

January 19, 1982

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

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

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

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

I have a reference report referring LBs 848 through 880.

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

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

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

SENATOR CLARK: Senator Vickers.

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

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

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

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LB 383, 547, 590, 598, 702,
736, 863, 892, 895

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Prayer by Reverend Bruce Currier of the Second Baptist Church, Lincoln.

REVEREND CURRIER: Prayer offered.

SPEAKER MARVEL: Roll call. Record your presence, please. Will you please check in so we can proceed with the business at hand? Okay, record.

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

SPEAKER MARVEL: Items in number 3.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 547 and recommend that same be placed on Select File with amendments, 383 Select File with amendments, 590 Select File with amendments, 598 Select File and 702 Select File with amendments, all signed by Senator Kilgarin. (See pages 825-826 of the Legislative Journal.)

Your committee on Education whose Chairman is Senator Koch reports LB 892 advanced to General File, 895 General File with committee amendments attached and LB 736 as indefinitely postponed. All signed by Senator Koch. (See pages 826-827 of the Legislative Journal.)

Your committee on Judiciary offers a report on a gubernatorial confirmation hearing, signed by Senator Nichol. (See pages 827-828 of the Legislative Journal.)

Senator Kremer and the Public Works Committee offers a gubernatorial appointment confirmation report. (See page 828 of the Legislative Journal.)

Your committee on Public Works gives notice of hearing for March 10, Mr. President.

I have a reference report from the Reference Committee referring LB 967 to the Public Works Committee.

I have an Attorney General's Opinion addressed to Senator Cullan regarding 863. (See pages 828-829 of the Legislative Journal.)

Senator Koch would like to be excused Thursday, February 25 and Monday, March 1.

March 9, 1982

LB 587, 652, 750, 752,
816, 895, 915

RECESS

SPEAKER MARVEL PRESIDING

CLERK: A quorum present, Mr. President.

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

CLERK: Mr. President, your committee on Public Works whose Chairman is Senator Kremer instructs me to report LB 750 as indefinitely postponed; LB 752 indefinitely postponed; LB 915 indefinitely postponed. All signed by Senator Kremer as Chair.

Mr. President, I have an Attorney General's opinion addressed to Senator Carsten regarding LB 816. That will be inserted in the Legislative Journal. (See pages 1068-1070.)

Mr. President, I have a motion from Senator Kremer to place LB 587 on General File notwithstanding the action of the committee. That will be laid over.

Mr. President, Senator Kremer would like to print amendments to LB 895 in the Legislative Journal.

SPEAKER MARVEL: Okay, we will return to item #5, LB 652.

CLERK: Mr. President, when we left 652 this morning there was pending a motion from Senator Hoagland to indefinitely postpone the bill.

SPEAKER MARVEL: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and colleagues, I rise to oppose the kill motion and the reason I do is because I feel that we have made a fair compromise. I think that we found a fair and just solution to the problem that we have been toying with over the past year and a half. I don't think that just because a teacher is certified that this means she or he is good. I think we can write other things into the law that would help our school system in Nebraska. We were able to get some amendments to the bill this morning that I feel are a compromise and one of those is the sunset provision. If it isn't working by the end of four years, we can take another look at it and make some adjustments then. We are also striking the section in the Peterson-DeCamp amendment that waives some of the requirements of the school. I think that Senator DeCamp and Peterson have been very fair and I want to commend Senator

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LB 675, 895

feeders that would prefer to not have to pay the inspection and not have to have the inspections, but I was just visiting with Senator Schmit and he assures me that there is such a provision in the statute for feedlots that they can post a bond and certain procedures can be followed so that they don't have to have those procedures that are taking place with the brand inspections. They don't have to have that many inspections. I suggest that is the way those feedlots should go and not ask for this exemption. I guess I would like to ask Senator Hefner a question if I may, if he might respond. Senator....is Senator Hefner....

SENATOR LAMB: Senator Hefner. We have several other lights. We have a couple of amendments. We have....the time is expired, so we will...this bill will be laid over and the next bill is LB 895.

CLERK: Mr. President, LB 895 is a bill introduced by Senators Koch and Remmers. (Read title.) The bill was read on January 19th. It was referred to the Education Committee for hearing. The bill was advanced to General File. Mr. President, there are Education Committee amendments pending.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Koch on the amendments.

SENATOR KOCH: Thank you, Mr. Chairman. Members of the body, the Education Committee or Senator Remmers and myself were apprised of some problems we have in nonresident tuition fees that are being charged across the state. So we introduced a bill very hurriedly in attempt to resolve some of the issues. After we introduced the bill, why we have decided that the...the committee has decided that what we should do is to develop a formula that would be used by all receiving schools in the State of Nebraska. So that is what these amendments are and I ask for adoption of the amendments, and at that time I will explain how it works.

SENATOR CLARK: Senator Lamb, on the committee amendments.

SENATOR LAMB: Mr. President and members of the Legislature, I have serious reservations about the committee amendments to this bill. This is a difficult question. Nobody will deny it. What is a fair...what is a fair tuition rate? But I have to oppose the committee amendments. We have had a number of superintendents from our area call in and explain what would happen under the formula which is established by the committee amendment. In all cases that I have seen, the

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amount of tuition that can be charged by the district is higher under the formula than is currently being charged, the top amount is higher, and in many cases, the bottom amount which can be charged is also higher than they are currently charging. So I think this formula is unworkable. I don't think it will work. It is going to throw this whole situation into chaos. I hope that all of you will carefully consider this and will not just blindly advance and adopt the committee amendments.

SENATOR CLARK: Senator Burrows. Senator Cope. Senator Wagner. Senator Burrows, did you want to talk on the bill? Senator Remmers.

SENATOR REMMERS: Senator Clark, members of the Legislature, I am going to support the committee amendments. It is true that the situation will not be what we would like to have but I don't know what we can do to make it like everybody wants it. It is a difficult problem. We have a lot of schools whose money is being held up in court. It is a very important issue for some of these schools that are in court on this tuition money. The Class I schools have challenged the present rates that they are charging. There is a great variation from various schools which I think is not a very good situation. This difference will probably even be wider under this formula but I think we have to address this problem and at least this is a new approach. There may have to be some amendments on it as we go along but I would encourage that we adopt the amendments so that we move this bill along because it is something that needs to be addressed at this session of the Legislature. I urge you to support it.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President, I have a question of Senator Remmers.

SENATOR CLARK: Senator Remmers.

SENATOR REMMERS: Yes.

SENATOR HEFNER: How did we get into this problem? I mean you mentioned about some of these cases being in the courts, is this because some of the schools are charging too much tuition?

SENATOR REMMERS: Well, I don't know what too much is. I can't justify the fact that the tuition rates presently vary from \$3,000 to \$10,400 for one student but we got into

this situation when we realized that the receiving district probably should have some leeway in this matter. So the statutes right now simply say that you can charge no less or you should charge no less than one and a quarter times the per pupil cost, 1.25 times per pupil cost. There is no ceiling on it. So as a result of this, some of the schools or all of the school districts have been raising... quite a few of them have been raising their tuition rates. Some haven't because there is a factor in the equalization fund that if you get more money...if you are getting equalization money and you raise your tuition rates, why you lose a dollar almost for every dollar you get extra, but there are a lot of schools who are not getting equalization aid and as a result this situation doesn't bother them. Any amount of dollars they get extra is an extra dollar. So this is how it came about. There is nothing to control the top. Now the Class Is have gone to court and said this is an unreasonable amount. How it will come out I don't know but I do think it is important that we come up with some kind of a solution.

SENATOR HEFNER: Senator Remmers, one more question. Do you feel that if we pass this bill that court cases will then be done away with?

SENATOR REMMERS: Well, I am hoping that there will be some decision that will release this money as the result of some legislation we come up with. I am afraid that strictly per pupil cost which is an amount that I could probably agree to easier than I can this formula but I am afraid that is not going to satisfy the situations that we have in court today. I think it is going to take something else besides just an outright per pupil cost solution.

SENATOR HEFNER: Thank you, Senator Remmers.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, a question of Senator Remmers.

SENATOR REMMERS: Yes, Senator Haberman.

SENATOR HABERMAN: My researcher shows me here that the original bill had a ceiling of three times the district's average per pupil cost, that that is what they could charge, is that correct?

SENATOR REMMERS: That is the way the bill was introduced. Then we had to start someplace.

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SENATOR HABERMAN: All right, now it says that the amendments gut the original bill and sets out a complicated formula to be used each year to determine tuition rates, is this correct?

SENATOR REMMERS: Yes. Now back to where the three times came in, there are some schools that are currently charging more than three times and that is why we started with that three times figure.

SENATOR HABERMAN: Does this put a minimum...would this put a minimum of three times figure or do you have any idea, can you give us any idea? You see I am getting input from my schools.

SENATOR REMMERS: No. I would say that in some cases this formula could well be more than three times that they would be allowed to charge according to this bill. However, I don't think it is mandatory but there is no ceiling now either.

SENATOR HABERMAN: I guess what I am trying to say is I am getting input from my schools. They want to support the original 895 and then some of these people are not aware of what the committee amendments are saying and it is called the "Uniform Taxation Formula", is that what you...?

SENATOR REMMERS: I believe.

SENATOR HABERMAN: And this formula you have not made available to us.

SENATOR REMMERS: I think it has been available. I think the Nebraska State School Boards Association in their news bulletin encouraged adoption of this formula. I think the Nebraska Association of School Administrators encourage adoption of this formula. I have some reservations but I believe that there are some serious problems with the straight per pupil cost and that is why I am at this time supporting another formula.

SENATOR HABERMAN: You are supporting the committee amendments then?

SENATOR REMMERS: I am supporting the committee amendments at this time.

SENATOR HABERMAN: Thank you.

SENATOR CLARK: Any further discussion? Senator Koch, do you wish to close on the committee amendments?

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SENATOR KOCH: Mr. Chairman, I've already explained the committee amendments. I would ask for the adoption of them and I can do it very quickly.

SENATOR CLARK: The question before the House is the adoption of the committee amendments on LB 895. All those in favor vote aye, opposed vote nay. Record the vote.

ASSISTANT CLERK: 28 ayes, 2 nays on the adoption of the committee amendments, Mr. President.

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

SENATOR KOCH: Mr. Chairman, Senator Remmers having been a school administrator knows this problem very well and he is correct when he said the present law says "shall be no less than the per pupil cost". That was in court once and the court upheld that. Now what we are attempting to do here is to provide a uniform system of how we are going to determine the cost across the state for every receiving school district of a nonresident tuition. Very briefly what you will do, the receiving school will say this, they will know what the money they need to operate their high school plus their depreciation allowance, the valuation needed to support the school system including the valuation of all Class Is who send students to those schools. So as a result of that, we then will arrive at a levy to be assessed. Thirdly, the levy then multiply the ratio of valuation Class I districts. The result would be the dollars needed to be raised by the Class I district throughout that county, and, fourthly, the rate determined by dividing dollars needed to be raised by a Class I district by the number of their students who attend. In the case of Senator Schmit, I think he has six schools in Saunders County who take nonresident students. So they would all be figuring from the same formula and then that rate multiplied by 1.25 to reflect the current cost expenses. This rate then would represent the true cost for a person outside of the district who attends that school for one year and each year we refigure. All calculations are justified from the reported figures so there can be no doubt about it, and then, not only that, but finally what we would do in this formula, we would equalize disparities throughout the state as they relate to nonresident tuition fees. I am prepared to offer an amendment along with Senator Remmers on Select File which would make certain that they would not exceed in any case. Now I want to remind you that money being held up now in the various court injunctions amounts to several hundreds of thousands of dollars for these schools. It is not good for

students nor school boards nor nonresident students. I think it is imperative that this body treats this issue right now and I am prepared to offer amendments on Select File to help resolve some of the questions. So I ask for the advancement of this bill as amended to E & R Initial. On Select File I will make certain that we do put some provision in there which would protect the fact that no one would go beyond the point that we are talking about right now.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, I agree that there is a problem. I agree that there is a problem but let me show you what this does in some specific instances. Under the proposal which is being advanced here, one of the schools in my district has a per pupil cost of about \$2,006 per student. Now presently they are charging... their nonresident student rate is \$4625 which is well over double but under the provisions of this formula in the bill the rate would be no less than \$4709 and no more than \$5887. So the rate, although their per pupil cost is \$2,006, the rate charged could be as high as \$5,887. Another school, the present nonresident tuition rate is \$4,000. Under this formula, the rate would be no less than \$4,758 and no more than \$5,947. So what you are doing is mandating an increase in the nonresident tuition rate. It is not doing what the bill should be doing and I hope that you would not advance the bill.

SENATOR CLARK: Senator Haberman. Senator Schmit. We have got about forty-five seconds on the bill and we have more speakers.

SENATOR SCHMIT: Mr. President, one question of Senator Koch. Senator Koch, all districts will not be able to charge exactly the same tuition rate in this proposal, will they?

SENATOR KOCH: No, they won't. It will be dependent upon the number of students that they receive, Senator Schmit, based upon the valuation of the Class Is versus their own Class Is but there would be a formula used. It would be across the state used by everyone. Our amendment we are going to offer would be the fact that there is a range that they can use and the thing Senator Lamb is talking about, and I know the school he is talking about, it is Ainsworth, but I am also familiar with the other schools in your county. It would merely allow them to work with a range and they would not have to go to the ceiling under this. They would go up to it if they care to. That is a matter of the local boards and the county schools that they are going to receive, the Class Is.

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LB 895, 909

SENATOR SCHMIT: Thank you.

SENATOR CLARK: The time is up on the bill. We will pass to the next bill, 909. We have other speakers, Senator Koch.

SENATOR KOCH: Senator Clark, may I ask for a vote up or down?

SENATOR CLARK: No. Not with more speakers on. That is not what the speaker has said. Is Senator Goll here today? Okay, we will take 909.

CLERK: Mr. President, LB 909 offered by Senator Goll. (Read title.) The bill was read on January 19th of this year, referred to the Urban Affairs Committee. The bill was advanced to General File, Mr. President. There are committee amendments by the Urban Affairs Committee pending.

SENATOR CLARK: Senator Landis, on the committee amendments.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, we made a couple of correcting or technical changes to narrow at least in one respect the range of the bill and that was to delete the provision "in accordance with and in compliance"...we exchanged the word "compliance" rather than "accordance with" and that was a mandated sale or bringing something in compliance with some federal language and also we struck or we added rather language that said "property which consists of streets and alleys". There, for example, when a street is closed and you will want to sell that land back to the adjacent landholders, there is no necessity for a public sale because, of course, that land is only of value to the people who abut the now closed alley or street. We also made a further provision at the suggestion of the committee, Senator Cullan's idea really, to allow for the sale of personal property which in its aggregate market value does not exceed a thousand dollars and this would not be necessary for a public sale but we could have the posting of a sale for seven or more days in a village and in so doing permit them to sell an old typewriter, some office equipment or the like. Lastly, I was trying to remember what language we struck. We also struck language stating that you could use provisions other than an auction or a sealed bid for areas...for sales which serve the community betterment purposes. That language was too broad in the opinion of the committee and it covered too much area. So we nulled down those kinds of provisions when you could utilize a sale mechanism, a direct sale mechanism to a more limited range. We deleted the one on community betterment purposes. We put in its place the sale of closed public streets or alleys and we

RECESS

LB 603, 895

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SENATOR CLARK PRESIDING

SENATOR CLARK: Register in, please. Could we all get checked in, please, so we can get started. The Clerk will record.

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

SENATOR CLARK: When we left off this noon we were on the Cullan amendment to 603. I have got six more speakers. Senator Cope is number one.

CLERK: Could I read one thing in quickly?

SENATOR CLARK: Yes.

CLERK: Mr. President, while Senator Cope gets to his mike, Senator Koch would like to print amendments to 895 in the Legislative Journal. (See pages 1446 through 1448 of the Journal.)

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President and members, a question of Senator Cullan.

SENATOR CLARK: Senator Cullan, would you yield?

SENATOR COPE: I almost forgot what I was going to ask you, Senator Cullan, but it's this. Last year when we were debating the raise in pay for the judges, wasn't it Chief Justice Krivosha's idea of putting them together on a certain percentage basis of all the judges?

SENATOR CULLAN: Yes, Senator Cope, that is correct, but we....

SENATOR COPE: Now....go ahead.

SENATOR CULLAN: We enacted LB 111 which put these District Court judges at 92.5 percent and the county judges at I believe 85 percent. And the second part of my amendment deals with changes that the Judiciary Committee is making in that structure.

SENATOR COPE: Now that was my question. Why is the Judiciary Committee making the change after not even getting the first one started?