

February 14, 1989 LB 147A, 224A, 350A, 361A, 375, 408A, 416
535, 570, 629, 801

indefinitely postponed; LB 375, indefinitely postponed; LB 535, indefinitely postponed; LB 570, LB 629, LB 801, all indefinitely postponed, signed by Senator Hall as Chair of Revenue. (See page 742 of the Legislative Journal.)

New A bills, Mr. President. (Read LB 224A, LB 350A, LB 408A, LB 361A and LB 147A by title for the first time. See page 743 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Fine, thank you. We'll move on to LB 416.

CLERK: Mr. President, LB 416 was introduced by Senator Robak. (Title read.) The bill was introduced on January 13, referred to the Transportation Committee for public hearing, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: Thank you. Senator Robak, please.

SENATOR ROBAK: Mr. President and members of the Legislature, I don't want to make light of this situation, but in my office we refer to this as the K-Mart blue light special. LB 416 permits the use of blue flashing lights in conjunction with red and white flashing lights on emergency vehicles. Current law only now uses...permits the use of red and white lights. However, several Nebraska jurisdictions are already using blue with red and white lights. Studies have shown that at night blue and white lights are more visible than red and white lights. The Columbus police chief surveyed over 30 law enforcement agencies in Nebraska and learned that 20 are currently using blue lights. There is some confusion as to whether or not law enforcement agencies have the authority to use blue lights. For example, a city attorney told a police chief that blue lights were authorized while the county attorney told him that they were not. However, since 20 jurisdictions already use the blue lights, obviously, other positive legal opinions have been rendered in this matter. In 1982 a similar bill was introduced in the Legislature. The reason it was defeated at that time was because there were no studies done then to determine the effectiveness of blue lights. Those studies now have been done and they conclusively show that blue lights are much easier for motorists to see at night. During the day red lights are better, but the addition of blue at night greatly increases the visibility of the emergency vehicle. The other arguments were that if the lights were mandatory, it would be too expensive for

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LB 147A, 147

the people speaking in favor of it today on the floor, you can tell it is a necessary legislation and would be good legislation for our judicial system. I urge you to vote in favor of the bill. Thank you.

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

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

PRESIDENT: The bill is advanced. LB 147A, please.

ASSISTANT CLERK: LB 147A was also offered by Senator Chizek. (Title read.)

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes, thank you, Mr. President, fellow senators, this is the A bill that is attached to the bill we just advanced. It would call for an appropriation of approximately \$200,000 primarily to cover the salaries for two additional district court judges and two court reporters and benefits, travel and training for the judge, the judges. I would urge its advancement as well. Thank you.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I just have a couple of questions for Senator McFarland. Senator McFarland, is it true that there are other bills before the Legislature dealing with the judiciary?

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes.

SENATOR CHAMBERS: Does one of them deal with a substantial pay increase for all judges?

SENATOR MCFARLAND: It deals with a pay increase, I'm not sure I would call it substantial.

SENATOR CHAMBERS: Would you say fifty something percent in

three years is substantial?

SENATOR MCFARLAND: Considering what attorneys in private practice make as compared to members of the judiciary, no.

SENATOR CHAMBERS: Senator McFarland, is it true that there are other bills before the Legislature which are designed to decrease the work load of the State Supreme Court?

SENATOR MCFARLAND: Yes, of the State Supreme Court, not of the district court.

SENATOR CHAMBERS: So, members, what you need to see is how much the courts are seeking the judges in this one session. They want to reduce the work load by increasing the number of district judges. They want to reduce the work load of the Supreme Court by either creating an appeals system in between or increasing the size of the Supreme Court, and this bill would attempt to increase the number of district judges. I just want that before you because as these bills come out and come together there will be other positions I'm going to take on them, than I'll take right now. If this one moves it may not make that much difference but be aware that that is the triumvirate that you'll be dealing with; reducing the work load of the State Supreme Court while increasing their salary, trying to reduce the work load of the district court by increasing the number of judges and their salary will be increased also. So I just think those things ought to be in the record so it will be clear that the discussion, although it may have flowed smoothly this morning without hitch, will not be the case when all of the bills are before us.

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

SENATOR MCFARLAND: I'd just like to make a point of clarification. I think it is rather confusing to say that the Supreme Court is reducing its work load. The Supreme Court's work load has increased gradually over the years because of the number of appeals to the Supreme Court. The bills that are in committee now are not really designed to reduce the court's work load. The work load is going to be there. What the bills in Judiciary that will be forthcoming in future weeks are to try and dispose of the backlog of cases because right now it takes almost two years from the time you file your appeal to the time

that the court is able to decide the case. So those future bills will...the real purpose of them is not to decrease the work load in any way, but to take care of the hundreds of cases that are sitting there waiting to be decided. Again, I would just note that this is a very modest increase. It would appropriate funds for the creation of two district court judgeships, not anything to do with the Supreme Court, district court judgeships along with the court reporters and staff and expenses necessary for them. I would urge its advancement as well. Thank you.

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

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

PRESIDENT: LB 147A advances. LB 224.

ASSISTANT CLERK: LB 224 was introduced by Senators McFarland, Chizek and Hefner. (Title read.) The bill was read for the first time on the ninth of January. It was referred to the Judiciary Committee. They report the bill back to General File with no committee amendments, Mr. President.

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes, thank you, Mr. President, this is my day I guess. This is a bill entitled the Athlete Agents Registration Act. It has been before the Judiciary Committee before. I have brought it, myself, each year that I have been a member of the Legislature except for the first year when I was first appointed. Its history is that we were trying to address problems created when Nebraska athletes are sometimes taken advantage of by sports agents who induce them into signing representation agreements, sometimes jeopardizing their eligibility, but in any event these representation agreements are often so totally skewed to favor the agent and the athlete may very likely not have the business skill or knowledge to understand them. There have been some publicized incidents in the past particularly with regard to several years ago, to Mike Rozier when he was signed to a representation agreement by an agent charging a 13 percent fee on any contract that Mike Rozier signed. I can tell you that the standard fee is usually three

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LB 48, 61, 92, 92A, 147, 147A, 154
176, 298, 327, 349, 360, 360A, 391
398, 416, 441, 458, 459, 502

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our chaplain of the day Reverend Steve Janovec of the People's City Mission in Lincoln. Would you please rise for the convocation.

REVEREND JANOVEC: (Prayer offered.)

PRESIDENT: Thank you, Reverend Janovec. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal this morning?

CLERK: No corrections, Mr. President.

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

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 147 and recommend that same be placed on Select File; LB 147A, Select File.

Mr. President, Enrollment and Review reports LB 154, LB 360, LB 360A and LB 441 as correctly engrossed, both those items signed by Senator Lindsay as Chair of the Enrollment and Review Committee. (See pages 1003-04 of the Legislative Journal.)

Mr. President, communications from the Governor. (Read communications regarding signing of LB 391, LB 398, LB 458, LB 459, LB 48, LB 61, LB 176, LB 298, LB 327, LB 349, LB 416, LB 502, LB 92 and LB 92A. See page 1004 of the Legislative Journal.)

Mr. President, an appointment letter from the Governor appointing Ms. Kathy Campbell to the Child Abuse Prevention Fund Board. That will be referred to Reference. (See page 1005 of the Legislative Journal.)

I have a report from the Job Training area for the Department of Labor, Mr. President. That will be on file in my office. (See page 1005 of the Legislative Journal.)

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LB 147A, 224, 683A, 807

of LR 63 as found on page 1356 of the Legislative Journal.) That will be laid over.

Attorney General's Opinion addressed to Senator Withem. (See pages 1357-58 of the Legislative Journal regarding LB 807.)

New A bill, LB 683A by Senator Landis. (Read by title for the first time as found on page 1358 of the Legislative Journal.)

Mr. President, LB 147A, I have a priority motion. I have amendments to the bill but I have a priority motion. Senator Schmit would move to bracket 147A until April 17, 1989.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President, I move to bracket the bill till April 17th. If we do, fine; if we don't, it's okay also.

SPEAKER BARRETT: The Schmit motion is to bracket the bill until April 17 of '89. Is there any objection? We will proceed then by unanimous consent to bracket the bill. Mr. Clerk, the next bill, please, LB 224.

CLERK: Mr. President, LB 224, the next bill, Mr. President, the first item I have on 224 are E & R amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 224 be adopted.

SPEAKER BARRETT: Shall the E & R amendments to the bill be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, the first amendment I have to the bill is by Senator McFarland. Senator, this is your amendment on page 1271 of the Journal. It's AM1005.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker. I would move to adjourn till tomorrow morning at nine o'clock.

SPEAKER BARRETT: You move to adjourn until nine o'clock? I'm

May 23, 1989

LB 147A
LR 218, 221, 222, 223

to make sure that we take care of the problem. This resolution commends our congressional delegation for having worked hard on this issue and the federal government for finally responding to the issue. Our whole key under this resolution is to make sure the federal government assumes the responsibilities they should, having had these plants and having had the contamination we found, and that they accept that responsibility and carry out that responsibility to clean up the problem that they created. We plan to work with them. The Department of Environmental Control, the Department of Health is the lead agencies of the state to work with the federal government. We plan to work with our congressional delegation. But we just want to send a strong message to the federal government and our congressional delegation that we want to continue to see action on this problem, that we want to continue to see what we can to clean up and prevent any pollution problems from these sites and, with the co-sponsors, I'd urge adoption of this resolution.

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

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of LR 221.

PRESIDENT: The resolution is adopted. Something for the record, Mr. Clerk?

CLERK: Mr. President, I have an explanation of vote by Senator Byars and a study resolution pursuant to rules offered by the Appropriations Committee. (See Senator Byars' explanation of vote regarding LR 218 as found on page 2678 of the Legislative Journal. The Appropriations Committee's LR 222 appears on pages 2678-80 of the Legislative Journal. The Appropriations Committee's LR 223 appears on pages 2680-81 of the Legislative Journal.) That's all that I had, Mr. President.

PRESIDENT: Moving on to number 6, LB 147A.

CLERK: Mr. President, with respect to Legislative Bill 147A, the first motion I have is a motion to unbracket the bill, unanimous consent request to unbracket the bill.

PRESIDENT: Any objections? So ordered.

CLERK: Mr. President, Senator Schmit, would now move to

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LB 147A

indefinitely postpone LB 147.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, LB 147A was originally introduced for the purpose of funding LB 147. We have an opinion that we do not need the funding at this time and so I have asked that the bill be withdrawn. Any objections or any questions, I'll be glad to try to answer them.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Well, you know, Mr. President, obviously for the bill LB 147 to be passed and not being a problem with the rule, the A bill, which is stuck on Select File, and rumor mill tells me it was stuck because there was some thought of trying to adjust judges' salaries generally, it's accurate to say that the failure to appropriate money does not constitute a flaw so that the judges could not be appointed. As a matter of fact, if the Legislature refused to appropriate money for the operation of the courts for some strange reason, I suspect that the courts, the Supreme Court, could go out and assess its own tax, probably, or compel it to be assessed. The point is that it isn't we don't need the bill. The appropriation will be made and it will be a deficit next year. It's that simple. Historically, we have always provided the funding knowing that that is necessary, so you should not assume that there is no money to the bill because there is. It's probably 138,000... 238,000 '89-90 and 314,000 in '90-91, and it will be a deficit appropriation and it will be mandatory. So with this...I...it's unfortunate. I wish I didn't catch it. The A bill should have been advanced Friday or Thursday, could have been, and I just didn't catch it. I have no problem with killing the bill 'cause I would rather have it killed and be alive come January to do whatever they might have done with it, so I agree with the indefinite postponement, but you should understand that there will be a deficit appropriation in this amount next year.

PRESIDENT: Thank you. Senator Chizek, please.

SENATOR CHIZEK: Mr. President and colleagues, Senator Warner and Senator Schmit are both correct. In the State v. Weston, it will be observed that the provision does not require the appropriation to be made by an act of the Legislature, and this opinion goes back to April 16 of 1982. I think that we, you

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LB 147, 147A

know, we had discussed the main bill, LB 147, on a number of occasions and I don't think anyone questions the necessity of it. We happen to be in a box at this point in time. I have no problem with killing the A bill understanding the parameters that Senator Warner had mentioned that we would have to operate with. There is a necessity for it so I would ask your support in "IPping" the A bill and still ask for your support for the bill itself.

PRESIDENT: Thank you. Senator Ashford, please? Okay, Senator Warner, did you wish to close? Senator Schmit, closing?

SENATOR SCHMIT: Well, Mr. President, as has been explained, we do not have the ability to deny the funding for court. For some reason, the bill did not move. I did brag up the bill at one time. There was some discussion as to whether or not the system was going to be adopted before I bragged up LB 147A. Did not move along with the rest of the bill and so, by the rules of the Legislature, it is preferable for us to kill the bill. In fact it may be necessary, I'm not sure, Senator Warner can comment on that if he wishes, to kill the bill rather if it does not...is...if it is not in the proper position to be passed at this time. The funding will take place according to the opinion of the Supreme Court as made by law without a specific appropriation. So I would ask your permission to kill the bill.

PRESIDENT: The question is, shall LB 147A be indefinitely postponed? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to indefinitely postpone LB 147A.

PRESIDENT: LB 147A is indefinitely postponed. Move on to Final Reading, please, if you'll take your seats. We will begin Final Reading with LB 147. Mr. Clerk, would you please read LB 147.

CLERK: (Read LB 147 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 147 pass? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.