent and as such in handling these cases we do not use jail terms. The only time jail time can be used is when they have committed an adult crime or for their own safekeeping or perhaps from time to time an overnight situation where they have no other place to go. So I want you to know that is the main thing that has changed. Other than that they are mostly technical changes, clarification in language so that attorneys can better understand the language of the



April 7, 1982

LB 787, 591, 807, 909

juvenile code. Thank you. I move for the advancement of the bill.

SENATOR LAMB: The motion is to advance LB 787. Those in support say aye, those opposed no. The bill is advanced. LB 591.

CLERK: Mr. President, right before we get to that, Senator Hefner would like to print amendments to LB 807 in the Journal and your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 909 and find the same correctly engrossed. (See pages 1789-1791 of the Legislative Journal.)

Mr. President, LB 591, there are E & R on the bill, Mr. President.

SENATOR LAMB: Senator Kilgarin.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 591.

SENATOR LAMB: Those in favor of adopting the E & R amendments say aye, those opposed no. They are adopted.

CLERK: Mr. President, Senator Goodrich would move to amend the bill. Senator Goodrich would like to withdraw, Mr. President. Mr. President, the next amendment I have to the bill is offered by Senator Goodrich. You had a second amendment? Okay, Senator. That will be withdrawn, Mr. President. Mr. President, the next amendment I have is from Senator Chambers. It is on page 1363 of the Journal, Mr. President.

SENATOR LAMB: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I would like to ask the Clerk, is that the one exempting caskets and vaults from the sales tax?

CLERK: It exempts...

SENATOR CHAMBERS: If that is the one it is I would like to withdraw that one.

CLERK: Yes, okay.

SENATOR CHAMBERS: I would like to withdraw that one. I ask unanimous consent.

SENATOR LAMB: The amendment is withdrawn.

April 13, 1982

LB 212, 787, 928

SENATOR CLARK: The motion fails and the time is up on the bill. We go to 212.

CLERK: Mr. President, if I may right before that, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 928 and find the same correctly engrossed and LB 787 correctly engrossed, both signed by Senator Kilgarin.

Mr. President, with respect to LB 212 I have a motion ... well, Senator Cullan had amendments printed on page 1823, Mr. President, that I understand he wishes to withdraw.

SENATOR CLARK: They are withdrawn.

CLERK: And, Mr. President, Senator Cullan would now move to return LB 212 to Select File for a specific amendment.

SENATOR CLARK: Senator Cullan, on 212.

SENATOR CULLAN: Mr. President, members of the Legislature, I'm having.....a Page will distribute to you in a second the amendments which were being proposed to LB 212. A version of them was published in the Journal earlier but we have modified them. What the amendments to LB 212 will do would be to appropriate the funds for the Cancer Registry from the cigarette tax monies which we earmarked in the other bill earlier and so these funds for the Cancer Registry which is the subject of LB 212 itself would be appropriated directly from that earmarked fund already and that would eliminate the necessity of an appropriations bill or of a special general fund appropriation for the Cancer Registry program. I think the Cancer Registry and Cancer Research of course obviously tie together very well and I think it is logical that if we are going to have a Cancer Registry funded in the State of Nebraska with state funds, that that Cancer Registry be funded from the one cent on the cigarette tax which is designated for cancer research. The other part of the amendment corrects a problem about confidentiality of medical records which was brought to us by the Hospital Association and with that amendment the Hospital Association dropped their objections to LB 212 because it did satisfy their problem so far as possible confidentiality issues might be concerned. That is really all the amendments do. Excuse me, one further thing, they also delay the effective date of LB 212 until July 1, 1983, which is when the earmarking of the one cent cigarette tax would also occur. A full one cent would be expended at that point in time. I think this also allows the Department of Health to publish rules and regulations and work out any problems that they might have in working with private registries which already exist in the State of Nebraska. I would ask you

April 16, 1982

LB 212, 212A, 255, 255A, 522,  
759, 787E, 799, 816A

SENATOR LAMB: Have you all voted? Record.

CLERK: (Read the record vote as found on page 1991 of the Legislative Journal.) 40 ayes, 7 nays, 2 excused and not voting, Mr. President.

SENATOR LAMB: LB 759 passes on Final Reading. The next bill is LB 787E.

ASSISTANT CLERK: (Read LB 787E on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in support vote yes, all those opposed vote no. It requires 33 votes.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: (Read the record vote as found on page 1992 of the Legislative Journal.) 46 ayes, 0 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

SENATOR LAMB: LB 787 passes with the emergency clause attached. LB 799.

CLERK: Mr. President, if I may right before that read some items in. I have a lobby report for the week of April 8 through April 15. (See page 1993 of the Journal.) Your Enrolling Clerk has presented to the Governor the initial bills that were read on Final Reading this morning. (See page 1993 regarding LBs 522, 212, 212A, 255 and 255A in the Journal.)

Mr. President, I have two Attorney General's Opinions, one to Senator Warner and one to Senator DeCamp. (See pages 1993-97 of the Legislative Journal.)

Mr. President, I have a reference report referring a gubernatorial appointment.

SENATOR LAMB: Please read the bill.

CLERK: Mr. President, I have a motion on the bill. Senator Remmers would move to return LB 799 to Select File for a specific amendment, that amendment being to strike the enacting clause.

April 16, 1982

LB 404, 404A, 488, 574,  
816, 602, 602A, 759, 787,  
799, 816A

SENATOR LAMB: LB 799A passes on Final Reading without the emergency clause. LB 816.

CLERK: Mr. President, the bills that have been read on Final Reading thus far are now ready for your signature.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LBs...engrossed LBs 404, 404A, 488, 574, 602, 602A, 759, 787 799. So let's proceed then, Mr. Clerk, with LB 816.

CLERK: (Read LB 816 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 816 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on page 2000 and 2001 of the Legislative Journal.) 29 ayes, 17 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: The bill fails to receive the number of votes constitutionally required to pass the bill with the emergency clause, so the question now is, shall LB 816 pass without the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Senator Carsten, do you want me to record the vote? Record the vote.

CLERK: (Read the record vote as found on page 2001 of the Legislative Journal.) 29 ayes, 17 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 816 passes without the emergency clause attached. We are now ready, Mr. Clerk, for LB 816A, if you will read.

CLERK: (Read LB 816A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 816A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 2002 of the Legislative Journal.) The vote is 30 ayes, 16 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

April 16, 1982

404, 404A, 488, 547, 602,  
602A, 868, 761, 787, 799,  
816, 816A, 799A, 412, 933

PRESIDENT: Go ahead Mr. Clerk.

CLERK: Mr. President, I would like to read a couple of items in if I may.

PRESIDENT: All right, go ahead and read some matters in.

CLERK: Senator Hefner offers explanation of vote.  
(Regarding LB 868, see page 2017 of the Legislative Journal).

I have two notices of bills having been presented to the Governor. (Regarding LB 761 and 787. See page 2017 of the Legislative Journal).

Mr. President, Senator Fowler would move that the Legislature would override the line-item reduction that reduces the appropriation from the Highway Cash Fund to the Department of Roads Operation Cash Fund.

PRESIDENT: Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, if I could have some attention I'll briefly explain with the issue is in the veto here.

PRESIDENT: (GAVEL)...either they are all out or they are all paying attention so go ahead.

SENATOR FOWLER: Among the vetoes was three and a half million dollars in highway funds. Now, if there is anything I think that has been a priority in the Legislature, it has been and something that many people from outstate Nebraska said is a growing need is money for roads. Now the level of appropriation that we established is based on the Department of Roads request for what they felt was necessary and I think they cut that back from what they really feel is needed to build a good highway system in Nebraska. Now the Governor for reasons that I can not quite understand vetoed three and a half million dollars in highway funds. The only rationale that I can determine is that it is to maintain the gas tax at the current level. Now three and a half million dollars is a 3.2% cut in the state funds for the road construction program. The reason it was does is that revenues in the highway fund as revenues in all other funds in the state are low. What I do not understand is when we have raised every other conceivable tax and fee to make up for a lack of revenue suddenly when we get to the roads program and the gas tax and the variable gas tax that