

January 18, 1982

LR 199

LB 473, 550, 738, 853-873

on the resolution. I will not support the resolution as it is now, and I am sure that the people I represent will understand. Thank you.

PRESIDENT: All right, seeing nothing further, that is the closing on the resolution as amended. All those in favor of adopting LR 199 as amended vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 32 ayes, 3 nays, Mr. President, on adoption of the amended resolution.

PRESIDENT: The motion carries. LR 199 is adopted. Let me first of all introduce some very special friends of Senator Kremer over here under the north balcony, Mr. and Mrs. Dennis Eberspacher. Would they stand up and be recognized, and welcome to the Eberspachers to the Unicameral. All right, Senator Kahle, thank you. The Call is raised. Read some matters in, Mr. Clerk, if you will.

CLERK: Mr. President, your committee on Public Works whose Chairman is Senator Kremer reports LB 473 as indefinitely postponed and LB 550 as indefinitely postponed. Both signed by Senator Kremer as Chair.

Senator DeCamp would like to print amendments to LB 738 in the Journal, Mr. President. (See pages 320 and 321 of the Journal).

Mr. President, I have a report from the Agriculture and Environment Committee reporting on confirmation hearing. (See page 321 of the Journal).

Mr. President, new bills. LB 853 offered by Senator Fowler. (Read title). LB 854 by Senator Fowler. (Read title). LB 855 offered by Senator Fowler. (Read title). LB 856 offered by Senator Fowler. (Read title). LB 857 offered by Senator Fowler. (Read title). LB 858 by Senator Marsh. (Read title). LB 859 by Senator Marsh. (Read title). LB 860 offered by Senator Nichol. (Read title). LB 861 by Senator Nichol. (Read title). LB 862 offered by Senator Beutler. (Read title). LB 863 by Senator Landis. (Read title). LB 864 offered by Senator Hefner and Howard Peterson. (Read title). LB 865 by Senator Goodrich. (Read title). LB 866 by Senator Goodrich. (Read title). LB 867 by Senator Goodrich. (Read title). LB 868 by Senator Fender. (Read title). LB 869 by Senator Stoney. (Read title). LB 870 by Senator Stoney. (Read title). LB 871 by the Government Committee. (Read title). LB 872 by Senator Wiitala. (Read title). LB 873

LB 432, 513, 514, 569, 612, 615,  
617, 618, 640, 691, 721, 747,  
867, 868, 886, 917, 944

March 1, 1982

Judiciary reports 432 indefinitely postponed; 513 indefinitely postponed; 514 indefinitely postponed; 569, 612, 618, 691, 721, 747, 867 all indefinitely postponed. Those are signed by Senator Nichol. (See page 910 of the Legislative Journal.)

Your committee on Urban Affairs reports 868 be advanced to General File with committee amendments. That is signed by Senator Landis. (See page 910 of the Legislative Journal.)

Business and Labor reports 615 indefinitely postponed. 617, 640, 886, 917 and 944 all indefinitely postponed.

New resolution, LR 231 by Senator Rumery. (Read. See pages 912-913 of the Legislative Journal.) That will be laid over, Mr. President. That is all that I have.

SPEAKER MARVEL: In the North balcony from Senator Haberman's district we welcome Robert Lute III (sic.) from Ogallala. Where are you located? And underneath the North balcony Mr. and Mrs. Arch Schrepel from Lincoln, guests of Senator Cope. We will have an announcement after lunch about activities tomorrow and the Chair will entertain a motion to recess until one-thirty. Senator Marsh.

SENATOR MARSH: Mr. Speaker, I move we recess until one-thirty.

SPEAKER MARVEL: All those in favor say aye, opposed no. The motion is carried. We are recessed until one-thirty.

Edited by Arleen McCrory.  
Arleen McCrory

March 15, 1982

LR 251  
LB 961, 962  
LB 839, 868, 877, 931, 941, 951,  
LB 378, 435, 577, 601, 609, 634,  
LB 651, 697, 716, 774, 784, 792

CLERK: Mr. President, very quickly, Senator Landis would like to print amendments to LB 868.

A new resolution, LR 251, offered by Senator Wesely. (Read.) (See paged 1176, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined engrossed LB 378 and find the same correctly engrossed, 609, 634, 435, 577, 601, 651, 697, 774, 716, 784, 792, 839, 877, 931, 941, 951, and 961, and 962 all correctly engrossed. And that is all that I have, Mr. President.

SENATOR CLARK: Senator Stoney.

SENATOR STONEY: Mr. President, I would move that we adjourn until 9:00 a.m., March 16th, 1982.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. We are adjourned until nine o'clock tomorrow morning.

Edited by Arleen McCrory  
Arleen McCrory

March 16, 1982

LB 868

RECESS

SENATOR CLARK PRESIDING

SENATOR CLARK: The Legislature will record in please. Will you all get recorded in please? Record.

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

SENATOR CLARK: The next bill we will take up is 868.

CLERK: Mr. President, LB 868 was a bill introduced by Senator Fenger. (Title read.) The bill was read on January 18th of this year. It was referred to the Urban Affairs Committee for public hearing. Mr. President, there are committee amendments pending.

SENATOR CLARK: Senator Landis, committee amendments.

SENATOR LANDIS: Mr. Speaker, there is also an amendment to the committee amendment that appears in the Journal. Would you like me to take that first and then proceed with the committee amendments? I am not sure how you want to proceed.

SENATOR CLARK: Well, it wouldn't make any difference. If you want to take the amendment first, fine. Is it your amendment?

SENATOR LANDIS: It is strictly technical. Yes, it is.

SENATOR CLARK: All right.

SENATOR LANDIS: Let me just proceed with the technical amendment to the committee amendment. You are having passed out on to your desks now a letter from John Cavanaugh indicating what this is about. It is strictly a technical amendment. The bill itself creates for the first time a mechanism to deal with the problem of SIDs that are fiscally distressed and the mechanism is an administrator appointed pursuant to a court order and appointed by the auditor, the State Auditor, and the administrator has all of the powers of the Board of Trustees, that is, to set taxes, to make contracts, and additionally to negotiate debt, to discount the warrants and bonds and negotiate debts for SIDs that simply don't have the wherewithal to pay for their bonds. Now the committee amendments are a renegotiation of that concept by all of the interested parties in the SID industry in the Omaha and Sarpy County areas. What I am asking now is for approval to an amendment to the committee amendments because we left out

one of the powers of the Board of Trustees when we were making that kind of authority to administrators and that was the power to participate in mergers or annexations of SIDs into a city in that area. The whole purpose here is to draw the powers of the administrator by the same boundaries as that of the Board of Trustees would have if they were functioning. I would move the adoption of the amendment. It appears in the Journal. I don't know the page number. Perhaps, Dick, you could tell me the page number of that.

ASSISTANT CLERK: Senator, it is referenced on page 1176 but it is printed separately. It would be found in your bill book.

SENATOR LANDIS: Thank you. That is the committee amendments or the amendment to the committee amendments?

ASSISTANT CLERK: The amendment to the committee amendment.

SENATOR LANDIS: Thank you. You will find it printed separately and it is also referenced in the Journal. I would move the adoption of the amendment.

SENATOR CLARK: The question before the House is the adoption of the amendment to the amendment. All those in favor vote aye, opposed vote nay. Record the vote.

ASSISTANT CLERK: 18 aye, 0 nays on the Landis amendment to the committee amendments.

SENATOR CLARK: The amendment to the committee amendments is adopted. Now the committee amendments.

SENATOR LANDIS: Thank you, Mr. Speaker. If you will take a look on your desks, Senator Fenger has had distributed some materials to help you understand this bill. The first is a cover letter explaining his rationale behind the bill and the remaining portions are the indications of support from all of the members of the SID industry that participated in the redrafting of this bill. Turn to page 2, if you will, and you will have a neat run-down on the committee amendments. They are listed under the nine points raised in John Cavanaugh's letter. To summarize, the committee amendment changes from the Director of Banking and Finance to the Auditor of Public Accounts the authority to appoint the administrator. Secondly, it changes the facts for which a petition for the appointment can be granted. In effect, they are narrowed and redefined. We have also changed which parties and under what conditions that appointment can

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LB 868

made. We have added authority to levy a tax for the redemption of warrants. The obligations of a district to levy taxes to service debt has been defined. As you can see, the special lien which was causing people problems in the original bill has been taken out and there are new provisions for the compromising of indebtedness of the district to help in that negotiation process. I would move for the adoption of the committee amendments. By the way, if you are looking into your bill book, committee amendments are the white copies. We had them reprinted so you could read the entire thing without having to go back and forth between some amendments and the green copy.

SENATOR CLARK: The question is the adoption of the committee amendments. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The committee amendments are adopted. Senator Fenger, on the bill.

SENATOR FENGER: Thank you, Mr. Chairman. Fellow members of the Legislature, Senator Landis has explained briefly the bill itself as he incorporated the committee amendments in. I call your particular attention to the last two paragraphs of the handout, the first sheet of the handout that I have submitted and the appointment of an administrator to supercede the operation of an SID Board that is in trouble. The bill does allow for that Board of Trustees or an administrator to compromise the indebtedness, to issue new bonds or warrants, and to levy a tax for payment of that administrator. The last paragraph probably brings the urgency of the matter to the full bore of this body. There are \$121 million presently invested in SIDs in the State of Nebraska. \$25 million of this money is unsound. If you will look at the committee statement, you will find that there were two opponents to the bill. If you will go back through the handout that I gave you, you will find that both opponents now heartily endorse the bill as amended. I believe this bill has the enthusiastic support of just about everyone in the State of Nebraska that is or has a hand in the financing, the operation of an SID. I would be remiss if I did not tell this body that Senator Landis on his own after the committee hearing made two trips to Omaha in successive evenings, had two successive five hour meetings with all parties involved, knocked a few heads together, and as a result I am

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LB 868, 602

proud of the fact that my name is on it but Senator Landis had a large hand in bringing to you what I consider a valuable legislative tool that SIDs can use in the future. I would urge advancement of LB 868.

SENATOR CLARK: I would like to introduce before I take the next speaker here Mr. and Mrs. Serge Legoff, visitors from France. Mr. Legoff is from the French Embassy Office in New York and Mrs. Legoff is a Professor of Modern Language Department here at the University of Nebraska in Lincoln. They are friends of Andrew Cunningham from Senator Beutler's District. Will you stand and be recognized please. Welcome to the Unicameral Legislature. Senator Landis.

SENATOR LANDIS: Since we are now talking about the bill, I only want to make two points. First, this is a bill that was passed unanimously by the Urban Affairs Committee and designated as one of our priority bills. We stand behind it as one of the best pieces of legislation that has been brought to our committee this year and we stand behind this bill a hundred percent. This is a fine piece of legislation. Secondly, one piece of information should work itself into the record for the purpose of legislative history. We use the phrase "functioning board", and where there is not a functioning board, one of these administrators can be appointed. The term "functioning board" means where a board has not been elected or upon election has simply refused to meet or has failed to meet and set tax rates as they should. In other words, there is just simply no leadership in the SID. I wanted to explain that term for the legislative history of the bill and I support Senator Fenger's measure.

SENATOR CLARK: The question before the House is the advancement of the bill. Senator Fenger, did you have anything else to offer? All right. The question is the advancement of the bill. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. LB 602.

CLERK: Mr. President, LB 602 is a bill introduced by Senator Cullan. (Read title.) The bill was read on January 6 of this year. It was referred to Public Health and Welfare for hearing. The bill was advanced to General File. Mr. President, there are committee amendments pending.

SENATOR CLARK: Senator Cullan, on the committee amendments.

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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



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LB 868

SENATOR CLARK: The bill is advanced. We will now take up 868.

CLERK: Mr. President, there are E & R amendments to LB 868.

SENATOR CLARK: The Call is raised. The E & R amendments to 868. Senator Fenger.

SENATOR FENGER: Mr. President, I move the adoption of the E & R amendments to 868.

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

CLERK: Mr. President, I now have an amendment offered by Senators Fenger, Landis, Goll, Labedz, Wiitala, Beyer and Duda.

SENATOR CLARK: Senator Fenger, do you want to take the amendment?

SENATOR FENGER: Mr. President, Senator Landis was to take the amendment. He was on the floor just a few seconds ago.

SENATOR CLARK: Is Senator Landis here?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I assume that we are on the amendment which was offered under the signature of a number of my colleagues which is an attempt to negotiate a difficult and intricate problem. We have amended into LB 868 the authority for SIDs to collect and dispose of garbage or to contract for the disposal of garbage. At the public hearing on that issue SID representatives discussed the factors of safety and the numbers of trucks going through SIDs and perhaps cost savings. Following the hearing and while the bill was on Select File prior to this time, we had a number of questions from a wide variety of trash haulers in Omaha and Lincoln, fearful that this language would prompt large trash haulers into the field, running them out of business. At this point an attempt has been made to discuss and allay those fears and earlier today Senator Wiitala, Senator Beyer and myself introduced an interim study resolution giving the Urban Affairs Committee authority to examine SID powers including particularly garbage hauling. We will be studying it this summer. We have also asked in this amendment to delay the operative date of that grant of authority to May 1, 1983. This will allow the interim study to collect data and in the event this power needs to be refined by the passage of language declaring those kinds of contracts, which may be offered, which may set performance bonds standards, which may set the length of contract standards that may be utilized into that authority, all of this could occur prior to May 1, 1983. I have made the assurance to my colleagues that in the event a bill is drawn from the Urban Affairs Committee it will be the first bill heard by the Urban Affairs Committee next year in

the event I'm the chairman. If not, well they will have to take their chances, but to my knowledge, those who have shown an interest to me in this question are committed to this course of action of study and of possible refinement next session by legislation and it is as good faith an attempt as I can make to bring disparate groups together, including Senators Beyer and Senators Labeledz who have been on opposite sides and yet you will find their cosignatures on the amendment. I move its adoption.

SENATOR CLARK: Senator Pirsch.

SENATOR PIRSCH: Thank you, Senator Clark. I just wanted to explain the letter that I sent out to you, incidentally not paid by public expense or at public expense, from a constituent who was concerned about this amendment. There has been a flurry of conversation and discussion about this amendment and, indeed, the compromise was to settle for a delayed operative date of this particular section and I hope that Senator Landis and the committee in their interim study will look closely at this issue and come to a satisfactory conclusion for everyone. Thank you.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, I'm as familiar with SIDs as anyone else in this body. I served on the Urban Affairs Committee myself for a few years. I have tried to work with them. In fact I brought bills in here to try and help a couple of them. I want you to know what is happening by the amendment that we just adopted which was LB 939. That a group of people can wake up in the next six months and be out of business who have been in that business a long time and they are not called trash haulers, they are called sanitation people. I've lived in a small town and I also know what it is to go to contract bids for urban sanitation removal because I have served on the city council for eight years and I know what can happen. Certainly when you go to contract, it always looks great. You bring in this outfit out of Chicago or wherever they might come from and suddenly they are going to give you the greatest business you've ever seen in your lifetime and all of a sudden that business once they get the contract it starts to diminish. Then the next thing you know they want to reopen the contract one more time and next year you are bidding again. As this letter states it isn't just those of us who can afford it, it is many times the small people who can't afford it. But let me tell you something about Omaha. It is interesting, isn't it, that Omaha gets their sanitation removal free of charge but we pass sales tax for those people who get it free of charge. I live in Ralston. We pay for it right out of our own bank every month. So I am a little concerned that suddenly here is an organization that

has some high powered lobbyists who are here on one bill introduced by Senator Fenger which has to do with the administration of SIDs and auditing and then suddenly we attach 939 to a bill that deals with another subject. These people out here in the hall who have been here for a couple of days and have something more to do than lobby and don't know even how to do that very well. They are not used to the politics. They could be and this amendment we're about to say, well, thank God we're going to give you until May of '83 to survive. Isn't that nice? But yet we introduced a resolution today in this same body. We're going to study the impact of this bill upon the small haulers. We might as well do away with the resolution because it isn't going to change one thing because by the time the SIDs who want this will have it in place and they will already go on to bid and they will have a large contractor who is going to run these small businessmen out of business and I'll bet on that. I think this is a sneaky way of trying to put people out of business who do this and work hard at it and we all know them, coming from large and small communities. At least these people should have a chance to be at a public hearing. They don't have a chance to read all of our little things we put out in the newspaper, that guess what, on March 1 we are going to hold a hearing that has to do with SIDs. SIDs? In what way? Now I know a couple of friends of mine who are attorneys for SIDs are going to be a little upset with me but I told them I wouldn't accept this without an argument. So I'm just saying to you, the people some of you have met out here are sincere hard working individuals and I'll tell you, you can't afford to put them out of business by an amendment that says, well, you have until May 1, 1983, but we're going to study this baby. Then we're going to try to resolve it through certain kinds of procedures. The resolve will still be the same. They will be out of business. So either you adopt the amendment and do away with the resolution and stop wasting time and be honest. I object to the amendment and I think it is underhanded. I don't like it at all.

SENATOR CLARK: Senator Wiitala.

SENATOR WIITALA: Thank you, Mr. Chairman. Mr. Chairman and colleagues, I concur with nearly everything that Senator Koch has said but here's the rest of the story. It is much more involved than that. It's a gordian knot. I believe that Senator Labeledz offered this bill in good faith because I know she has a cabin out at Hanson Lake near Bellevue. It has very narrow streets. If garbage trucks move up and down those streets no one can get by. If they are moving throughout the day because there are several trash haulers there, it is difficult. But there is a lot of problems here. I never realized the problems until I took a real close look at the language of the bill and there is all kinds of things that could be implied by that language. If you will take a careful look at the portion of the

bill that deals with the disposition of waste materials you will see it says that a Sanitary Improvement District can collect and dispose or contract. But you and I know that some of the Sanitary Improvement Districts are run totally by developers in the initial stages. Sometimes, not as often in the past, developers can abuse their privileges and by collecting and disposal of that waste they could backcharge it to the resident with all kinds of costly problems. Now I'd like to say a little bit about the trash haulers. They are a lot different than the people who work in the cities hauling trash. For around \$5 or a little bit over they will carry everything from your residence that you put out on your driveway in any type of container where ever the container is placed. I don't care if you put bedsprings and iceboxes out there, they will carry that away for a minimal cost, the private independent businessmen and several of them have contracts in one SID and it does present some problems for the SIDs especially when we have undedicated streets that weren't built to standards. Rather than having six or eight inches of concrete we've got four inches of concrete and some of those streets are buckling and some of those streets are so narrow those cul-de-sacs, those big trucks can't back around. And so SID residents have some problems too and they've informed me. Sometimes those SIDs people just don't get rid of their waste. They just don't contract at all. It isn't very many but sometimes that takes place and the wastes are out alongside the garages, out in front, it is never carried away and it bothers residents. Sometimes they are carrying garbage all throughout the week in the same locality from one house one day, the next house the next day and there is garbage always on the street in sight. And so there is a demand by SID residents to collect on a certain day. What I am saying to you, colleagues, it is very complex. It is very complex because a lot of people didn't hear about this bill. They should have read about it but they are not familiar with legislative process as Senator Koch stated. So when this bill died in committee they thought it was dead forever and I did too who was tracking it. Little did we know the bill was amended on, which is alright, a marriage of two bills to save time of launching two bills to the floor. And so this bill came up here on Select File to a certain degree without a proper hearing although everything was proper. I really believe that the compromise that we've worked out will resolve the problem. I'm not saying that there can't be some problems involved but I believe in this Legislature that after the interim study, hearing all sides, that if there is legislation that is needed...

SENATOR CLARK: You have one minute left.

SENATOR WIITALA: ...you can introduce it...thank you, Mr. Chairman, that we can introduce legislation by May 1st and pass it to address it and I believe that the Urban Affairs Committee would

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stand behind that and I believe this body will do the same also. Thank you, colleagues.

SENATOR CLARK: Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. President. I beg to differ with Senator Koch. I think the people that have been lobbying in the rotunda are excellent. They have done a great job. Otherwise we wouldn't have agreed to the compromise. They have been there faithfully every day. I want to reiterate some of the things but I don't want to repeat what Senator Landis and Senator Wiitala said, but mainly this is permissive authority and I have every faith, as Senator Wiitala said, in the committee that it will be a fair hearing. And those people that have been out in the rotunda and did such an excellent job will be there and they will set up some guidelines or whatever is needed to make sure that they get a fair shake on what is going to happen. I am a member of an SID and I think that if we can come to some agreement, some of those people out in the rotunda may be better off than they are now because rather than get a few homes or many of the homes in an SID district, they may get it all. I'm not saying the ones that haul for us are very bad but there are more than one that come through the SID as is happening now. I've been contacted by three SIDs that they do want this bill but it was very difficult for me to agree to the compromise which I did. At first the date was April 1st. Then we went to June 1st and now we're at May 1st and we've all agreed and I urge the passage of this amendment so that we once and for all can get LB 868 settled and there will be a public hearing on the interim study and any views that they have will be brought forward and I'm sure that Senator Landis has always been fair and he will be fair at the hearing. Thank you.

SENATOR CLARK: Senator Fenger.

SENATOR FENGER: Mr. President, I only want to correct what could perhaps be considered an understatement. The truth of the matter is LB 939 was introduced by Senator Labeledz. If you will turn to the green sheet on it you will find the committee statement. You will find that on the 17th day of February that bill had a public hearing. In addition to the introducer there were three proponents, not one opponent to the bill at the public hearing. Now in view of the priority structure the limited number of priority bills, the committee voted and I am reading from the statement, "to indefinitely postpone the bill because those provisions will be incorporated in the committee amendments in the other bill." It has been suggested that this is sneaking up on these people, they had no previous knowledge of it, and I only wanted to correct that statement because there was a public hearing held on this issue and there were no opponents to LB 939 at the public hearing at the time. Thank you.

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SENATOR CLARK: Senator DeCamp. The question has been called for. Do I see five hands? I do. All those who want to cease debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 20 ayes, 6 nays, Mr. President, to cease debate.

SENATOR CLARK: Debate has not ceased. Senator Koch is next... no, Senator Beutler, pardon me. He hasn't spoken yet. Senator Beutler. Alright, Senator Landis. Alright Senator DeCamp is... Senator Koch, do you want to talk again? That will be the last speaker then.

SENATOR KOCH: Thank you, Mr. Speaker, members of the body. I'll tell you why these people took that amendment, because they are naive. When you're on death row you're going to take any kind of stay of execution you can get. I walked out there and they said, we agreed to do this. I said, why did you do that and they said, well we think it is the best we can get and I said, well, I'm sorry you did that. Don't give in too soon because we may stay execution for a while. I told you before and Senator Fenger said they didn't show up for LB 939. No, they didn't know what was going on. They don't have professional lobbyists to read the papers to find out what public hearings are. Otherwise they would have been here like they have been here the last several days so I think it's unfair. Either we are going to have a resolution to study the problems of SIDs that relates to a lot of different issues or do away with the resolution because it isn't going to meet a thing. It is an exercise in futility on their part. Now I notice as I look at the original LB 868. It is interesting to see who supported it, the former congressman John Cavanaugh, etc., etc. Opponents Mr. Croker and Mr. Huck. Now why did they oppose the original 868 and now they are in love with it? Because 939 got attached to it. That's why they are in love with it and they will accept a little bit of supervision in auditing in order to get this deal. Why not? It's a big deal for them. I'll give a little bit if I can get a ton anytime. End of remarks, I am not in favor of that amendment at all.

SENATOR CLARK: Senator Landis, do you wish to close? Can we give him a little attention, please.

SENATOR LANDIS: My guess is that this is a product of the lateness of the hour and the lateness of the session and the fraying of a lot of nerves. That amendment is not underhanded. That is

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not the reason 868 is now supported by a number of attorneys and financiers and engineers and developers, and that amendment was drawn for the purpose of trying to resolve absolutely disparate elements who were afraid of going to the mat. Now if they want to go to the mat they are welcome to but that bill tries to create a curative device for \$25 million, a very questionable paper in Omaha and I'm not willing to sit on the sidelines and watch that bill go down over some kind of economic protectionist fight between various elements of some industry in Omaha and I'm not going to apologize in the least for my attempt to bring about compromise between people who simply refuse to recognize the good intentions of their opponents. Now with that, I'm going to close and I'm going to ask for the adoption of the amendment.

SENATOR CLARK: The question before the House is the adoption of the Landis amendment. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote. Senator Landis, do you want to do something?

SENATOR LANDIS: I do. A Call of the House and a roll call vote.

SENATOR CLARK: A Call of the House and a roll call vote. A Call of the House has been requested. All those who want a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 16 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: We're under Call. All senators will check in, please. All senators will take their seats. Will you all check in, please. Senator Landis, Senator Beutler, Senator Labeledz, Senator Koch. Senator Koch, will you check in, please. Senator Howard Peterson, would you check in. I think that is probably everyone that is here. Call the roll.

CLERK: (Read roll call vote as found on page 1751 of the Legislative Journal.) 24 ayes, 9 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The amendment lost. The next amendment.

CLERK: Mr. President, the next amendment I have is offered by Senator Koch. (Read Koch amendment as found on page 1751 of the Legislative Journal.)

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. This now gets us back to LB 868 as it originally was designed. Senator Landis mentioned he had \$25 million that he wanted to save somehow. So what I am doing is I am striking the amendments that we just

talked about and there needs to be no other discussion and we will be back to 868. Then these people who are in business of sanitation will survive. Until such time as the resolution has been properly studied to see whether or not there can be some kinds of conditions which are appropriately met where all people know what is going to happen to them before they are executed that they've had a chance to defend themselves. I ask for the adoption of the amendment.

SENATOR CLARK: Senator Landis, on the Koch amendment.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, the argument here is one of economic protectionism and it denies to SIDs the authority to collectively act in their own behalf. A request that we had from SIDs and which we acted upon by the inclusion of this language. SIDs are small municipalities on the fringes of cities. They perform a number of municipal functions. They have parks. They have swimming pools. They have common areas that they maintain. They have streets, street lights. They have drainage systems and all of the authorities that they have are given to them by statute. When they want to create a new power, do some new act collectively, they have to come to the Legislature and get it and they have done that in a long skein of requests, one by one. And in this case they have come to us for the power to band together to see if they couldn't collectively decide what to do through their elected representatives through the board of trustees to contract for garbage or in the event the SID wanted to fund it themselves, to collect and dispose of garbage on their own behalf. That collective power is something that we have given cities. That collective power is inherent in the idea of living together under the political decision making of a board of trustees. That contract process is open to any bidder. Those bids can be taken by anybody who satisfies the SID and nothing requires an SID to utilize this power. Only those who through their board of trustees choose to do so can, in fact, exercise the power that is granted to them under this language. Take a look at the language. Is it discriminatory on its face? Certainly not. Does it say that bids can only be accepted from certain parties? No, it does not. Does it indicate what size the contractor has to be? No, it does not. Now if you are doing business right now and you are satisfying your customers, who has got the best chance of getting that bid? You do. And who is doing this business? The people in the balcony. Now the system operates in their behalf. I understand that. What I am saying is that the people in SIDs ought to be entitled to decide for themselves whether they collectively want to act in this way. If they don't, under the rule of a representative democracy they don't have to. It is simply a grant of permissive authority and I oppose Senator Koch's amendment.



SENATOR CLARK: Senator Beutler. Senator Wiitala. Senator Beutler, did you want to talk on this? Do I see five hands? The question has been called for. All those in favor of the question, debate ceasing, vote aye, opposed vote nay. Have you all voted on ceasing debate? Record the vote.

CLERK: 12 ayes, 11 nays to cease debate, Mr. President.

SENATOR CLARK: Debate has not ceased. Senator Wiitala is next.

SENATOR WIITALA: Thank you, Mr. Chairman. Mr. Chairman and colleagues, now that the amendment that I cosponsored earlier is defeated, I rise in support of Senator Koch's amendment. I feel at this stage of the game now the shoe is on the other foot. We are asking for this issue to be delayed by putting the enacting date on this provision of this bill way forward into May and saying to us and to the trash haulers that if there is any problems with this legislation that we passed that becomes effective in May, that we will take it under study and we will pass suitable legislation and that wasn't a very good compromise but sometimes compromises, the art of reconciling differences, there is no doubt in my mind we probably should have done to begin with I guess, is to face it straight up and that is that this legislation is needed. Then let's get a fair hearing of everybody involved. Now as you know some of the SRDs are controlled by developers. Every trustee in an SID is a developer or those that are close to him. That is only about five years later or when the development is 50% developed that an SID switches over to residents, slowly gaining a majority. Let's get those trustees that represent the residents living in an SID. Let's get the residents here. Let's get the trash haulers here. Let's get everybody that is involved with this issue and heard before a hearing. The problem is with this legislation as I see it is that we're asking for a contract but we don't know how long those contracts will exist. How would you feel if you lived in an SID and a developer laid a contract on you for collection disposal of solid wastes that would last for five or ten years? You sign the contract and the name of the SID and there it lay. I think those things need to be looked into. What about bond requirements? There is nothing that is said in there about establishing bond. The bond could be so high that no independent trash hauler could ever qualify for a bid. It has been done over and over in the cities of America and these are my fears. They are my fears because I'm chairman of an SID. I've been through difficulties with SIDs, what they have experienced and I also have the largest amount of SIDs in my district. These are serious economic times and I know full well if the bill was passed in its present form, what it would amount to is giving an independent group of truckers, trash haulers if you may, about a

sixty day notice that they would be required to get out of certain sanitary improvement districts but I also understand full well the cry of residents living in SIDs. But I want to hear that cry and it isn't very loud now because this whole issue has only been brought to the attention of the public. It hasn't even hit the press within the last couple of days. So I would ask you, colleagues, now that the other amendment was defeated that you would support Senator Koch's amendment. Thank you.

SENATOR CLARK: Senator Pirsch.

SENATOR PIRSCH: Thank you, Senator Clark, I too am very glad that Senator Koch spoke up and forced the issue and told it like it was. This is the way it should be and this is what I would like you to consider when you make this decision to vote this amendment out. Now remember the language that is in the present bill, "to collect and dispose of or contract for the collection and disposal of solid waste materials." This gives a great deal of latitude to a new SID who many times is struggling with other problems than the solution of who does the weekly pickup. We come to the arguments that were handed out to you that presently they have to individually contract with different private haulers and this results in heavy truck traffic in and out of the SIDs almost every day. I also live in an SID and I can tell you truthfully, I can't even remember when they came or when my neighbor's pickup came. And if you do allow SIDs, and SIDs do contract for this service, you still cannot keep individuals from individually contracting because they feel they get better service, more efficient service. This is happening in the City of Omaha continually, many pickups in Omaha, because the contracted for service is not sufficient. I hope that you will look at the letter that I passed out earlier. The gentleman, Mr. Rakes, pointed out that before the residents of Millard was annexed they were picking up in that. As soon as it was annexed and became a part of the contracted Omaha hauler, that they were eliminated from that process. This is their fear and I think it is a very real fear, that because of their size they cannot bid on these big SIDs. At the end of Mr. Rakes' letter he says, "more competition is needed, not less, and if LB 939 passes small competitive businesses involving the disposal of solid wastes will be ruined and their tradition of giving personal efficient service will be eliminated." Now this is a real fear whether you think that is going too far or not and I would hope that your vote would be on the side of the small business person. At least, not to allow an axe over their head while this question is being studied. Let's take this amendment out. It is controversial. Let's give the benefit of the doubt to the small business person and next year, and Senator Landis and those opponents agreed

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that they don't want to have this decision settled until later on in the year. Let them come in next year and make the proposal and have the hearing and the proper notice to these people who are not always in the best position to know what is going on down here. I hope your vote will be for the small business person and not keep this axe over their heads.

SENATOR CLARK: You have one minute.

SENATOR PIRSCH: Thank you.

SENATOR CLARK: Senator Howard Peterson.

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

SENATOR CLARK: The question has been called for. Do I see five hands? I do. Shall debate now cease? All those in favor of ceasing debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 27 ayes, 5 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Koch, do you wish to close?

SENATOR KOCH: Mr. Chairman, Senator Goll would like to speak. I'll defer part of my time to him and then I will close. Thank you.

SENATOR GOLL: I just want to approach this, in closing, from a small business standpoint and most of you know I am a small businessman. Now I operate under the franchise system but I'm still independent. But I also belong to a couple of associations and when we have problems in my industry I have someone there that takes care of me. We have a situation here with a group of independent businessmen that don't have anybody to turn to but their state senators and they have come down here and they have talked to three or four or five of us, those of us that represent them, and the reason I'm speaking is because one of these people, one of these independent businessmen lives in my district and he called me on the phone on a Sunday morning and he was scared to death and he didn't know what to do and he didn't know who to turn to and he didn't know what to say, he didn't know anything but he called his state senator and that's why we're here and that's why we're in here fighting, to give

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them some time, some needed time to gather their forces. If they lose on the second fight they've lost a fair fight but they are losing now and they haven't had a fair chance to speak their piece and to be heard. As an independent businessman I think they need this right and they deserve it, and I thank you.

SENATOR CLARK: The question before the House is the adoption of the amendment and Senator Koch will go ahead and finish it.

SENATOR KOCH: Thank you, Senator Clark. I have been here long enough to know that SIDs are an important part of this state, particularly in the part of the state that I live in. I was here and fought the battle of LB 313, you all remember that. I fought a battle for SID 95 last year over community programs. Now I think it is time that we're equitable people who are a part of all those creations so that is the reason I am asking for you to strike the amendment the committee adopted. I think this is only fair to these people. There is a study resolution. If, after that time, there can be a resolve, it will be resolved fair and with an equitable situation. So I ask you to adopt the amendment that I am proposing and I'll still remain a friend of SIDs but I want them to operate straight up and not some other manner. Thank you.

SENATOR CLARK: The question before the House is the adoption of the Koch amendment. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting yes.

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

CLERK: 26 ayes, 9 nays, Mr. President, on adoption of Senator Koch's amendment.

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

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

SENATOR CLARK: Senator Fenger, do you wish to move the bill?

SENATOR FENGER: Mr. President, I would move the bill to E & R for engrossing, please.

SENATOR CLARK: You heard that motion. All those in favor say aye, opposed. The bill is advanced. I think the Clerk has some reading in.

CLERK: Mr. President, your committee on Enrollment and Review

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LB 602, 602A, 520, 759,  
799, 799A, 868, 605,  
755, 756, 807, 970, 970A

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by Senator Kremer.

SENATOR KREMER: Prayer offered.

PRESIDENT: Thank you, Senator Kremer. Roll call. While we're waiting for everyone to check in showing their presence, the Chair would like to announce that Senator Lamb has announced that on agenda item #6 there will be a fifteen minute limit on the motions today, fifteen minute limit on agenda #6. And Senator Lamb also wished me to announce that his plan calls for a recess from six to seven o'clock. Senator Sieck, would you do us the honor of allowing us to get started. If you would just push that little button why we can get started. Record the presence, Mr. Clerk.

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

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

CLERK: (Read Journal corrections as found on page 1844 of the Legislative Journal.)

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 868 and find the same correctly engrossed; 799, 799A correctly engrossed; 602, 602A correctly engrossed; and LB 520 and 759 all correctly engrossed. Those are signed by Senator Kilgarin as Chair.

Mr. President, I have a couple of letters from the Governor addressed to the Clerk. (Read messages from the Governor Re: LB 605, 755, 756, 807, 970 and 970A. See page 1847 of the Legislative Journal.)

Mr. President, I have a unanimous consent request from Senator Vickers to add his name to LR 275 as cointroducer.

PRESIDENT: Any objection? If not, so ordered.

CLERK: I have nothing further on the desk at this time, Mr. President.

PRESIDENT: The Sergeant at Arms would then clear the Chamber for Final Reading and see that all members are at their desks,



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LB 412, 868

he raised because he was the one that made it clear to me that they did want this test. Number one, even though the ten thousand is not appropriated, the case with the exact formula...these provisions, is already before the Supreme Court and it was accepted before the Supreme Court with no appropriations because it is for '82-'83. There have been no appropriations for that when they accepted it already. So that is covered. Additionally...additionally, and Charles Thone...or J. Lindstrom versus Charles Thone, 209 Nebraska 783, 1981, the scholarship award program was established in 1978 and money was appropriated that year. The next two years no money was appropriated but the court still went ahead and decided the issue. 77-3612 as amended by 412 says for fiscal year 1982-'83 the Legislature shall appropriate \$10,000. That can be done in January. It can be done at a special session. It could be done by a deficit appropriation if necessary. The whole point is this does cause the continuation of that case to finish up in the Supreme Court and I would think that you would want to do that if you really wanted to know what the limitations on the Legislature were. So, I would urge you to pass the bill and complete the test. That is what I thought you wanted and promised. I withdraw the motion.

PRESIDENT: All right, motion is withdrawn. Is there anything further on the bill? All right, the question now is shall LB 412 pass without the emergency clause attached? All those in favor vote aye, opposed nay. I remind everybody we are on Final Reading. This has been a long day, I realize, and will get longer. Record the vote.

CLERK: (Read the record vote as found on page 2005 of the Legislative Journal.) 27 ayes, 20 nays, 1 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 412 passes without the emergency clause attached. The next bill on Final Reading is LB 868.

ASSISTANT CLERK: (Read LB 868 on Final Reading.)

PRESIDENT: 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 nay. It is with the emergency clause attached. All those vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 2006 of the Legislative Journal.) 45 ayes, 0 nays, 1 excused and not voting, 3 present and not voting, Mr. President.

11001

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LB 868, 928

PRESIDENT: LB 868 passes with the emergency clause attached. Mr. Clerk, the next bill on Final Reading is LB 928.

CLERK: (Commenced reading LB 928 on Final Reading.)

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Koch, for what purpose do you arise?

SENATOR KOCH: What page is the Clerk on, I can't keep up.

SENATOR CLARK: Continue with whatever page you are on. He's on the last page of the bill.

ASSISTANT CLERK: (Continued reading LB 928 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall 928 pass with the emergency clause attached? All those in favor vote aye, opposed vote nay. Have you all voted?

CLERK: Senator Clark voting yes.

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

CLERK: (Read the record vote as found on pages 2007 and 2008 of the Legislative Journal.) 24 ayes, 20 nays, Mr. President, on the motion to pass the bill.

SENATOR CLARK: The bill having failed to receive the constitutional majority to pass with the emergency clause attached, the question is now, shall the bill pass without the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Read the record vote as found on page 2008 of the Legislative Journal.) 26 ayes, 19 nays, 2 excused and not voting, 2 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed without the emergency clause attached. The Clerk will now read 933.

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LB 412, 761, 799A, 816,  
816A, 868, 933

they are vital, and we believe they should be maintained. I ask for the override and replacement of \$40,000 in Program 292.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. Shall debate now cease? All those in favor vote aye, opposed vote nay. Voting on ceasing debate. Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President.

SENATOR CLARK: All right. Senator Koch, you don't have any closing? There is no opposition there. All those in favor of the override on Senator Koch will vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: (Read the record vote as found on page 2015 of the Legislative Journal.) 22 ayes, 22 nays, Mr. President, on the motion to override.

SENATOR CLARK: The motion lost. The next motion.

CLERK: Mr. President, if I may right before that, most of the bills that were read on Final Reading are now ready for the President's signature.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign enrolled LBs 816, 816A, 799A, 412, 933 and 868. We have one other bill which I think there is a motion on, Mr. Clerk, that I cannot....there is a motion on it I believe. I proposed to sign but I believe you told me there is a motion.

CLERK: There is a motion filed, Mr. President, yes.

PRESIDENT: Would you read the motion on that bill before I sign it?



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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