

January 10, 1989

LB 1, 280-288
LR 3

CLERK: Mr. President, LR 3 is offered by Senator Baack and a number of the members. It is found on page 108. (Read.)

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Mr. President and members, I bring this resolution in memory of my predecessor, Senator Clark from Sidney, and for his family who remains. I did allow an opportunity for all of the members who are still in the body that served with Senator Clark and most of them signed the resolution. I would also say that our Lieutenant Governor did an excellent job at the memorial service for Senator Clark in commemorating his service to the state and to his community. So, with that, I would urge your adoption of the resolution. Thank you.

PRESIDENT: Thank you. You've heard the motion. All those in favor vote aye, opposed nay. Have you all voted on the resolution? Record, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of LR 3.

PRESIDENT: The resolution passes. We'll move on to bill introduction. Mr. Clerk.

CLERK: Mr. President, new bills. (Read LBs 280-288 by title for the first time. See pages 133-36 of the Legislative Journal.) That's all that I have at this time, Mr. President.

PRESIDENT: We'll move on to the revisor's bills then, under number eight.

CLERK: Mr. President, revisor bills, series of revisor bills this morning. The first is LB 1. It's a bill offered by Senator Labedz, as Chairperson of the Executive Board. (Read title.) The bill was introduced on January 5, Mr. President, referred directly to General File.

PRESIDENT: Senator Labedz, please.

SENATOR LABEDZ: Thank you, Mr. President. Before I start on the 17 bills, the revisor bills, I want to remind the senators to avoid the temptation to amend these bills, which are bills designed to correct errors made in prior years, and bills which

February 2, 1989

LB 33, 34, 281, 357, 416, 417
LR 22

PRESIDENT: The resolution is adopted. We'll now go to Final Reading. If you'll please return to your desks, we will begin. Senator Wesely, would you like to return to your seat, please. Thank you. Senator Pirsch, would you like to return to your seat so we can begin Final Reading, please. Thank you. Mr. Clerk, LB 33.

CLERK: (Read LB 33 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 33 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote. See page 557 of the Legislative Journal.) The vote is 12 ayes, 0 nays, 7 excused and not voting, Mr. President.

PRESIDENT: LB 33 passes. LB 34, please.

ASSISTANT CLERK: (Read LB 34 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 34 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote. See page 558 of the Legislative Journal.) 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

PRESIDENT: LB 34 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 34 and LB 33. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Transportation, whose Chair is Senator Lamb, to whom was referred LB 281, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 416 General File; and LB 417 indefinitely postponed, those signed by Senator Lamb. (See page 559 of the Legislative Journal.)

And Senator Nelson has amendments to be printed to LB 357. (See

operations prepare their budget at much different times besides. Since there are no tax dollars involved and since it's a small enterprise, this...these requirements really are not necessary, serve the public no real service and part of the bill does require that the budget they prepare, which they all do as part of doing business, would be available to the public, the people that they serve or anyone else that might be interested in their principal offices during their regular business hours. The bill was advanced by unanimous vote. It had no opponents. It would qualify for consent file. And I would ask for your advancement of the bill.

PRESIDENT: Thank you. Any further discussion? If not, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays on the advancement of 502, Mr. President.

PRESIDENT: LB 502 advances. LB 281.

CLERK: LB 281, Mr. President, was a bill that was introduced by the Transportation Committee and signed by its members. (Read title.) The bill was introduced on January 10, referred to Transportation, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Yes, Mr. President and members, this is the bill that was brought to the Transportation Committee by the Department of Motor Vehicles. In September of 1988, the Supreme Court raised the issue of whether or not an out-of-state citation without a court seal was authenticated under Nebraska law and may be used to revoke an operator's license after accumulation of 12 points. The court held that the seal of the court must appear on the document if it is to be introduced into evidence for a court of law. Some states, such as Kansas, provide to Nebraska a copy of the citation which contains the court seal. However, the Supreme Court's decision has caused the department to send back the tickets, such as in Iowa, when 12 points have been accumulated by the individual. Sending back every ticket that does not contain the seal before the individual has accumulated 12 points is impractical, as

75 percent of the ticket received do not contain a seal. In addition, the case raises a question for the electronic information transmitted for the issuance of a commercial driver's license. It would not be possible to transmit a document with the seal of the court electronically. This bill will provide the means by which the points may be assessed and what it basically does is give the Department of Motor Vehicles the right to establish that the record or the report of conviction shall be admissible as evidence in any court of this state when the document bears the seal of the Department of Nebraska Motor Vehicles. In other words, the department can certify that the violation has taken place and it merely allows the conviction to stand without actually having the seal from the state, but requiring the Director of the Department of Motor Vehicles to authenticate that the conviction has occurred. I would ask that the bill be advanced.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I would like to ask Senator Lamb a question.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Yes, sir.

SENATOR CHAMBERS: Senator Lamb, there is nothing in the bill that I read in terms of the new language that would tell how the department will do this authenticating. So what steps are they going to take to give the assurance that the court was seeking when it had said that there should be a court seal on the citation?

SENATOR LAMB: Well, that, of course, will be the responsibility of the, as I understand it, the Department of Motor Vehicles to make sure that that has happened and then if the director is satisfied that that is the case, then the director will affirm by placing the Nebraska seal. It will be up to the director.

SENATOR CHAMBERS: But, Senator Lamb, I'm not trustful of directors and individuals when we're talking about the rights and privileges of the citizens of this state, especially when a negative action can be taken against that person based on something that happened in another state over which we have no control, whose procedures and processes we have no say-so about.

So what I'm asking is what steps the director is going to take to do the authenticating? Not just say to me...I mean, what I'm not looking for is the mere assertion from you that the director will satisfy him or herself that this citation is authentic. I want to know what steps and procedures they're going to go through.

SENATOR LAMB: Well, as is the current case, each record...or as states in the bill, each record or report of a conviction received by the director from another state shall clearly identify the person convicted, describe the violation, specifying the section of the statute code or ordinance violated, identify the court in which the action was taken, indicate whether a plea of guilty was entered or the conviction was the result of a forfeiture of bail, bond or other security, include any special findings made in connection with the conviction. And all it would be...the only difference is that the seal is not required under this bill where it is...the Supreme Court currently says that that is the case.

SENATOR CHAMBERS: Mr...I meant, but, Senator Lamb, doesn't this bill say that that citation, in effect, will be self-authenticating, that the citation itself is sufficient? Because that's what the language of the bill says, not that the director will do anything, but that if these things are listed on a citation which are the standard things because they are standard forms, these citations are, then that in itself will be self-authenticating. So when the citation is received then it's presumed to be valid and this law is going to make it valid. Is that correct?

SENATOR LAMB: Well, yes, each record or, as it states, each record or report of conviction shall be admissible as evidence in the court, any court of law in this state, when bearing the seal of the department. So it does place the responsibility of the department in order to put the seal on there and make it admissible in the court.

SENATOR CHAMBERS: But what I'm trying to get to, Senator Lamb, if you will look at page 3 in the new language, line 19, are the two words "self-authenticating" for any action taken by the director. The director doesn't have any...does the director have any discretion as to whether to accept one of these citations?

PRESIDENT: One minute.

SENATOR LAMB: If it doesn't contain the required information, then the director would have the authority to not accept it.

SENATOR CHAMBERS: If the information is there though? If all of the information is there, the director of the Nebraska Department of Motor Vehicles does not have any discretion as to whether or not to place the seal. Is that correct?

SENATOR LAMB: I think that is correct, Senator.

SENATOR CHAMBERS: So then our Department of Motor Vehicles is bound by what happens in another state and the courts then would have to accept this as evidence when the seal is affixed.

SENATOR LAMB: Yes, I believe that's correct.

SENATOR CHAMBERS: Thank you. Members of the Legislature, these bill, I know nobody cares about them except me and I know there is not much concern about looking at an issue of this kind when the courts of this state are to be bound by what happens in another state when the Department of Motor Vehicles director is to be bound. There is a lot of laziness. There is a lot of carelessness that goes into the production of bills such as this by bureaucrats.

PRESIDENT: Time.

SENATOR CHAMBERS: I don't think...oh.

PRESIDENT: Senator Lamb, would you like to close? Okay. Excuse me, Senator Chambers, you may go again.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, if you read the language of this bill, then there are certain things that have to be placed on the citation and based on what Senator Lamb indicated in response to the questions I asked him, if that information is there, then the director must place the seal of the department on the citation. If a person accumulates enough points to have his or her license revoked and that total would include citations from other states, even if they have not been authenticated in those states, then those citations could be used to take the license of a citizen in this state. I don't think that is a good piece of legislation and I don't think it's

ever good for a state to waive responsibilities and powers of its departments and of its courts. I don't even know whether we are giving sufficient direction to the department head for this kind of activity. Maybe the Legislature can do it, but even if it can, I don't think that it is wise. Senator Lamb, I have another question I would like to ask you.

SENATOR LAMB: Yes, sir.

SENATOR CHAMBERS: Based on what the court said in the opinion that you spoke of earlier, any citation such as one from Iowa where there is not a seal by their court would not be admissible for the purpose of assessing points against a driver's license in Nebraska. Is that true?

SENATOR LAMB: I believe that's correct and then the procedure is merely to send it back to Iowa and ask them to put the seal on it and then they send it back to Nebraska and what happens happens but there is a delay and an additional expense, Senator.

SENATOR CHAMBERS: Now if a person received a citation from Iowa say a year and a half ago because it would have to be within the two-year period to count toward the lifting of the license, correct?

SENATOR LAMB: I suspect that's correct, yes.

SENATOR CHAMBERS: Well, I don't want you to suspect, I want you to tell me, based on this interstate compact that exists where the points or the violations that occur in one state are assessed against a person in this state, are they assessable only within that two-year period? If the violation occurred more than two years ago, can it be used for the purpose of lifting a license?

SENATOR LAMB: I don't believe so. I think you're correct, Senator.

SENATOR CHAMBERS: Okay, because I want to get this time frame. If a person had gotten a violation in Iowa one and a half years ago, would that ticket have been sent back to Iowa at that time by the department for the seal of the state? Or would they wait until the person was in a position to lose his or her license and it would be sent at that future date? How do they do that?

SENATOR LAMB: I'm...it's not clear to me how that works, Senator. I guess I would just have to go back to the basic premise that what we're trying to do here is expedite what will happen in any case. And, of course, if the time limit does run out, I suppose in that case the evidence would not be admissible.

SENATOR CHAMBERS: Right. But that's not the question I'm asking now and you've already told me that you don't know the answer to that.

PRESIDENT: One minute.

SENATOR CHAMBERS: And I don't either, but, thank you, Senator Lamb. Again, I'm going to say for the record, if not for the members sitting here now, this is a bill that is not well thought out and the questions that need to be answered cannot be answered. But who even cares? I do. I care about the kind of legislation that we put on the books. I care when people write me to ask me questions about how the laws work, to be able to answer those questions. And I think it's crucial to know at what point this ticket is going to be sent back to the state for a seal. And if that is not known, the least that this Legislature could do, and I think the introducer ought to do it, is to say that this bill's provisions are prospective, meaning that they will not take effect and be applicable on any cases other than those that occur after the passage of this bill. But because I don't think that the body would accept that because they haven't paid much attention, I am going to offer a motion while Senator Lamb engages in his close.

PRESIDENT: Your time is up, Senator Chambers. You're entitled to...but your light is on, you're entitled to another five minutes. Do you wish it?

SENATOR CHAMBERS: I move that this bill be indefinitely postponed.

PRESIDENT: Senator Lamb, what do you think?

SENATOR LAMB: We'll take it up, Mr. Chairman.

PRESIDENT: Okay. Yes, Senator Lamb said take it up. We're waiting for Senator Chambers' motion.

SENATOR CHAMBERS: The motion should be on the desk. Mr. Chairman and members of the Legislature, I doubt that this motion will succeed, but I wish you would look at this bill. I wish you would consider what it says and what it attempts to do. And if you're not sure, then you should not automatically vote to advance it. The Department of Motor Vehicles has been given power as an administrator...as an administrative agency to initiate and take certain negative actions against citizens, against residents of this state whether they're citizens or not. And I think when we pass laws of the kind that is being contemplated here today we ought to be somewhat careful about what we do. We ought to have answers to the question. If the State of Nebraska has a Department of Motor Vehicles, which department has a director, and if that director feels that a ticket at some point may be utilized as a basis for helping to lift a person's license, and if that ticket has not been authenticated in the state from which it issued, then it's not too much to have the department send the ticket to that state and have it authenticated. What is being done by Senator Lamb's bill is to have Nebraska legislate for Iowa and for every other state that does not do this. If they're going to be parts of an interstate compact, they should all agree to bind themselves to do those things that will make the citation from their state stand up and meet muster in the states that are members of the compact. So why did not Senator Lamb, why did not the director of this Department of Motor Vehicles contact the director in Iowa, their Department of Motor Vehicles and ask them to get a piece of legislation that would require authentication of the tickets that are to be sent to other states to be used in those states to lift a license? But the easy way is to say that whenever some other state hasn't done that let Nebraska pass a law saying it's not necessary that it be done. Now let's say that there is another state that is a member of the compact and they want authentication from the court. I would like to ask Senator Lamb a question. Senator Lamb, before I go on...

PRESIDENT: Senator Lamb, please.

SENATOR CHAMBERS: Senator Lamb, when a person receives...when a person from Iowa gets a citation in Nebraska, how is that ticket handled in Nebraska before being sent to Iowa to be used against that driver? We've got to know this.

SENATOR LAMB: Ah...

SENATOR CHAMBERS: Ah.

SENATOR LAMB: Well, if the person would be convicted...as I understand it, under the compact, if the person is convicted in Nebraska then that would be sent to the State of Iowa under the compact.

SENATOR CHAMBERS: Does Iowa require that the ticket be authenticated?

SENATOR LAMB: I don't know.

SENATOR CHAMBERS: Ay-yi-yi! What are we doing here? We don't even know if Nebraska authenticates tickets that it sends someplace. So here's the exchange, instead of Nebraska passing a law saying that tickets that will be sent from this state to those members of the compact will be authenticated by this state before being sent there, Nebraska doesn't pass that law. None of the other states pass a law, so Nebraska passes a law for Iowa and Iowa passes a law for Nebraska and Nebraska says no state has to authenticate theirs, and Iowa says and Nebraska doesn't have to authenticate theirs. And each state will then place its laws in application on the citizens of the other state. What kind of sense does that make and what kind of legislating is this? I'm glad that I'm in a position to disavow this kind of legislation and place distance between myself and it. I'm not going to blame Senator Lamb for not having the answers to these questions because they're not...these kind of questions are not supposed to be asked. When the Department of Motor Vehicles says it needs a law, then the Legislature passes the law and that's what will happen again today. It would seem to me that the first thing the department would have done is given to the one who offered this bill the kind of information necessary to answer these kinds of questions. We don't know whether Nebraska authenticates tickets when Nebraska sends them to other states. We don't even know that. And nobody even cares. We don't know if when Nebraska sends one of these tickets to these other states for authentication whether it is sent at the time the ticket is received in Nebraska or whether they wait until a person is in jeopardy of losing his or her license, then they send it. Would it be wise to send it back as soon as the person gets it if there is a likelihood that they may not have their license menaced? If you send it too soon and the ticket never played a part in the lifting of the license, that's paper work, that is person hours utilized. There is the

expenditure of money for no purpose because those points will not result in the lifting of a person's license. But if you wait until the very end, then things can grow old. A person will not know what points have been assessed against his or her license because it seems to me that if those points cannot be used to lift a person's license, and Senator Lamb indicated that's what the Nebraska Supreme Court has said, they should not show up on that person's driver's abstract because everything has not been done to qualify those points for assessment against a person's license. Senator Lamb, I would like to ask you another question if I may.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Yes.

SENATOR CHAMBERS: After that decision came down, Senator Lamb, did the Department of Motor Vehicles strike from everybody's driver's abstract points that may have been placed there as a result of one of these unauthenticated citations from another state?

SENATOR LAMB: I don't have that information but I'm going to suggest that the department made a very stringent appeal to get those authenticated in the state in which they were convicted in order to have evidence which was admissible by the court.

SENATOR CHAMBERS: But we don't know whether people have points assessed against their license now which, in effect, are not validly there for the purpose of losing the license, do we?

SENATOR LAMB: No, that's correct.

SENATOR CHAMBERS: Thank you. I'm asking that this bill be indefinitely postponed. And I think before a bill like this is brought, the Department of Motor Vehicles should be able to tell us that they corresponded with the departments in the various states that are members of the compact to see if their Legislatures, having entered the compact, are willing to ensure that the citations issued in those states are authenticated. If they refuse to authenticate the tickets, any state whose Legislature refuses the authentication should...Nebraska should not be in a compact with them. That's the way to handle that but certainly not in this fashion. So I hope you will vote to indefinitely postpone this bill.

PRESIDENT: Any further discussion? Senator Chambers, your light is still on, would you like another five minutes? Okay. Senator Lamb, did you wish to speak. Your light isn't on but...Senator Lamb.

SENATOR LAMB: Yes, Mr. President, I believe under our new rules I get to speak on the IPP.

PRESIDENT: That's right, you do.

SENATOR LAMB: Thank you. Well, let me go through this again. The first thing that happens is that Nebraska gets the abstract of conviction and if this abstract complies with the driver's license compact between the various states, then the points are assessed in Nebraska. Now at the time the 12-point...when this...if this person, when it does finally come up to 12 points, then the license would be revoked and at that time there is every effort made to get the seal on these convictions from other states and that's only necessary when there is a...when the individual appeals this decision by the director to revoke the license. So then if they get the information back, then the conviction stands as the court...if the seal is on the conviction from the other state. Now what we're doing is we're getting into the electronic age. We're getting into the electronic age. We have a big bill before our committee which is mandated by the federal government which says, in effect, that commercial truck drivers shall only have one license in the United States. Currently, they have one...they could have one in every state. The federal government says that has to come to a stop, we're going to have a system whereby electronically we find out whether or not these people have more than one license. The problem has been that if more than one license...if they get one license taken away from them, they operate on a license from another state. So we're getting ready...one of the parts of this bill or one of the purposes of this bill is to get ready for this electronic age where we do not have hard copies. We don't have hard copies. We could argue all day, I guess, with Senator Chambers or anyone else as to whether this is a good system but this is what is coming. It doesn't matter whether we're talking about driver's licenses or we're talking about some other system, your credit cards, money transfers, we don't always have those hard copies. So what this says, if the director is convinced that this conviction is in compliance with the compact between the states, then the director puts her seal

on that. She says that is authenticated and that that conviction will stand. That's all we're doing. Now we could send those back to the other states. They may or may not get around to sending it, returning it with a seal on it. It's putting the burden on the director of motor vehicles in this state in order to facilitate this process. We're not trying to do anything that is not being done except we're trying to do it in a more expeditious manner. So I would ask this body to reject the kill motion and advance the bill.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Lamb's strongest argument in favor of this bill is based on convenience of those who want to operate electronic equipment in transmitting information about people. The FBI, Senator Lamb, is kind of in that line too because they want to put together a very sophisticated surveillance system to keep track of people who they're checking out but not for the purpose of arrest or charge with any crime. They just want to know what citizens are doing. Fortunately, the FBI is being attacked for what they're doing by national organizations and others who are concerned about what happens to the citizens. Now most people don't become concerned about these things until it happens to them, a friend, a member of their family or a constituent. Then what happens is that these people come to me, these senators and others, and say, Ernie, I heard you talking about that the other day or whenever it was and can you help me get some information on that or will you help me answer this question or whatever? The time for us to ask the questions is now. If the body feels that this is adequate to safeguard the rights and interests of the residents of this state, then they will vote for the bill. And they shouldn't be concerned if problems develop in the future. They should just say that is the law, the law is the law and it's to be done in this fashion. Because a truck driver might have a driver's license in more than one state is not a reason that I would vote for a bill like this which, on its face, is not well drafted and the information we need to understand the rationale for it is not even here for us. We don't know how the department deals in this area now because they didn't give the information to Senator Lamb. And what it really shows is not a lack of regard for Senator Lamb but a lack of regard for the Legislature. The Legislature is not thoughtful. The Legislature does not ask meaningful questions so just send anything over there and the Legislature will adopt

it and generally that is true. And in this instance I know it's going to be true again but at least I have put my concerns into the record. And I don't believe that merely because the federal government may require the state, under pain of losing some funds or other, to participate in some kind of an electronic transmittal or retrieval of information system to check on truck drivers is a reason for every piece of legislation that can even tangentially be related to that to be adopted by this Legislature. That cannot be a justification for everything for which there is no justification on its own merits. That cannot fill every gap that exists because we don't have the information. If that is going to be accepted, then we ought to accept the same kind of thing with reference to Highway Funds. If you don't raise the drinking age to 21 years old, you're going to lose Highway Funds, said the federal government, therefore, we ought to pass this bill. We ought to pass this bill because the government will take money if you don't put the drinking age where they want it. You ought to pass this bill because if you don't maintain a speed limit compliance at certain levels on the part of all drivers, you're going to lose federal funds, therefore, you ought to pass this bill. There is no connection. The law uses the term "nexus", two things must be joined together, there must be a relationship and there is none between what Senator Lamb talked about on these truck drivers and what we have here. The federal government, under that law, will not say you are required as a state to use unauthenticated information from another state as a basis to lift the driver's license of somebody licensed in your state. They are not going to say that.

PRESIDENT: One minute.

SENATOR CHAMBERS: I have the motion up there and I hope you will vote to kill this bill. It's not going to hurt the department and let them do some of the things that have been suggested already. First of all, contact the Department of Motor Vehicles in Iowa and mention the problem and let them talk to their Legislature and say, authenticate these records. But suppose Iowa responds, you don't authenticate yours in Nebraska, and the Legislature will say, well, gee, we thought we did or we wouldn't have passed this bill, we'd have taken that first action. Does this Legislature look silly in a lot of instances? Yes. Will it look silly again? Yes. Should it look silly? Whenever it does that which justifies it in looking silly. And I think it would be silly for a bill like this to be advanced

without us having the information that we ought to have. I'm going to ask Senator Lamb one more direct question. Is there time, Mr. Chair, Mr. Chairman? Senator Lamb, did I understand you to say that you don't know whether Nebraska authenticates these kind of records when they send them to Iowa?

SENATOR LAMB: Well, you know, I don't know for a fact, but I think they do, and if they don't, they should. Good enough? (Laughter.)

PRESIDENT: Thank you. Senator Hall, please.

SENATOR HALL: Mr. President, members, I just rise to ask Senator Lamb a question.

PRESIDENT: Senator Lamb.

SENATOR HALL: Senator Lamb, do you know, currently do other states or does the State of Nebraska, if I were to, for example, lose my license in the State of Nebraska and then I moved to the State of Arizona and I applied for a license, is there any agreement between the states that where there would be a transfer of information that I would not be able to receive that license in Arizona if I were to apply?

SENATOR LAMB: I really don't think there is, otherwise there would have been...you know, we wouldn't have had this problem with commercial licenses if there were some way we could check. The legal counsel says if there is some alcohol related conviction that then we would be in a position to deny it, as I understand it.

SENATOR HALL: Okay. But the situation as it currently exists, if I were to move across the river from my district into Council Bluffs, I could, if I had pointed out my license lost that I could apply the very next day or the day that I established residency in the State of Iowa for a license.

SENATOR LAMB: I believe that's true.

SENATOR HALL: Okay. And then the issue that you mentioned with regard with to a commercial license, that currently is also the way it is handled as well, that there is nothing to keep an individual from having more than one license when they drive in a commercial basis?

SENATOR LAMB: Yes. Yeah, there is no way to check. There are so many states and they are so mobile that...currently, there is no way to keep track of it and so they can operate on a license from a different state.

SENATOR HALL: So the possibility is there that they can basically use...pull out whichever license has some points left on it depending on which state they are stopped in?

SENATOR LAMB: Yes.

SENATOR HALL: Okay, but the situation would also be then, if an individual had multiple licenses but then decided to only drive within a certain state, that if the bill that you talked about passed, they would then be...because they had lost their license in another state, they would not be eligible to do that anymore? Intra versus interstate, I guess.

SENATOR LAMB: Well, I think the court where they were convicted would send, if they had a Nebraska driver's license...

SENATOR HALL: Mmm, hmm.

SENATOR LAMB: ...and they would send that conviction back to the State of Nebraska under this agreement or compact between states and then the Director of Motor Vehicles here would deduct those points from their license.

SENATOR HALL: And under this bill, LB 281, that has to be admissible as long as it has the seal of the department on it?

SENATOR LAMB: Under this bill, it would not require a...

SENATOR HALL: Any verification?

SENATOR LAMB: ...seal from the state in which the conviction took place. They would have to satisfy the Nebraska Director of Motor Vehicles that it was a conviction which met all the requirements of the compact which are listed in the bill.

SENATOR HALL: Okay.

SENATOR LAMB: And then the director would authenticate it. It would be admissible as evidence in the court in Nebraska.

SENATOR HALL: Is it possible at all that there could be a clerical error where names could be...

PRESIDENT: One minute.

SENATOR HALL: ...confused and where an individual could lose their license or be notified that they have lost their license because of a clerical error on the part of the department because there was no verification with the state where the infraction took place?

SENATOR LAMB: I guess I would not say there is no verification because those documents are transmitted but I would not be one to say that there is no likelihood or no possibility of error in anything, even in this Legislature.

SENATOR HALL: Clearly understand that, Senator Lamb. Thank you. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Chambers, would you like to close on your motion?

SENATOR CHAMBERS: Yes. Mr. Chairman, I'd like to ask Senator Kristensen a question.

PRESIDENT: Senator Kristensen, would you respond, please.

SENATOR CHAMBERS: He spells his name differently, but there is a football player called Todd Christensen (phonetic) and he can catch any ball that you throw, football, anywhere within range.

SENATOR KRISTENSEN: He also can fumble it ahead and score touchdowns.

SENATOR CHAMBERS: (Laughter.) Out of sight, Senator Kristensen is on his toes this morning, that is what I need. Senator Kristensen, there is a full faith and credit provision in the U.S. Constitution, isn't there?

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: And it would require that a properly obtained judgment in one state be recognized in another state.

SENATOR KRISTENSEN: Are you talking civil or criminal?

SENATOR CHAMBERS: Well, which one would be the simplest for me to get at the issue?

SENATOR KRISTENSEN: Probably the simplest would be the civil.

SENATOR CHAMBERS: Good. Let's take a divorce decree. If a divorce decree was to be sent to another state, could you just send a copy of that decree or would you have to have the court in this state, or whichever the sending state is, authenticate it before it is acceptable in another state?

SENATOR KRISTENSEN: As long as both states had the uniform law of recognition of foreign judgments, because that's what you're talking about, is a divorce decree is a foreign judgment and not in another country but in another state and that state recognized another state's proceedings as being valid and most states have that. Most states have that agreement back and forth. There is a proceeding called for authenticity, not necessarily a certified copy. A certified copy merely says that this is my records. An authenticated copy says that we're a proper court, that I'm the judge, the clerk says he's the judge, the judge says he's the clerk, and they send it, but, yes, you're right.

SENATOR CHAMBERS: There are some things done in the sending state's court system that indicates that this document or judgment or whatever it is, actually issued from that court in the proper way.

SENATOR KRISTENSEN: In terms of that's the records of the court that is available, right.

SENATOR CHAMBERS: Okay.

SENATOR KRISTENSEN: Now that doesn't go to whether it was right to grant the divorce or not.

SENATOR CHAMBERS: No, no. All I'm talking about now is on the face of the document because that is all I want to get to...

SENATOR KRISTENSEN: That's right.

SENATOR CHAMBERS: ...is the form that it takes when it is sent

to the other state.

SENATOR KRISTENSEN: Right.

SENATOR CHAMBERS: Thank you. Members of the Legislature, when you think about truck drivers, and that was brought in by Senator Lamb, or I guess it would apply to traveling salespersons, too, the bill that Senator Lamb is talking about or anybody who might do a lot of driving in a multiplicity of states and have more than one driver's license. You're talking about livelihood and I think we ought to be concerned about that even if we think it will never impact on us. Despite the fact that I have the reputation for being a lead foot on the highway, most of the senators who go to Omaha pass me up regularly and if you ask them, they will tell you that. They will acknowledge that. I have never been in danger of losing my driver's license based on points and I never will be. But there are people who drive trucks, who are salespersons and who are just ordinary citizens who have contacted me in many cases where they are about to lose their license or they have and they wonder if there is any condition under which they can get a temporary license for their livelihood and so forth, so it is a serious issue even though we're talking about traffic citations. I don't think we ought to allow a situation to come into being where we'll take unauthenticated documents that can be the basis for depriving a person of his or her livelihood. I don't think it's too much of a burden to put on the Department of Motor Vehicles, since they wanted to enter these interstate compacts, to contact the state from which an unauthenticated document came and say, authenticate it. That's not too much to ask and if the department feels that it is, then let the department have the Legislature withdraw the state from that...from any relationship with that state as far as a compact relationship. They are finding out now on this waste compact that they entered that once Nebraska is the one, then waste can come from a lot of states other than the ones...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...that were part of the compact and that's the way these things go and that's the way they ought to go. If you can find somebody willing to put themselves in that vulnerable position, somebody said there is one born every minute, somebody else said when you find one, bump his head, and Nebraska is good at having its head bumped and it's going to

have its head bumped again by this bill. If you want the documents from another state to fulfill a legal requirement that performs...that provides the basis for inflicting a punishment on a resident of this state, there are certain minimal requirements we should have as a state. And I don't think it is too much to ask that these states who want violations from their states to be recognized in this state to authenticate the documents that they want that recognition to be based on. So I hope you will vote to kill this bill.

PRESIDENT: Thank you. The question is, shall LB 281 be indefinitely postponed? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Did you request a roll call vote, Senator Chambers? A record vote has been requested. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 738-39 of the Legislative Journal.) 12 ayes, 20 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT: The motion fails. Do you have anything else on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: On the advancement of the bill, Senator Lamb.

SENATOR LAMB: I would just like to say that although I don't feel comfortable up here debating Senator Chambers, he does bring forth some arguments that need to be made. I don't think his fears are justified in this case. I think that the procedure that is set out in the bill is one that does protect the rights of the people and will merely facilitate the process. So on that basis, I would urge you to advance the bill.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have to ask Senator Lamb another question. Senator Lamb, if this bill should be enacted by this Legislature, will its provisions apply to occurrences that predated the effective date of this bill?

SENATOR LAMB: My opinion would be no.

SENATOR CHAMBERS: Why do you have that opinion?

SENATOR LAMB: I'm just guessing.

SENATOR CHAMBERS: Does it seem like it shouldn't?

SENATOR LAMB: It would seem to me that it should not.

SENATOR CHAMBERS: Why would it not? We're not creating a crime. We're not taking conduct that was innocent at the time it was committed and converting it into guilty conduct by this bill. We're just changing a procedure, aren't we?

SENATOR LAMB: I don't...you know, you can ask me all these kind of questions and I won't be able to answer them and I may be incorrect. My legal counsel says I may be incorrect on that. I don't know, Senator Chambers.

SENATOR CHAMBERS: And I asked the question for this purpose. Would you be willing to specify that this bill will affect only those things that occur after the effective date of the bill?

SENATOR LAMB: No, I don't think so. I think that this procedure is one that puts additional responsibility on the Director of Motor Vehicles under the compact that has been agreed to in the state, between the states, and I don't see a problem with it. Now there may be a problem with it and I know you see a problem with it and you could be correct. I don't think you're correct but that is my opinion.

SENATOR CHAMBERS: You don't think I'm correct with reference to what?

SENATOR LAMB: To reference that this bill should be killed, should not be enacted into law.

SENATOR CHAMBERS: Well, okay, let's forget that and let's go to something specific. You don't want the bill to be limited to only those things that occur after it takes effect. That is what I want to be clear on.

SENATOR LAMB: No.

SENATOR CHAMBERS: Okay. When I asked Senator Lamb the question in the first instance he said he didn't think it would apply to

those things that had happened before the bill took effect. He said he was guessing. But it seemed only right that it should not. It seemed right a few seconds ago, but it seems wrong now. Too many times the feelings of the moment cause us to act a certain way on legislation, then further down the road we are characterized by the way we vote on bills and the way we deal with them. And some people wonder why some individuals have one type of reputation, others have another type. It is because some of us, no matter what the flow seems to be, are willing to raise those issues that are necessary to be raised and faced even if the Legislature refuses to face them. If this were a bill that was going to impact on businessmen, we'd find a certain group of people in here automatically saying that their interests need to be looked after. If it was going to impact on the liquor industry, we'd find those who speak very vociferously although not always learnedly, in behalf of the interests of the liquor industry. Same way with the tobacco industry and it would be good if we carried that kind of scrutiny to all of the bills that come before us. I don't have the time to draft the amendment now, but on Select File I'm going to offer an amendment and the Legislature will have to vote that it's opposed to making a law that it passes apply only to those things that take place after the law is passed.

PRESIDENT: One minute.

SENATOR CHAMBERS: There will be other instances before this session is over when Senator Lamb might be one of the very ones who would say, I don't think the public who is going to be affected has sufficient notice and I don't think we ought to make this bill apply to those people who had no notice that it would take effect before...they had no notice it would take effect before the bill was passed. He'll say that. We might be talking about whether a mad dog bill is going to be passed and he is concerned about people who may not know that their mad dog is going to be the type of instrumentality that will create a problem for them as far as liability. So you've got to look out for them. But in this particular instance, because the Department of Motor Vehicles, the bureau represented by a bureaucrat, has spoken, the Legislature takes a different tack and will say that this bill will affect those things that occurred before the passage of the bill.

PRESIDENT: Time. Senator Wesely, please. The question has been called. Do I see five hands? I do. The question is,

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shall debate cease? All those in favor vote aye, opposed...record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Lamb, would you like to close, please.

SENATOR LAMB: Mr. President, members, I might just comment further on Senator Chambers' question as to whether this would affect tickets that have already been issued. It is my understanding that this does not become an issue until the individual, who has been assessed the points and has had the license taken away, challenges this in court. So this bill would affect those challenges that come about after the bill is effective, the effective date of the bill, which is three months after the Legislature adjourns. It does not have an E clause. So it would affect the tickets that are issued before the effective date of the bill, but it would affect only those appeals that come about after the bill does become effective. I hope that is clear, that the tickets could be issued previous to the effective date of the bill, but the appeals, it would apply only to those appeals which come about after the effective date of the bill. I'm comfortable with the bill. I think it is a step in the right direction. I did not think that the rights of the people are being jeopardized and I would ask that the bill be advanced.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 7 nays, Mr. President, on the advancement of LB 281.

PRESIDENT: LB 281 advances. Anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Mr. President, I have amendments to be printed, Senator Chambers to 281; Senator Chizek to LB 265; Senator McFarland to LB 159; Senator Bernard-Stevens to LB 48. (See pages 739-42 of the Legislative Journal.)

Revenue Committee reports LB 88 indefinitely postponed; LB 292,

February 15, 1989 LB 57, 58, 70, 74, 94, 97, 115
116, 126, 133, 142, 156, 175A, 177A
208, 229, 230, 233, 251, 255, 256
261A, 263, 267, 273, 281, 284A, 295
338, 378, 391, 398, 416, 443, 458
459, 499, 502

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber. Please rise for the opening prayer. Our Chaplain for the day is Father Daniel Sieker, of Blessed Sacrament in Lincoln. Father Sieker.

FATHER SIEKER: (Prayer offered.)

SPEAKER BARRETT: Thank you, Father Sieker. Please come back again. Roll call.

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Corrections to the Journal.

CLERK: I have no corrections, Mr. President.

SPEAKER BARRETT: Any reports, messages, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 502 and recommend that same be placed on Select File, LB 281 Select File, LB 416 Select File, LB 443 Select File, those signed by Senator Lindsay as Chair. Mr. President, your Committee on Enrollment and Review reports LB 74 as correctly engrossed; LB 116, LB 175A, LB 177A, LB 208, LB 261A, LB 263, LB 267, LB 273, LB 284A, LB 338, LB 378, LB 391, LB 398, LB 458, LB 459, and LB 499, all reported correctly engrossed, all signed by Senator Lindsay. (See pages 746-47 of the Legislative Journal.)

Mr. President, a communication from the Governor to the Clerk. (Read. Re: LB 57, LB 94, LB 97, LB 126, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, LB 256. See page 748 of the Legislative Journal.)

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LB 107, 174, 192, 259, 274, 281, 370
486, 487, 488, 575, 738, 741
LR 27

PRESIDENT NICHOL PRESIDING

PRESIDENT: ...Legislative Chamber. We have with us today, as our chaplain of the day, Reverend Gordon Patterson of the Calvery United Methodist Church in Lincoln. Would you please stand for the invocation.

REVEREND PATTERSON: (Prayer offered.)

PRESIDENT: Thank you, Reverend Patterson. We appreciate your message this morning. Please come back and visit us again. Roll call, please.

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Thank you. Do we have any corrections to the Journal today?

CLERK: I have no corrections, Mr. President.

PRESIDENT: Very good. Do you have any messages, reports or announcements?

CLERK: Mr. President, your Committee on Education, whose Chair is Senator Withem, reports LB 107 to General File; LB 486, General File; LB 487, General File; LB 488, General File; LB 741, General File; LB 259, General File with amendments; LB 575, General File with amendments; LB 174, indefinitely postponed; LB 192, indefinitely postponed; LB 274, indefinitely postponed; LB 370, indefinitely postponed; and LB 738, indefinitely postponed. All of those signed by Senator Withem as Chair. (See pages 1111-16 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Lamb regarding LB 281. That's all that I have, Mr. President. (See pages 1116-19 of the Legislative Journal.)

PRESIDENT: Thank you. We'll move on to the legislative resolutions, LR 27, by Senator Warner.

CLERK: Mr. President, LR 27 was originally introduced by Senators Warner, Scofield and Hartnett. It asks the Legislature to strongly support the removal of Federal Transportation Trust Funds from the federal budget and urges the Nebraska congressional delegation to work towards such removal. The

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LB 154, 254, 281, 421

Record, please.

ASSISTANT CLERK: (Read record vote. See page 1310 of the Legislative Journal.) The vote is 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 154 passes. LB 254E.

ASSISTANT CLERK: (Read LB 254 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 254 with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Read record vote. See page 1311 of the Legislative Journal.) The vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 254E passes. Before proceeding to the final bill on Final Reading, the Chair is pleased to advise that Senator Moore has guests in the north balcony. We have with us 20 fourth grade students from Emmanuel Lutheran in York with their teacher. Would you folks please stand and be recognized. Thank you. We are glad to have you with us. LB 421.

CLERK: (Read LB 421 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 421 become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Read record vote. See pages 1311-12 of the Legislative Journal.) 43 ayes, 0 nays, 3 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 421 passes. To reiterate the announcement yesterday, we do plan to work through the noon hour today, hopefully with an early adjournment around midafternoon this afternoon for the holiday. Also the bills under item 7 on today's agenda, Select File, senator priority bills, 54, 49 and 49A have been handled, so we will momentarily move to Select File, nonpriority bills, beginning with LB 281. And while the Legislature is in session and capable of transacting business, I

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LB 154, 155, 254, 265, 281, 421, 619
623

propose to sign and I do sign, LB 154, LB 623, LB 155, LB 619, LB 265, LB 254, and LB 421. The call is raised. Mr. Clerk, the first bill.

CLERK: Mr. President, LB 281 is on Select File. I have no E & R amendments. I do have an amendment to the bill by Senator Chambers. Senator Chambers amendment is on page 739 of the Journal.

SPEAKER BARRETT: Senator Chambers, on your amendment.

SENATOR CHAMBERS: Mr. Chairman, let me look at this, because my amendment may have already been adopted.

SPEAKER BARRETT: Fine.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am on the bill now. I was thinking of a different bill. The amendment says that the provisions of this bill shall apply prospectively or from the date that the bill takes effect, and in order that there will be no confusion, nothing unfair to anybody, we are setting up a new system. We are loosening certain legal requirements so that when that is done I think those kind of activities ought to...the bill should apply only after the bill takes effect. So that is what the amendment would do. It doesn't change anything in the bill, which I don't like. I don't like the bill. But if you are going to have a bill like this, where you can have a noncertified document used in this state for the purpose of depriving an individual of a right or a privilege, then the least you can do is say that it will apply only to things that occur after the date that the bill is passed.

SPEAKER BARRETT: Thank you. Discussion. Senator Lamb, followed by Senator Lindsay.

SENATOR LAMB: Yes, Mr. President and members, you will remember that there was extended discussion about this bill previously. This has to do with points taken off your license from other states, and this bill allows the Department of Motor Vehicles to certify that in fact you have been convicted in another state, and that the record is true and correct. We have gotten an Attorney General's Opinion on the bill in regard to whether it violates the rules of evidence. The Attorney General's Opinion has been positive. He says the bill is okay, and in regard to

Senator Chambers' amendment, I would support that amendment so that the bill would only be effective prospectively rather than in the past. I would support Senator Chambers amendment.

SPEAKER BARRETT: Thank you. Senator Lindsay.

SENATOR LINDSAY: Could I ask Senator Chambers a question.

SPEAKER BARRETT: Senator Chambers, would you respond to a question.

SENATOR CHAMBERS: Yes, I will. Senator, your amendment refers to a prospective effective date. In reading the bill, it applies apparently to a conviction in another state on a, for example, speeding charge, but the intent of your amendment is that those prior speeding charges could not be used, for example, to blind side somebody now and take away their license when they didn't know it was going to be occurring?

SENATOR CHAMBERS: What it is really doing is saying that the only way those charges could be utilized is if the document supporting that conviction are certified by the court as being convictions under the laws of their state. Once this law takes effect, the documents don't have to be certified any more by the court. They are just sent here, the Department of Motor Vehicles will take them to court, and say that we say these are all right, therefore, take the person's points based on this uncertified document from the other state. So my amendment will still allow the convictions that occurred in other states to apply, but they couldn't apply unless the document was certified by the court. That is as far as I can go with the amendment. I don't like the bill but this amendment doesn't touch any aspects of the bill's operation.

SENATOR LINDSAY: They have still got to continue under the present system for any prior offenses?

SENATOR CHAMBERS: Yes, they would have to have the document certified if they were going to use them. So maybe what the department would do is just disregard those uncertified documents and not try to have those points assessed against somebody's license.

SENATOR LINDSAY: Okay, thank you.

SPEAKER BARRETT: Senator Chambers, would you like to make a closing statement before calling for the vote? Senator Chambers, any closing?

SENATOR CHAMBERS: No, since Senator Lamb doesn't disagree with it, I don't think there is any need for it.

SPEAKER BARRETT: Thank you. The question then is the adoption of the Chambers amendment to LB 281. All in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Thank you. Senator Lindsay, would you care to advance the bill? Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move to advance LB 281 to E & R for engrossing.

SPEAKER BARRETT: You have heard the motion to...excuse me, a motion on the desk.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 281. Senator Lamb would have the adoption to lay the bill over, Mr. President.

SPEAKER BARRETT: Senator Lamb.

SENATOR LAMB: No, let's take it up, Mr. President. Do I get to speak at this point?

SPEAKER BARRETT: Senator Chambers, would you like to open followed by Senator Lamb.

SENATOR CHAMBERS: Yeah, I would like to open. Thank you, Senator Lamb, for being so gracious. Members of the Legislature, I am going to state as simply as I can what this bill will do, and if, in the process of stating it, I do not reflect what the bill would do, Senator Lamb will correct that. This bill would say that a noncertified record of a conviction

in another state could be used in this state for the purpose of assessing points against an individual's driver's license, and the conviction would be for a violation of the traffic laws in the other state, is that correct, Senator Lamb?

SENATOR LAMB: I might add that it does have to have the stamp of approval of the Department of Motor Vehicles in this state.

SENATOR CHAMBERS: Right, but the point I am getting to, the document from the other state does not have to be certified in that state.

SENATOR LAMB: It does not have to have the seal of the court. Some courts don't have a seal, I understand. It will have a signature of an officer of the court before it is transmitted to Nebraska.

SENATOR CHAMBERS: Thank you, Senator Lamb. The reason I wanted to reduce the bill to its simplest terms, if you read all of it, all of the language, you could lose the thread of what is being done by the bill. In other matters, for a document from a court in another state to have validity in this state, the court in that state would have to certify it to indicate that from that court this document emerged, that the proceedings under which this document came or from which it grew from were properly conducted in that state. What this bill does is to say that that is not necessary if you are talking about a traffic citation. Now I don't do a lot of driving in other states, but there are people who drive trucks, who maybe go on tours or vacation. There might be traveling salespersons and others who spend a lot of time on the road. There have been indications in some states of what are called speed traps, and other methods by which revenue is derived in that state through the improper application of traffic laws. A person, rather than wanting to go to court in that area since they still have justice of the peace in some places, and the justice of the peace derives his or her salary from the amount of fines they can levy against people, and there are certain towns that set up speed traps to provide from that their entire budget for operating their towns, but at any rate, a person rather than going through a kangaroo court in a town or a location where they feel there was an unjust assessment of a ticket in the first place will plead guilty and pay the fine. Well, all they have to do in that state is just, or that location, because it is going to come from that location, just sign it and send it on to Nebraska, and

the Department of Motor Vehicles says this is going to be a basis for assessing points against the person's license in Nebraska. Maybe the justice of the peace isn't even the one authorized to send that document to this state. Maybe he or she is. We don't know. And this bill does not require anything on this document to indicate that it is valid. It just comes from a location where a person is alleged to have been convicted of a traffic violation. The Department of Motor Vehicles certifies it here, uses it in court, or in the proceedings to assess points or to take a person's license if they are at that point, and I don't think that is proper. Nebraska is in an interstate compact, and under that compact, these states will honor offenses committed in each of the states and assess points against licenses of their own residents if their residents got a ticket in those other states. What Senator Lamb wants to do is say that any of those states in the compact that don't want to go to the trouble of certifying these convictions will not have to do so. My feeling is that if these states consciously through the actions of their legislatures enter these compacts, we should have an assurance that the members of the compact are going to have the documents in their state certified by the court before we make use of them in this state. Why be a member of a compact when they are not willing even to certify the documents they are going to send here to use against the citizens of this state? Is it our job as a Legislature to place burdens on the residents of our state to fill the gaps in the system of another state? Why can they not certify these convictions? Is that too much to ask? But rather than ask the other states to do that, we are being asked as a Legislature to put onto the books a law that I feel is flawed in its underpinnings, in its application, and I think it is a bad reflection on the Legislature if we do this, and should we do it and a day comes when the citizens of the state catch on to what we have done, and they begin to come in as they have done on certain other bills where there was some lag time before they found out what we had done, members are going to say, well, I didn't know. I didn't realize that is what we were doing. I had no idea that an uncertified document from another state could be used against a citizen in this state, but you will know, because the transcription of our debates will be there, and the votes are all going to be a matter of record, so that, first of all, nobody can say they didn't know what this bill is doing and, secondly, their vote will be a matter of record in the Journal, because I am asking for a record vote from here on. I think it is a very bad bill. I think it is unfair. Remember,

what I am calling for is not that Nebraska get out of the compacts, but that we don't, through our legislative action, fill legislative deficiencies in these other states. Let them require a certification of all documents they send to another state as a part of the compact, but they are not going to do it. So, Senator Lamb tells us, since they are not going to do that in their state because they don't want to be bothered, they don't want the expense, or whatever reason they give, then our Legislature is going to do for them what their Legislatures refuse to do. If their Legislatures don't think it is important enough to require it, why dump that burden on us as a Legislature so that we will be the conduit for placing that burden on our citizens. I hope you will vote to kill this bill.

SPEAKER BARRETT: Thank you, Senator Lamb.

SENATOR LAMB: Well, Mr. President and members, of course, I rise to oppose the kill motion, and you may recall that this bill was on General File quite some time ago, and we have held it up here for Select File debate until we got an Attorney General's Opinion, and we have gotten that Attorney General's Opinion, and that opinion is on page 1116 of the Journal. And, in essence, the Attorney General said that, "LB 281 proposes that certificates of conviction for traffic infractions be afforded the status of 'self-authenticating' for purposes of points assessment and license revocations. We note that the current Rules of Evidence as enacted by the Nebraska Legislature"... and then it goes on to state "...the following are self-authenticating for evidentiary purposes." And there are a number of them, and there are a number of them. And then we get down here to another point in the Attorney General's Opinion, "Further, because the proposed 'self-authenticating' document operates as a rebuttable presumption in a civil proceeding, there are no due process violations. The opponent to the document can still attack the evidence if he or she considers it fraudulent or mistaken." So if there is a mistake, you can still attack it, and then most of us, when we get an Attorney General's Opinion, turn over to the last page, so now we will turn over to the last page, and it says, "Therefore, in answer to your request, we note that LB 281 does not violate any current evidence provisions nor the Due Process clause of the Fourteenth Amendment." The bill does what we think it should do. In my opinion, it does not violate anyone's rights. It facilitates the method by which Nebraska can assess points from convictions in other states. Other states sometimes do not put

that stamp, the court stamp, on the document that is sent to Nebraska for a variety of reasons. Some courts don't have the stamp. Some courts just say, well, the Clerk of the Court signed it, that is good enough. In those cases, the Nebraska Department of Motor Vehicles ordinarily sends that back to the state under current law in order to get it properly stamped, sometimes they do and sometimes they don't, but this is a process whereby the Department of Motor Vehicles can certify that this is the proper document and can be used in court. I see no reason not to advance the bill, and so I hope you would vote against the motion to indefinitely postpone.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I have to make a comment about these Attorney General Opinions, and also about our constitutional authority as a Legislature. Because we have the power to do something doesn't mean we ought to do it. We are suppose to exercise judgment, but if I remember correctly, and Senator Lamb was probably in the forefront of this effort, farmers were required under some federal law to pay a tax on a fuel, then that tax would be refunded to them. All they had to do was apply for the refund, Senator Lamb, but people jumped up on this floor and said, why should the farmers have to be in the position of applying for this refund. Don't make them pay it in the first place, and we all jumped on the bandwagon and said, yeah, that is right, farmers shouldn't have to pay this in the first place, even though they can get the refund. So here comes Senator Lamb on an issue that is much more serious, and says the Attorney General has indicated that if you feel that this document cannot withstand attack, then you attack it. What do you do as a citizen? You hire a lawyer. You have somebody research what happened in the other state, and you go through all of this problem, and Senator Lamb feels that that is not an undue burden on the citizen. Let it all be taken care of by requiring the state that is sending the document to certify it. If it is too much for them to certify the document before sending it for use in another state, they are not taking their responsibilities as members of the compact very seriously. I would ask you this question. What compelling public good in Nebraska is served by this bill? What compelling responsibility do we, as a Legislature, have in Nebraska to fill in the gaps in legislative programs in other states? We don't have those but I hope you will just remember what Senator Lamb said. If a person wants to challenge this document, they can do it. I would like

to ask Senator Lamb a question. Senator Lamb, did the Attorney General explain in that opinion how the challenge is to be conducted or that is left to the individual to obtain the legal counsel necessary?

SENATOR LAMB: I believe that the opinion states that the opponent to the document can still attack the evidence if he or she considers it fraudulent or mistaken.

SENATOR CHAMBERS: And how do they...did it say how you would go about doing that? Whether you would have to get a lawyer, how much time would be involved, or what would constitute the elements necessary to successfully attack it?

SENATOR LAMB: I do not believe that is covered in the Attorney General's Opinion.

SENATOR CHAMBERS: Right, and I would venture to say that nobody on this floor knows how to carry that out either, and that is what we are putting on the citizens. And why are we doing it? For the convenience of the Department of Motor Vehicles or to fill up the deficiencies in the laws of other states. As far as the Attorney General approving a process like this, that doesn't hold much water with me, Senator Lamb, because as a member of the Business and Labor Committee, we have some claims before us right now that the Attorney General's Office approved, and here is what I mean by that. Charges were brought against corrections officials. The Corrections Department investigated and said nothing was wrong. The Attorney General's Office reviewed all of that and said nothing was wrong. If you stop there, you would say justice has been done because the Attorney General's Office found nothing wrong. On at least three of the occasions, the individuals went to court and the court ruled against the Corrections Department and against the judgment of the Attorney General and found for the individuals whom the Attorney General said had no recourse coming, no redress coming.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: The Attorney General is not always correct, but I didn't raise the due process issue, Senator Lamb. What I said is that it is an undue burden placed on our citizens, and you should have asked him, is this procedure that you are asking for necessary because other states did not require their courts to certify these documents before sending them. That is the

question. That is the question that was not asked by Senator Lamb. It is the question not answered by the Attorney General, and as policy makers, we have the responsibility and obligation to answer it. If you pass this bill, you are acknowledging that there are states who are parts of this compact who are not doing what would be required to have these certified documents. The second thing you are doing is saying that the Nebraska Legislature will enact a bill to make up for the legislative deficiencies in these other states. That is what you are doing, and, finally, all this results in a burden being placed on the citizens of this state that will not be placed by Nebraska on the citizens of that other state.

SPEAKER BARRETT: Time. Any other discussion on the motion to indefinitely postpone? Any closing, Senator Chambers?

SENATOR CHAMBERS: No, but I will ask for a call of the house.

SPEAKER BARRETT: Thank you. A request for a call of the house. All in favor of the house going under call please vote aye, opposed nay. Record.

CLERK: 16 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Those outside the Legislative Chamber, please return and check in. The house is under call. Senator Langford, Senator Landis, Senator Schmit, Senator Labedz, Senator Goodrich, Senator Elmer, Senator Scofield, Senator Hefner, Senator Smith, please report to the Chamber. All present and accounted for. We have a request for a roll call vote, and the question is the indefinitely postponing of LB 281. (Gavel.) Roll call, Mr. Clerk.

CLERK: (Roll call vote taken. See page 1313 of the Legislative Journal.) 13 ayes, 33 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Next item.

CLERK: Mr. President, Senator Lindsay would move to amend the bill. (See Lindsay amendment on page 1313 of the Legislative Journal.)

SPEAKER BARRETT: Senator Lindsay. The call is raised.

SENATOR LINDSAY: Mr. President and members, the amendment I filed strikes the last sentence of the new language on page 3, lines 20 through 22 of the bill. That language reads that "Each record or report of conviction shall be admissible as evidence in any court of law in this state when bearing the seal of the department." I think what this provision does, it doesn't limit it to this section. What this sentence does is to I believe mandates admissibility of the report or record of conviction simply when it bears the seal of the department, rather than mandating or allowing admissibility of the report of conviction when bearing the seal of the court. I don't believe that this sentence is limited to the language to what is attempted to be limited and that is the denial of points. I think this sentence can and probably will be read to extend to other areas, potentially other criminal areas, civil actions dealing with auto accidents, or what have you. I think it is very broad language. I guess I would ask...could I ask a question of Senator Lamb.

SPEAKER BARRETT: Senator Lamb, are you available to answer a question?

SENATOR LAMB: Yes.

SENATOR LINDSAY: Senator, is this sentence, this last sentence of the paragraph necessary to the bill?

SENATOR LAMB: Well, my initial reaction is that it is. I fail to see how, you know, if it is not specifically spelled out that this record or report shall be admissible, what constitutes admissibility, is my problem.

SENATOR LINDSAY: The purpose is...your purpose in this, just for this paragraph, for this section, dealing with points?

SENATOR LAMB: Yes, that is all we are...our purpose is merely points on the licenses. We are not...the purpose is not to get into other areas certainly.

SENATOR LINDSAY: Okay, I guess I, and I can read this that it is, like self-authenticating, it can...gets over the burden of authentication of the document in the previous sentence. I guess my argument would be that the sentence is unnecessary and that it goes a little bit farther than we need to go to accomplish the purpose that is desired. I would urge the body

to adopt the amendment.

SPEAKER BARRETT: Thank you. Is there discussion on the Lindsay amendment? Senator Lamb, followed by Senator Chambers.

SENATOR LAMB: Well, I rise to oppose the amendment. We haven't had a lot of time to discuss it here but it seems to me that it may very well take the heart out of the bill, that if we do not have specific instruction there, that each record or report of conviction shall be admissible as evidence in the court of law in this state when bearing the seal of the department, in my humble opinion, this may very well gut the bill, and I don't think we want to do that. If Senator Lindsay has reason to believe that it does not, we certainly would look at that. But at this point, it certainly looks as if it would be in violation of what we are trying to do here, that if there is not specific language in here which says it is admissible, the question hangs as to whether or not it is admissible, and that is the purpose of the bill. And I guess I think Senator Lindsay is reading a broader interpretation in here, certainly, than we are contemplating, and in all probability beyond, I think his fears are probably unfounded. So I think we should go ahead with the bill in its present form. If, I would say this, if, we will reflect on this further, I would hope that this would be...this amendment would be defeated at this point, and if between now...I will have conversations with Senator Lindsay and other people and we will discuss it, and if there is a legitimate problem here because we certainly do not want to get into a broad interpretation, I will be amenable to bringing it back from Final Reading and correcting it. However, I don't think that is going to be necessary. I think it is in good shape.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have a question for Senator Lamb. Senator Lamb, what types of offenses would be covered by this provision that you have?

SENATOR LAMB: It is our purpose to have traffic offenses, those, you know, which are ordinarily associated with assessment of points.

SENATOR CHAMBERS: It could be leaving the scene of an accident, couldn't it, because points are assessed for that?

SENATOR LAMB: I assume that would be one.

SENATOR CHAMBERS: There could be a motor vehicular homicide involved in the traffic case?

SENATOR LAMB: We are only talking about the traffic violation.

SENATOR CHAMBERS: You don't say that, though. You say the conviction, and if the conviction is for motor vehicular homicide, it falls under what your bill is talking about. Your bill doesn't say only for the purpose of assessing points, does it? Well, if it doesn't matter to the body, it doesn't to me. I have said what I think I should say, and that will let you know how broad this bill is, and that will terminate mine. Senator Lamb, you don't have to give answer. I am yielding my time.

SPEAKER BARRETT: Thank you. Any other discussion on the Lindsay amendment? Senator Lamb, followed by Senator Kristensen.

SENATOR LAMB: Okay, it has been...this section, this section of law, in answer to Senator Chambers' inquiry, is directed to the point system. If you look on the previous page, on page 2 of the bill, that is what we are talking about in this section of law, and it reads, "Whenever it comes to the attention of the director that any person has, as disclosed by the records of the director, accumulated a total of twelve or more points within any period of two years,..." so that is actually what we are talking about. We are not talking about other crimes. We are talking about the assessment of points.

SPEAKER BARRETT: Senator Kristensen.

SENATOR KRISTENSEN: Thank you. Can I...Senator Lamb, can I ask you a couple of questions just so I understand what this is doing, too.

SPEAKER BARRETT: Senator Lamb.

SENATOR LAMB: Yes.

SENATOR KRISTENSEN: Down here where it talks about, the last phrase right before where Senator Lindsay would strike this wording, it says, "...and be self-authenticating for any action

taken by the director." What does that mean?

SENATOR LAMB: What it really means is that the director can assess points against the license holder.

SENATOR KRISTENSEN: Can that also mean, though, that he can take whatever records he gets from another state, and that those records are self-authenticating themselves and he can use them for his use?

SENATOR LAMB: Well, what we are talking about are the convictions in another court in another state which did not have the court seal, and when those are sent to Nebraska under the compact that Senator Chambers described, then the director can authenticate it, can use that, and assess those points and revoke the licenses when twelve points are accumulated.

SENATOR KRISTENSEN: I guess what the real problem of the bill that we are looking at is that where somebody else gets enough points in this state, goes out to another state and gets another driver's license, and would come back and operate in this state, or if they had lost their license in another state, they come into our state to avoid that process and will try to get a Nebraska license, is that what this is directed at, as well?

SENATOR LAMB: We are talking about Nebraska driver's license, a Nebraska driver that is convicted in another state of a violation. Then the report of that conviction is sent to Nebraska under the compact rules so that Nebraska can deal with the situation, that is, assess points against the license.

SENATOR KRISTENSEN: So if he goes out, and in Nebraska, he has a fairly clean record and he only has one or two points lost, but he has got a lot of speeding tickets in let's say Kansas or Colorado, as a compact state, we could use those violations in this state to take his license in this state?

SENATOR LAMB: That is correct.

SENATOR KRISTENSEN: And I guess what I am asking, wouldn't we still be able to do that without the last sentence in this phrase because they will still be self-authenticating by the director when he receives those reports of convictions?

SENATOR LAMB: Well, I am afraid we could not, and I am sure we

are aware that this was brought about by the Supreme Court decision which said that those documents from the other court had to have the seal. And so we are just trying to set up a system here where those courts that either do not have a seal or for some reason do not want to have a seal or for some reason do not put the seal on there as a matter of course, when those documents come to the State of Nebraska, then instead of having to send them back to get them or maybe they won't even do it, then we are having violators that are not being properly assessed their points. I don't think...I think the striking that sentence is going to strike the guts out of the bill, in my opinion, but you are the lawyer and I am not. But it seems to me it has to be self-authenticating or it is of no value.

SENATOR KRISTENSEN: I think that if they are self-authenticating, you...

SPEAKER BARRETT: One minute.

SENATOR KRISTENSEN: ...could still get them into court. I mean that is what...to me, that is what that phrase could say and that is the reason I asked the question. I am not sure what that phrase exactly would mean, but if it says that the convictions will be self-authenticating for any action taken by the director, the director is going to be the one that is going to take the points away, and if they are self-authenticating, then that takes away our objection for admissibility of court and that last sentence then really will do away with a lot of the fears that we are going to have. Because we are automatically just saying any document we are going to get is going to be admissible into court. As soon as we get it, we are just going to put it right into evidence that mandates evidentiary rulings. The self-authenticating is a presumption unless it can be rebutted some other way. And so I guess I kind of agree with Senator Lindsay in a way that that last sentence just mandates admissibility, and it says it doesn't matter what else happens, that if it is self-authenticating, it is still a presumption...

SPEAKER BARRETT: Time.

SENATOR KRISTENSEN: ...and we can still go with it from that point. Thank you.

SPEAKER BARRETT: Thank you. Senator Chambers, further

discussion?

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Lamb, do you have that language before you that we have been discussing in Senator Lindsay's proposed amendment? If you will look at the new language that you have, that you are adding, even though it is in the provision that relates to the loss of points, where in here do you see the types of violations or infractions that would result in loss of points? It wouldn't be based on our record. It would be based on what the other state would have submit....let me ask you a question. Based on whose law will the points be assessed, based on what is considered an offense in the other state, or would they be assessed only if that is an offense in this state?

SENATOR LAMB: Only in this state.

SENATOR CHAMBERS: So then if a person got a traffic ticket in another state and it was sent here, then what the director would do is look to see if that particular violation would be a violation of the law in Nebraska, is that what the director would do?

SENATOR LAMB: Yes.

SENATOR CHAMBERS: So, if going over the speed limit by a certain number of miles per hour in one state would be different from what it is in Nebraska, the Nebraska law would prevail, is that what you are saying?

SENATOR LAMB: That is my understanding, Senator Chambers.

SENATOR CHAMBERS: And this is for my information and the information of the record, on what do you base that? Is that in the wording of the interstate compact that Nebraska is a part of or do you just feel that, because I don't have the answer right now?

SENATOR LAMB: I understand it is in the compact language. Senator Chambers.

SENATOR CHAMBERS: Okay, so we are dealing only then with violations that would be violations under Nebraska law and that would require assessment of points under Nebraska law?

SENATOR LAMB: Yes, that is my understanding.

SENATOR CHAMBERS: All right, then if, and I am going to take you through what Senator Lindsay and Kristensen touched on, if the document is self-authenticating, that means it is what it claims to be on its face and nothing more is needed, would you agree with that?

SENATOR LAMB: Well, the Director of Motor Vehicles would have to agree.

SENATOR CHAMBERS: But once whatever is done to make it self-authenticating, it is within the power of the Department of Motor Vehicles to make it a self-authenticating document, isn't that true?

SENATOR LAMB: I believe that is true.

SENATOR CHAMBERS: Do you see anything in this that requires that document to be in the appropriate form that the other state's laws would require? There is no requirement of that, is there? It can be irregularly obtained in that other state and not signed by a member of the court even.

SENATOR LAMB: Well, the Attorney General has pointed out that if there is fraud or mistake in the document, then, certainly, that is vulnerable to attack.

SENATOR CHAMBERS: That is not what I am asking because a person in this state has no way of knowing that. All you have is a signature on there, nothing from the court that even indicates it came from the court itself. Isn't it correct that this document does not have to have any insignia from any issuing court in order to be accepted in this state, isn't that true under what you are asking us to adopt? Yes, it is true because if the court certified it, then we wouldn't need this bill, so you are asking us to take a document that has nothing from the court to indicate it is what it...that it is what it purports to be, isn't that correct?

SPEAKER BARRETT: One minute.

SENATOR LAMB: Okay, on page 3 of the bill, Senator Chambers, we have spelled out that each record or report of a conviction received by the director from another state shall clearly

identify the person convicted, describe the violation specifying the section of the statute, code, or ordinance violated, identify the court in which the action was taken, indicate whether a plea of guilty was entered or the conviction was a result of the forfeiture...

SENATOR CHAMBERS: Okay, Senator Lamb, I can read but my time is running out. Where in there is there a requirement that anything be on that document from the issuing court? Nothing.

SENATOR LAMB: It says, identify the court.

SENATOR CHAMBERS: Whoever writes the document says this happened in the Municipal Court of Des Moines. Senator Lamb doesn't even understand what this bill says and does. To identify the court does not place a responsibility that the court from which it purportedly issued put anything on the document, that is why he needs the bill, because the court is not going to participate in certifying the document.

SPEAKER BARRETT: Time has expired. Other discussion? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I want to try to make that point, then I will leave it alone. This language that Senator Lamb read does not say that the document has to have anything on it from the issuing court. If the legislation were going to require the court to do that, you wouldn't need it. This bill is being offered because the courts are not doing that. So in order to use documents that the courts will not certify, Senator Lamb wants this bill. There is nothing that will indicate on the face of one of these documents that it properly issued from any court. A justice of the peace can send this piece of paper and say it issued from the court of the justice of the peace of X County. The defendant was found guilty of whatever, and that document, then, is sent here and the director of the department puts a stamp on it and it is admissible for all purposes and evidence just like that and can be used against the person, and how many people, considering those who do not even have the money to afford to challenge a traffic ticket in this state, are going to have the wherewithal to go back to another state to challenge the procedures behind this document. They don't have it. Senator Lamb knows this. The Attorney General knows it, and the department director knows it. And if they don't know it or profess not to know it, I am going to inform them. There are

a lot of people who accept these kinds of things because they don't have the wherewithal to challenge them and we are simply producing another one of those burdens, but what I am going to tell you all, when one of your constituents comes to you and this has bitten them, any of them who come to me like some of them do with these kind of traffic problems, I am going to reject it and I am going to refer them to whoever their senator is and just tell them that is not my job. I tried to prevent this and now take it to your senator. I am the one who will have a lot of this stuff brought to me, even by lawyers who represent these individuals. I have even had senators talk to me when they have gotten traffic citations. I am not going to do that anymore. Don't come to me with any of this kind of stuff because it happens due to the laws that we put on the books, and we have an opportunity this once to not impose another of these simpleminded burdens. Senator Lamb said sometimes the department will send these documents to the issuing state and the court in that state will refuse to certify it. Why? Why does he want to take something that the court in the issuing state will not certify itself and allow it to be used in this state? It boggles my mind.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: Call the question.

SPEAKER BARRETT: Thank you. That won't be necessary. There are no other lights on. Senator Lindsay, would you care to close on the adoption of your amendment?

SENATOR LINDSAY: Thank you, Mr. President, members. Again, just to...I think the discussion has been good, and if nothing else, what we are doing is laying down a little bit of legislative history for interpretation of the section. I still believe that the last sentence in that paragraph is unnecessary and has the effect of mandating admissibility of a particular report of conviction. I believe that the language that Senator Kristensen was conversing with Senator Lamb about gets by the objections that are...that is the intent of the legislation. I think, at best, what we are doing with this last sentence is expanding that to get into some areas that this body does not intend to attack. For that reason, for the reasons you have heard, again, I would urge the body to accept the amendment.

SPEAKER BARRETT: Thank you. The question is, then, the

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LB 281

adoption of the Lindsay amendment to LB 281. Those in favor vote aye, opposed nay. Voting on the Lindsay amendment to the bill. Have you all voted? Senator Lindsay.

SENATOR LINDSAY: Mr. President, I think I am going to have to have a call of the house and a roll call vote.

SPEAKER BARRETT: Thank you. Clear the board, Mr. Clerk.

SENATOR LINDSAY: Excuse me, rather than a roll call vote, I will accept call ins.

SPEAKER BARRETT: Shall the house...I am sorry, you want to authorize call ins.

SENATOR LINDSAY: Sure.

SPEAKER BARRETT: At this point?

SENATOR LINDSAY: Well, I guess it has been cleared now, I will go with a roll call.

SPEAKER BARRETT: Call of the house has been requested. Shall the house go under call? All in favor vote aye, opposed nay. Record. Record, please.

CLERK: 17 ayes and 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, return to your seats, record your presence please. Call in votes have been authorized by Senator Lindsay.

CLERK: Senator Landis voting yes. Senator Hartnett voting yes. Senator Peterson voting no. Senator Beck voting no. Senator Pirsch voting no. Senator Warner voting no. Senator Abboud voting yes. Senator Schimek voting yes.

SENATOR LINDSAY: Mr. President, I would ask for a roll call.

SPEAKER BARRETT: Thank you. Roll call vote has been requested. Members, please, please check in. Record your presence. Senators Elmer, Goodrich, Haberman, Pirsch, McFarland, Moore. Senator Rod Johnson, please. Senator Hefner, the house is under call. Senator Schmit, Scofield, Warner, Wehrbein, please record your presence. Return to the Chamber, the house is under call.

Senator Scofield, Senator Wesely, Senator Moore, Senator McFarland, the house is under call. Senator McFarland, the house is under call. Senator Lindsay advises that we can proceed with the roll call vote on the adoption of his amendment to LB 281. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See pages 1313-14 of the Legislative Journal.) 24 ayes, 14 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: Motion fails. Anything further?

CLERK: Mr. President, Senator Lynch would move to amend the bill. (See Lynch amendment on page 1313 of the Legislative Journal.)

SPEAKER BARRETT: Senator Lynch.

SENATOR LYNCH: Mr. President and members, I think this is the first time (interruption)...

SPEAKER BARRETT: The call is raised.

SENATOR LYNCH: ...this, but I think that so some of us who are lay people can understand what we are talking about, the concept proposed in the legislation probably is good. The legal discussion we just had about striking the line at the bottom, which I voted for, probably would have helped me, but since that failed, in particular, I am suggesting on line 10, following the word "conviction", add, "For Traffic Infraction". Most of us understand what that means. That at least would clearly spell out what we are trying to accomplish, and traffic infraction and the use of that word would more clearly define what, in fact, kind of record or conviction would be included in this kind of legislation. I hopefully suggest that this may clear the air on the debate and make it possible for some of us to understand what we really want to accomplish with the legislation.

SPEAKER BARRETT: Thank you. Discussion on the Lynch amendment to 281? Senator Lamb.

SENATOR LAMB: Yes, even I can understand that, Senator Lynch, and I have no objection. I think it is a good clarifying amendment and I would support it.

SPEAKER BARRETT: Anything further? If not, are we ready to vote on the adoption of your amendment, Senator Lynch? Thank you. Those in favor of the Lynch amendment please vote aye, opposed nay. Record.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Lynch's amendment.

SPEAKER BARRETT: The amendment is adopted. Before proceeding to the next item, the Chair advises that the record should indicate that Senator Robak had some guests here who had to leave in the north balcony. We had 12 fourth grade students from Emmanuel Lutheran in Columbus. Next item, Mr. Clerk.

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

SPEAKER BARRETT: Senator Lindsay, would you like to restate your motion?

SENATOR LINDSAY: Restate or rephrase. I move that LB 281 be advanced to E & R for engrossing.

SPEAKER BARRETT: Shall LB 281 as amended be advanced to E & R Engrossing. Those in favor say aye. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, all I want to do is say that it's still as bad a bill as it was before. What we are doing with the bill is inexcusable, and when your constituents find out, don't refer them to me. And if you have any problems or somebody loses a license under this and they want to be able to drive, don't come to me with it, and I am going to ask at this time for a machine vote and a record vote.

SPEAKER BARRETT: Thank you. Further discussion on the advancement of the bill, Senator Landis? Thank you. Anything further? If not, all in favor of the advancement...Senator Lamb.

SENATOR LAMB: Well, I might just...I might just make a few comments, Mr. Speaker. It certainly is not our intent to go beyond what I've described on the floor. Now if...we will be visiting with Senator Lindsay and others, and if it does go beyond that, I will just tell you right here and now that we will not pass the bill on Final Reading in that form.

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LB 154, 155, 250, 254, 265, 272, 281
421, 503A, 619, 623, 683

SPEAKER BARRETT: Thank you. Anyone else? A record vote has been requested. All in favor of the advancement of the bill please vote aye, opposed nay. Shall LB 281 be advanced, that is the question? Have you all voted? Have those who care to vote voted? Record, please.

CLERK: (Read record vote. See pages 1314-15 of the Legislative Journal.) 25 ayes, 18 nays, Mr. President, on the advancement of LB 281.

SPEAKER BARRETT: The bill is advanced. Anything for the record?

CLERK: Yes, Mr. President, I do. I have amendments to be printed to LB 272 by Senator Landis; and LB 683 by Senator Wehrbein. I have a new A bill, LB 503A by Senator Goodrich. (Read for the first time by title. See pages 1315-16 of the Legislative Journal.)

Mr. President, I have a lobby report for this past week; a confirmation report by the Judiciary Committee. It is signed by Senator Chizek. Notice of hearing by the Rules Committee for Thursday, April 6.

And, finally, Mr. President, bills read on Final Reading this morning have been presented to the Governor. (Re: LB 265, LB 619, LB 155, LB 623, LB 154, LB 254, LB 421. See page 1317 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Labedz has a very special guest under the south balcony, a friend of hers, Tom Kelly, who is a student at Westside Middle School. Tom, would you stand up and take a bow. We're glad to have you with us. Also observed under the south balcony is a former member of this body, Senator George Syas of Omaha. Senator Syas. Nice to have you back, George. LB 250, Mr. Clerk.

CLERK: Mr. President, Senator, I have E & R amendments on LB 250, first of all.

SPEAKER BARRETT: Senator Lindsay.

CLERK: E & R amendments, Senator.

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LB 46, 49, 49A, 132, 145, 231A, 237
250, 250A, 281, 378A 379, 388, 408A
412A, 418, 449, 449A, 506

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the 54th day in the life of the First Session of the Ninety-first Legislature. Our opening prayer this morning by our chaplain, Pastor Allen Vomhaf of St. Johns Lutheran Church in Omaha, Senator Lynch's district. Pastor Vomhaf, please.

PASTOR VOMHAF: (Prayer offered.)

SPEAKER BARRETT: Thank you, Pastor Vomhaf. Hope you can come back again. Roll call.

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Reports, announcements or messages.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 46 and find the same correctly engrossed, LB 49, LB 49A, LB 132, LB 145, LB 231A, LB 237, LB 250, LB 250A, LB 281, LB 378A, LB 379, LB 388, LB 408A, LB 412A, LB 418, LB 449, LB 449A and LB 506, all reported correctly engrossed. (See page 1364 of the Legislative Journal.)

Mr. President, the last item I have is a report from the Job Training Director for the City of Omaha. That will be on file in my office. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Before proceeding into General File, senator priority bills, an announcement of general interest to the body (gavel) for your advanced planning. On Thursday of this week, day after tomorrow, we will be on consent calendar, consent calendar beginning Thursday morning, running through the noon hour, working through the noon hour and hopefully adjourning again at the midafternoon point. It's my hope that we can dispose in one way or another of all of the bills that will be listed on consent calendar on Thursday. Those bills that will be a part of consent calendar will be available to you this afternoon at the same time the agendas for tomorrow are available. So you will be able to have a little

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LB 147, 279, 281, 319, 340, 340A, 410
414, 587, 588, 733

SENATOR PIRSCH: And under the present law that...you could do nothing really.

SENATOR LANDIS: That is not embezzlement, that's right. Embezzlement is where you steal money from the firm.

SENATOR PIRSCH: Right. Thank you, I appreciate the explanation...

SENATOR LANDIS: Sure, you bet.

SENATOR PIRSCH: ...and I support this bill.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Landis, anything further?

SENATOR LANDIS: Waive closing.

SPEAKER BARRETT: Thank you. Closing is waived and the question is the advancement of LB 319 to E & R. All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays on the advancement of 319, Mr. President.

SPEAKER BARRETT: LB 319 is advanced. Any messages on the President's desk?

CLERK: Yes, Mr. President, I do. Senator Hartnett has amendments to be printed to LB 588, Senator Chizek to LB 279, Senator Chambers to LB 281, Senator Landis to LB 279. (See pages 1462-64 of the Legislative Journal.)

Enrollment and Review reports LB 147, LB 340, LB 340A, LB 410, LB 414, LB 587 and LB 733 as correctly engrossed. (See page 1457 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Peterson, would you care to adjourn us until tomorrow?

SENATOR PETERSON: Mr. President and members, I'd be delighted to adjourn us till tomorrow morning at ten o'clock, is that, Senator Barrett, beings we lost an hour?

printed to LB 1141 (See Warner amendment AM3226 as found on pages 1863-64 of the Legislative Journal), and to LB 281 (See Abboud amendment AM3343 as found on page 1861 of the Legislative Journal). That's all that I had, Mr. President.

SPEAKER BARRETT: Thank you, sir. I'd like to revert, at this time, to the original agenda, General File committee priority bills and work a few of those General File committee priority bills, with your cooperation, starting with LB 1003. Mr. Clerk.

CLERK: Mr. President, LB 1003 was a bill originally introduced by Senators Elmer, Lindsay and Schmit. (Read Title). The bill was introduced on January 4 this year, referred to the Judiciary Committee. Bill was advanced to General File. I do have committee amendments pending by the Judiciary Committee.

SPEAKER BARRETT: Chair recognizes Senator Chizek for the committee amendments.

SENATOR CHIZEK: Speaker and colleagues, LB 1003 is a bill which allows the recovery of attorneys fees and other costs if an individual is prosecuted under a law which is declared unconstitutional during the appeal. Senator Elmer will address the bill later, but the committee amendments are on page 556 of the Journal and they are technical amendments to make clear that the Supreme Court shall determine the fees to be awarded, if any. The Judiciary Committee unanimously voted to move LB 1003 to the body with that simple amendment. I would urge the adoption of the committee amendments and the... later, the passage of the bill, Mr. Speaker.

SPEAKER BARRETT: Thank you. For discussion purposes, Senator Chambers on the committee amendments, followed by Senator Elmer.

SENATOR CHAMBERS: No, not on the committee amendments.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. Speaker. I think that Senator Chizek explained the committee amendments pretty well. I'll address the bill when we get to the bill. Thank you.

SPEAKER BARRETT: Thank you. Any other discussion on the adoption of the amendments? Senator Chizek. Senator Chizek