

January 8, 1981

LB 1-18

duced before we recess before this afternoon's ceremonies. So would you please get all the bills that you have ready for introduction up to the desk at this time so that we can proceed. Thank you. Proceed then, Mr. Clerk, with the introduction of the bills you do have.

CLERK: Read LB 1-18 by title for the first time. (See pages 74-77 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Speaker Marvel.

SPEAKER MARVEL: Is Senator Marsh in the room?

PRESIDENT: Senator Marsh is right there.

SPEAKER MARVEL: Senator Marsh, do you have a Committee on Committees report that you would like to distribute and take up at this time?

SENATOR MARSH: Yes, Mr. Clerk, would you please start the distribution.

CLERK: Yes, Senator, it is on its way.

SPEAKER MARVEL: The item that we refer to is being added to the agenda as 5(a). This is to bring before you the Committee on Committees report for your consideration.

PRESIDENT: The Chair recognizes Senator Marsh as soon as we get the...we probably ought to wait until we make sure all of the reports are distributed, Senator Marsh, so why don't you just kind of watch...

SENATOR MARSH: Mr. President, I believe we are now ready.

PRESIDENT: All right, proceed.

SENATOR MARSH: Thank you very much. I will ask that the Clerk would read the cover letter on this report.

PRESIDENT: Mr. Clerk, go ahead.

CLERK: Mr. President, a communication from Senator Marsh addressed to Mr. Speaker and Senators: The following report is submitted as a final action of the Committee on Committees five hour meeting on Wednesday, January 7, 1981. Respectfully submitted, Shirley Marsh, Chairperson.

SENATOR MARSH: Mr. President, I move for the adoption of this report as the final action of the Committee on Committees following our five hour meeting on yesterday, January 7, 1981.

Mr. President, I have a lobby registration report for the interim period covered by April 19, 1980, through January 6, 1981. That will be inserted in the Legislative Journal. (See page 94 of the Journal.)

Mr. President, I have a reference report from the Executive Board referring legislative bills 1-36. That is signed by Senator Lamb as Chairman. (See pages 94-95 of the Legislative Journal.)

Mr. President, I have in my possession proposed lease renewals as supplied us by the State Building Division. Those will be on file in my office. I also have a report from the Nemaha Natural Resources Districts regarding payment of attorney fees. (See page 95 of the Journal.)

Mr. President, Senator Hefner would like to announce that Senator Barrett has been elected as vice chairman of the Miscellaneous Subjects Committee.

Mr. President, Senator Labedz would like to announce that Senator Pirsch has been elected vice chairman of the Constitutional Revision and Recreation Committee.

Mr. President, Senator Marvel would once again like to announce a meeting or a chairperson's caucus for Monday, January 12 at 9:00 a.m. in Room 1520. It is a chairperson's caucus for Monday, January 12 at 9:00 a.m. in Room 1520.

PRESIDENT: The Chair will recognize Speaker Marvel once more for additional announcement concerning procedure.

SPEAKER MARVEL: I think, Mr. President, the first thing we need to note is the fact that we are using valuable time that we may wish we had at the end of this session. I guess I am going to repeat this every day for a while and so would you please put on the Clerk's desk whatever legislation you have so that we can once again begin processing this legislation which means that the Exec Board needs to meet and refer the bills as soon as they have been processed by the Clerk and, therefore, I remind you first of all, get the bills in and, secondly, that the Exec Board then will have to meet to refer the bills. Now this process has to go on even if we may only meet until noon. Now, Mr. President, is that the... Pat, is there anything else to say about the reference of bills?

CLERK: No, sir, not that I am aware of. I think Senator Lamb might want to make a...

February 20, 1981

LB 17, 22, 86, 123, 151,
155, 169, 171, 190,
220, 247, 294, 482,
537-540, 175

and February 19.

Your committee on Urban Affairs reports LB 175 (sic. 171) to General File with amendments; LB 220, General File with amendments, (Signed) Senator Landis.

Government Committee reports LB 247 to indefinitely postpone; 29th indefinitely postponed.

Your committee on Miscellaneous Subjects report LB 482 indefinitely postponed.

The Appropriations Committee reports LB 155 advanced to General File with amendments.

Your committee on Revenue whose chairman is Senator Carsten reports LB 17 to General File with amendments; 169 to General File with amendments and LB 86 indefinitely postponed.

The Public Works Committee whose chairman is Senator Kremer reports LB 22 to General File with amendments; 190 to General File with amendments; 123 indefinitely postponed.

Your committee on Revenue reports LB 151 to General File with amendments. (See pages 612-615 of the Journal.)

Mr. President, Senator DeCamp makes a motion to withdraw LB 537, 538, 539 and 540 and cancel the public hearings on those bills. So in order to do that we will need to suspend rules to cancel those hearings which were scheduled for next week and I understand we are going to lay that motion over.

SPEAKER MARVEL: We will lay the motion over until next Monday. Senator DeCamp. Senator Marsh, for what purpose do you arise?

SENATOR MARSH: I have misplaced my black purse briefcase. Thank you.

SPEAKER MARVEL: Senator DeCamp, for what purpose do you arise?

SENATOR DeCAMP: Mr. President, members of the Legislature, you all heard what the motion was. Senator Marvel asked that we take it up next week rather than today and I would agree to that. I would simply point out that a couple of these hearings are set for next week and so I would hope that we could take it up right away Monday morning and at that time detail the future of the Task Force and so on and so forth.

March 11, 1981

LR 12
LB 17, 22A, 168A, 258A,
132, 133, 245, 349

CLERK: Senator Remmers would like to add his name as co-introducer to LB 132.

SPEAKER MARVEL: Any objection? So ordered.

CLERK: Mr. President, Senator Clark and Warner offer amendments to LB 133; Senator Vickers and others would like to print amendments to LB 245.

Business and Labor Committee will hold an exec session Thursday, March 12 at one o'clock in Room 1019.

Banking Committee reports LB 349 to General File.

New A bills, 22A by Senator Landis. (Title read.)
168, a new A bill offered by Senator Carsten. (Title read.)
258A by Senator Hefner. (Title read.)

Banking Committee reports LR 12 back to the Legislature for their consideration.

Senator Warner moves to place LB 133 on General File notwithstanding the action of the Banking, Commerce and Insurance Committee.

Priority bill designation by Senators Goodrich, Labedz, and the Constitutional Revision and Recreation Committee.

Senator Koch would like to print amendments to LB 17 in the Journal, Mr. President.

SPEAKER MARVEL: As we adjourn this morning, I would remind you of the deadline on the 13th of this month as far as priority bills are concerned, and if we can be of assistance to you, why please let us know. Senator Maresh, will you adjourn us until nine o'clock tomorrow morning?

SENATOR MARESH: Mr. Speaker, I move that we adjourn until tomorrow, March 12th, 9:00 a.m.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried and we are adjourned until 9:00 a.m. tomorrow, March 12th.

Edited by:


Mary A. Turner

March 18, 1981

LB 17, 157, 334, 355

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: ...Ray F. Daniel, pastor of College View Seventh Day Adventist Church.

PASTOR DANIEL: Prayer offered.

SPEAKER MARVEL: Please record your presence.

CLERK: Mr. President, Senators Pirsch and Hoagland would like to be excused until they arrive; Senators Schmit, Higgins, Kilgarin and Kahle until they arrive; Senators Nichol and Hefner all day.

SPEAKER MARVEL: Record.

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

SPEAKER MARVEL: Item number three.

CLERK: Mr. President, your committee on Appropriations whose chairman is Senator Warner reports LB 157 on General File and LB 334 to General File with amendments, (Signed) Senator Warner. (See pages 987-988 of the Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Kilgarin regarding LB 355. (See pages 988-990.)

Mr. President, two new resolutions, LR 41 by Senator Carsten. (Read.) Mr. President, that will be laid over. LR 42 offered by Senator Clark. (Read.) (See pages 990-991 of the Journal.) That will be laid over as well, Mr. President.

Mr. President, finally, Senator Howard Peterson would like to be excused tomorrow and Monday and Tuesday of next week.

SPEAKER MARVEL: Okay are we all ready now? Ready for item number four?

CLERK: Yes, sir.

SPEAKER MARVEL: We are ready for item number four, General File, priority bills.

CLERK: Mr. President, LB 17 was a bill introduced by Senator Jerry Koch and Senator Cal Carsten. (Read.) The bill was first read on January 8 of this year, Mr. President. It was referred to the Revenue Committee for a public hearing. The bill was advanced to General File. I do have committee amendments pending by Senator Carsten's Revenue Committee.

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SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, I move for the adoption of the committee amendments. The committee amendments do two things. It does change from the original bill from 15% to 7% of the required number of petition signatures. I think the committee felt that 15 was too much to ask and require and they voted to support 7%. The second change was to reduce from 120 days to 90 days, the minimum time prior to the affected budget year when an election is held. 120 days was quite a while ahead of the budget period as it was originally drafted. They felt that 90 days was ample and would give plenty of time for..to be held prior to the budget process. So I guess these are, I don't know whether you would want to call them compromise amendments but at least are a change from the original bill that does, in the eyes of the committee, make a little better sense. I would move the adoption of the committee amendments.

SPEAKER MARVEL: Senator Koch, you have an amendment to the committee amendments.

CLERK: Mr. President, Senator Koch has an amendment to the committee amendments found on page 871 of the Legislative Journal.

SENATOR KOCH: Mr. Speaker, members of the body, I have talked to Senator Carsten about this amendment since he is a cosponsor with me and the amendment would amend the committee amendments to 10% of the voters in order to initiate a petition and I do this, I think, with considerable supporting background in terms of our own statutes because presently we have any number of statutes that deal with local subdivisions of government and how we initiate a petition. First of all Section 18-102 requires that a petition for a city initially be signed by 15% of the registered voters and this is generally where this action is going to take place because that is the most appropriate place to initiate a local option on limitations. And Section 18-113 requires that a petition for a city referendum be signed by 15% of the registered voters and Section 23 of our law requires that a petition for a recall of a county officer be 25% of the total number of votes cast for the last election for the Governor and Section 5-108 requires that a petition to establish or changes wards for cities, villages or counties, schools be signed by 25% of the total votes cast in the last election and in addition to that, we have Section 53-122 requires a petition for liquor by the drink be signed by 20% of the total votes cast in the last municipal election and in Section 19-4201 to 4211 relating to recall city and village board members

and 79-541 relating to recall school board members requires that petitions for such recall be signed by 25% of the total votes cast for the last election. So I think this is ample evidence that we have fluctuated anywhere between 15 up to 25%. Now I sit on a Public Works Committee and recently we dealt with a bill that has to do with Senator Schmit's bill, LB 375, and how individuals of an area might by initiative call for a management area to be formed and a strong control area be placed upon the use of water and in that piece of legislation we are saying that 20% of the people will call this kind of initiative in that area before it can be put to a vote of the people. So one more time, we have used figures that are considerable larger than those that we are using here. I had 15% originally in the bill and I still don't think that is unreasonable. We all know that legislation usually is the art of compromise and I am requesting this body consider 10%. That includes you, Senator Newell, because I have heard the opponents who speak against this and that is a coalition for taxes. They are now against the Norden Dam. Have you noticed that? Which is fine, I am glad to see them enlarging their horizons because that gives them some other battles to fight besides just issues of taxes because I have a feeling that when they get involved in other things sometimes they will use their energy for other noble purposes and I don't know how you feel on the Norden Dam but that is another issue. But anyway, they have been quoted as saying that 5% is reasonable. That is a constitutional issue, yes it is, because when we initiate initiative referendum at the state level 5% is a constitutional number but I want you to know that 5% of the state in terms of how we set it up is a little more difficult to obtain than 5% at a local level and I suggest that since we are dealing with subdivisions of government that we should be consistent. We ought to use one of those numbers that I have just quoted to you and 10% happens to be the lowest one of all and let me give you a reason for this. In the local community, and many of you ought to know they are very small. The community in which I was raised and spent quite a bit of my life is a small community and I will use this. It's name is Campbell, Nebraska, and it needs a little bit of attention once in a while because sometimes we forget it. In case some of you don't know how to spell it, it is C-a-m-p-b-e-l-l. It is in Franklin County. It is close to Bladen, somewhere around Roseland, somewhere around Red Cloud, somewhere by Franklin, somewhere by Upland and somewhere by some other names I can give you to give that county proper advertising but anyway, if we lived in Campbell, Nebraska, which has a population of 532 I think if they count everyone present and it might be a little less than that. If you use 5% it wouldn't take

many to get initiative to put it before the people and to disrupt the business of what I think we elect people locally to do which is to make budgets, to provide services for those you serve and those who elect you. I have to believe that 5% is too low because it can actually serve as a harassment to those people elected, either at the city or at the school level in terms of what they are going to do in terms of limitations of taxes and other kinds of things. So I am saying that 10% is not unreasonable because in Campbell assuming that all 535 people there were eligible voters and they're not, because you've got to remember some of them are not eligible yet and some may not be registered, it might only take fifty signatures and maybe not that many to present a vote to the people for the purpose of putting a lid or a limitation upon either school board, the city council or whoever it might be. Even if you were going to put it on Arthur County and the county officials, I think there are 600 people living in Arthur County, 5% of 600, and there aren't that many who are registered to vote, it might only be 400, so figure it out. 5% of 400, that is not too many signatures particularly when you can catch them at one of their favorite watering holes and you might be able to put a petition to them and say, this is serious, people. We'd better get this to a vote of the people. So, I am saying, I believe in this local option. Senator Warner and I were the introducers of this bill originally. What we are trying to do is modify it. Senator Carsten and I are doing this because of two cities we live the closest to have this limitation on them, 0% on local tax. So I would hope that this body would accept 10% as being a reasonable number of signatures on a petition to initiate a vote on whether or not we are going to limit the spending of that subdivision of government. I hope you will adopt this amendment. Thank you.

SPEAKER MARVEL: We are speaking to the Koch amendment to the bill and the Chair recognizes Senator Stoney.

SENATOR STONEY: Mr. Chairman and members of the Legislature, I have a question of Senator Carsten if he would respond, please.

SPEAKER MARVEL: Senator Carsten, do you yield.

SENATOR CARSTEN: I will sure try to, yes.

SENATOR STONEY: Senator Carsten, as the present statute provides, what is the percentage that is necessary for individuals through petition to place a budget limitation on a ballot?

SENATOR CARSTEN: Well it varies from, as Senator Koch said, from 1% up to 15% in some cases but it does vary.

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SENATOR STONEY: All right I am speaking specifically now about LB 2 which was enacted during the special session in 1978 that provided and gave people an opportunity with the local option.

SENATOR CARSTEN: I would defer to Senator Koch if I may, Senator Stoney.

SENATOR STONEY: All right. Senator Koch, could you respond to that question, please?

SENATOR KOCH: Yes, the present statute that we passed in special session was 5%.

SENATOR STONEY: Well, Senator Koch, I am wondering if 5% at that time seemed to be a realistic percentage, why we want to double that at the present point in time? Is it to make it more difficult for people to have an opportunity to place these issues before the public?

SENATOR KOCH: I don't know how we arrived at that 5% figure originally. We probably took it out of the Constitution, Senator Stoney, because in the Constitution it says 5% to initiate a petition and take it to a vote of the people but that is a statewide basis I just alluded to a moment ago. I am talking about locally. I believe that 5% is not an unreasonable figure. In fact, I think it is rather easy to obtain, therefore, that is why I am defending 10%, because I believe in initiative petition, I really do and I would never introduce a bill to take it away from the people like some states do. They have none in twenty-two states in this nation but I think if we are going to do it, Senator Stoney, that we ought to make it so that it is not unreasonable, and yet by the same token, that people cannot initiate this to take advantage of local elected officials because they have some kind of a concern that may not be totally logical.

SENATOR STONEY: Thank you, Senator Koch. Senator Koch I think just addressed a concern that I have and it deals with the initiative petition and the citizen's rights to go before the public and to place these items on the ballot. He alluded to the fact that the Constitution of this State of Nebraska provides that the percentage only be 5% and this does deal with statewide petition but I see no reason why we should not keep this consistent, why there should not be uniformity when we are dealing with local government subdivisions as well. I think it is an attempt to disenfranchise, to a certain degree, those individuals who have felt that they have not been able through elected officials to impact on the decisions that these officials are making and as a last resort they then, through the initiative process, can place

this before their fellow voters. So, ladies and gentlemen, I would ask that you consider very, very carefully the Koch amendment which would increase the present statute which is 5% for individuals that wish to petition their government to a 10% which is a doubling. I think that the real intent of this proposal is to make it much more difficult for the citizens to be able to provide to be able to carry on through the initiative petition process and I think this is a very, very dangerous precedent for us to establish. Remember again, the state Constitution of Nebraska provides for 5%. Thank you.

SPEAKER MARVEL: Senator Newell, we are speaking to the Koch amendment to LB 17.

SENATOR NEWELL: Yes, Mr. President, members of the body, I would like to just say that it was my hope and I thought it was pretty well worked out in the Revenue Committee that we would try to get as close as we possibly could a consensus on this provision. I talked to Senator Carsten and Senator Koch about various proposals and when I offered the 7% proposal I had discussed it with Senator Koch and I thought he was going to accept it. Now let me just explain briefly what we have done here because it is not just moving it from 5% to 7%. If it was then I think we might have a real good argument but what we really are doing here is simply this. The original bill said it was 5% of those people who had voted in the last election, had to sign petitions. Senator Koch changed that to make it registered voters and that is the way the situation is now. We raised that to 7%, down from his original proposal of 15% but I think a reasonable figure. So frankly, even with the bill the way it is now, the way it is right now with the committee amendments, it is twice as hard to get the signatures as it was before. Senator Koch, adding more to that would make it even harder so I have to support Senator Stoney and rise to oppose this. I think we will have a pretty good fairly good consensus if the committee amendments are adopted. I think the bill will sail through and get probably 45 votes if the folks are here if we don't try to tinker with it too much and so I would encourage you not to accept the Koch amendment. I think we will get there and we will do a good job with this bill without that. Thank you.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I would take exception with Senator Koch's observations as he is comparing apples to oranges. He quoted percentage figures to recall people that are elected and this amendment pertains to dollars and not people to elected office and I think there is a big difference. 7% might be low. I intent to support the bill but I feel inclined to go along

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at this time with the committee's recommendation. Thank you, Mr. President.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I would just like to make a couple of remarks in response to what Senator Stoney indicated about the statutes of Nebraska providing 5% for initiative petitions. Now let me say two things with respect to that. First of all the statutes provide all kinds of percentages for all kinds of different votes. Some of them are 25%, some of them are 15%. Senator Koch has a memorandum indicating what the various percentages are for various kinds of votes. Now there is one other privilege. My second argument is that there is one other privilege that the voters of the State of Nebraska have in LB 17 and the underlying act that it amends that is not present in the state initiative or referendum provisions and that is that they are permitted to put these ballot measures on the ballot at a special election, not just a general or primary election. Now my preference would be to remove from this statute the option of putting it on at a special election because of the extraordinary added expense and because you do not really get a true cross section of how all the voters at the election feel. The only people that tend to come to a special election are people that have an intense special interest in the outcome and you do not get a real cross section or a real feel for how the voters generally feel about a particular issue but I think if Senator Stoney and others are concerned about raising the percentage to 7% or 10%, why that can be mitigated by the realization that these voters can, if they want, decide in July there is a problem, collect signatures in August and put it on the ballot in September. Now nobody else can do that under the statutes of the State of Nebraska. When we put a ballot measure on the ballot we can put it on the primary or general election. If the voters use the normal initiative or referendum procedures outlined in the state Constitution relating to state laws they can put it on a primary or a general election ballot. They can't call a special election and I think the fact that the voters have the privilege of calling a special election for these kind of measures really mitigates any amendments that would raise it to 10% as Senator Koch is proposing here. So for that reason I would support Senator Koch's amendment.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Well, Mr. President and members of the Legislature, to answer Senator Stoney, I don't think there was any intent by the committee or any intent by Senator Koch to make it too difficult for the people to act. Even

with Senator Koch's amendment I don't think is an outrageous requirement, however, the committee felt that the 7% was somewhere a happy medium that was realistic and one that could be abided by without any great difficulty. By the same token I would say that changing the registered voters to those voting does make some difference also and probably the impact of even Senator Koch's amendment would not be as great as some are anticipating. I am not objecting to Senator Koch's real strongly but I am going to stay with the committee recommendation because it was a seven member vote of the committee and I will have to stay with that. Thank you, Mr. President.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, just briefly, I support the amendment and I think there is something important to understand. We are talking about local elections versus our constitutional provisions. It is not unusual, in fact, it is the normal standard in this state and most other states to have a fairly low level in a constitutional provision because you are talking pretty much a statewide thing. However, in a local election you could have a, in a case like this for example, we aren't talking necessarily about Omaha. We could be talking about any school district, any type of district with fifty or seventy-five people and so you should not be able to set up a special election just too easily with two or three people signing. You should at least have a reasonable number. I, quite frankly, think that 10% is a little low. Apparently Senator Koch and some others think it is reasonable. If I were choosing personally I would put it at 20, 25, 30% but 10% at an absolute bare minimum. So I urge you to adopt the amendment.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, I rise to support Senator Koch's amendment. 5% is in existing law because that is how I decided to have the law drafted in 1978 Special Session and, very frankly, if you, those of you that were here or those of you who were following this whole issue at that time can realize or will recall that there was a great deal of conversations, interest, discussions, on the whole concept of lid. Had I...it was my preference to have had it at a 10 or 15% level as a matter of fact at that time. I intentionally made it 5 which I felt was unreasonably low but I did it in order to remove any argument that somehow or other it could not be used. Now I agree absolutely with those who have spoken that some reasonable level ought to be there, to use any judgment I guess you want to arrive at that but it ought to be large enough that a representative number of people involved

want to place the issue on the ballot but it should not be so high as to act as a deterrent to people being able to place the issue on the ballot and at 10% we look at a statute that applies to all governmental subdivisions and as has already been pointed out, you get the small subdivision that is only a handful of votes, of voters that are required to petition and I think the 10% is an ample safeguard to be assured that there is a representative group of people who sincerely believe that this kind of limitation be placed on local government and it is not so large as to be a deterrent for their ability to place it on the ballot. I support the 10%.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, it seems like whether we go 10%, 5% or 7% it is not really that important because I think as Senator DeCamp so prudently reminded us that this is local elections as opposed to state elections. I think we also need to remember that this is not the decision making function. It still requires 51% of the voters to accept or reject the proposition. All this merely does is put the proposition on the ballot, brings the issue before the public. Now I don't think that democracy is being impaled here, whether it is 5% or 7% or 10%. I don't think that is important. I don't think we need to make it more restrictive necessarily from 5 to 10% because of the fact that it really just puts it on the ballot. It just sets up the mechanism whereby the public can make the decision which requires a majority of the voters. So it seems to me that we are spending a lot of time on a relatively inconsequential point. I personally see nothing wrong with the 5%. The 5% only brings the issue before the public and then the campaign begins, the issue is aired and the public makes its decision.

SPEAKER MARVEL: Senator Koch. Okay, Senator Kremer and then Senator Kahle. Senator Kremer.

SENATOR KREMER: Mr. Chairman, very briefly, I, too, rise to support Senator Koch's amendment. I have long felt that 5% simply is not representative. It is too much of a minority. The 10% that Senator Koch is suggesting in his amendment, in my opinion at least for whatever it is worth, is a lot closer to being fair and I join the others that have spoken to this and lend my support to the best of my ability to support the Koch amendment.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I think Senator Koch's amendment is fair. If you do not, I don't believe

anybody has mentioned it, if you do not get the petition signature numbers high enough you could create a referendum with a very few people and referendums are costly and they do cost in order to have that referendum. I don't believe 10% is out of line at all, in fact, it may even be low but I think I could certainly support it. I think it would be fair and if you can't get 10% of the voters in a small community especially as Senator Koch mentions, why you are not going to get very far with a referendum. So I support the Koch amendment.

SPEAKER MARVEL: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, I think that this has been discussed. I would like to call the question.

SPEAKER MARVEL: Okay, all those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: Debate is ceased. The Chair recognizes Senator Koch to close on his amendment to the committee amendments.

SENATOR KOCH: Thank you, Mr. Speaker, and I appreciate those who supported the amendment. If we want to maintain some uniformity in statute on how we allow local initiatives to be carried out, then I believe that 10% is even low onto what we have under the present law for subdivisions of government because I will quote you one more time for some of you who may not know, Section 18-102 requires that a petition for a city initiative be signed by 15% of the registered voters. That is in law and it has been there. That is not a new phenomena. So 10% is not unreasonable at all. Let me give you an example. For instance, in the City of Omaha the school system with an imposed zero lid, I want you to realize that there are no exemptions under zero lid, none whatsoever. Example, fuel, those kinds of items, yet in 285 we did make some provisions which is the 7% lid but Social Security last year and OPS went up \$700,000. Now how do you get out of that? You pay it and when you pay that then you also probably are depriving some other people of certain opportunities. I am not against initiative petition. I believe in it but I believe we have a right here to make it fair and equitable for both sides of the issue, both the proponents and the opponents. If they are serious about something that they want to bring to a vote of the people, then I don't believe that 10% is unreasonable in terms of registered voters. The school district I live in has approximately twenty thousand people in that school district

and I suspect that probably eight thousand of those may be registered voters. So that means if they want to put it onto Ralston they would have to get eight hundred signatures. Is that unreasonable? I don't believe it is because that is a bona fide effort to bring an issue to the vote of the people and if you get down to smaller communities and this state has many small communities, 10% of a very few people isn't very difficult to get on an emotional issue, particularly when you are talking about taxes, because none of us like them. Somebody can circulate a petition and say, if you want to get out of some taxes sign this petition. You bet I am going to sign it, not knowing what the consequences might be but you go through the exercise. As Senator Dworak said, what is important is the fact that all the people then are going to get a chance to make a decision if they want to vote. So 10% according to all the statutes we have is not unreasonable and I suggest that if we think those statutes are unreasonable then we ought to go back to each one of those statutes I quoted to you the sections, we ought to make it consistent throughout and use 10% if that is the magic number because there are a lot of numbers higher than ten. In fact, that is the lowest number out of the local subdivision base. That is the lowest, ten is. It starts with 15 and it goes to 25% and I would urge you to adopt the amendment to the committee amendments. Thank you.

SPEAKER MARVEL: All those in favor of the Koch amendment as explained vote aye, opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: The motion is carried. The amendment is adopted. We are now voting on the committee amendments as amended. Senator Carsten, do you wish to close? Okay, all those in favor of the committee amendments as amended vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 2 nays, Mr. President, on adoption of committee amendments.

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted.

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

SPEAKER MARVEL: Senator Koch, do you wish to explain the bill once again before we move to advance it?

SENATOR KOCH: Thank you, Mr. Speaker. The bill corrects a couple of items that were originally in LB 2 and in our action of special session there was one thing that we did that was probably not in the best interest of people. First of all we said that you can initiate a petition by...put it in full force by the majority of those people who vote and in another section we said the only way you can remove it is if you have a majority of all registered voters. Now you know as well as I do that is almost impossible in this day and age even though we in this state and nation think a great deal of our democratic system. So one thing the bill does, it says when you go to repeal the issue if you so desire then it takes a majority of those voting to repeal it just like it does to put it into place. Another thing the bill does, it provides that when you initiate this that it will be done at least ninety days prior to the time of the official budget being adopted. The example would be in Omaha when that was carried out a couple of years ago, the school district had fourteen days in which to go through a considerable budget, make the necessary adjustments they had to make in order to comply with the diminished amount of revenue they were going to receive. Well, many of you served in local governments, either at county or city levels and you know as well as I do, fourteen days it is almost impossible to make a logical judgment on how you are going to reduce your budget. So we are saying in here, originally I had a hundred and twenty days, and the committee felt, saw fit to put it at ninety days and I will live with that. At least that gives you approximately three months to make the determination. Another thing it does, it provides to the local subdivision of elected officials annually to place it to a vote of the people if they so desire to review their decision. If they feel that it is still right they can vote to keep it in place or they can vote to repeal the issue, and the third thing it does and last thing is, it sunsets the limitation after two years and then the people have to go to the vote again to see whether or not they want to maintain that same limitation or make it more reasonable or more severe. That is the bill in its totality and, Mr. Speaker, I ask for the advancement of LB 17 as amended to E & R initial.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Very briefly, Mr. Speaker, I voted for keeping the 7% figure the committee had initially attempted to amend into the bill. We did raise that to 10% but I do want to caution the legislators that when we consider the overall repeal of the local lid law that this bill will become an even more important element in the question of how do we limit local spending in a manner that is fair and equitable and I certainly believe that the reason I voted

to keep it at 7% is that if we do repeal the local lid we need to have the option of allowing the local citizens, if they feel that there is excessive spending at the local level, the opportunity in a manner that is not prohibitive to impose a local lid and I think that is local control at its finest. So I certainly believe that we need to pass this legislation but I think also we have to keep in mind if we do repeal the overall lid, we cannot impose barriers that are unreasonable upon local governments and local taxpayers and I certainly would support the bill at this point but keep in mind also the repeal of the overall lid which will be considered shortly by the body.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I really believe this bill is absolutely needed and having a school district in my district that has lived under the zero lid for two years and knowing full well that the impact that it has had even though I am not really concerned about the serious effect on the education of the children, if it would continue as it now is for an indefinite period of time it certainly would be a problem for our education system. This bill does provide for a lid to be imposed but it also provides for the removal of that lid in a reasonable manner. We had the bills before us. We had two bills a year ago. Neither one of those were successful. Had we had one of those at least, it dealt with a serious problem of percentage of registered voters, we probably would not have had a need for a complete rewrite this year. I think the bill is really reasonable, one that everyone can live with including the taxpayers and it does not shut them out. It does give them that opportunity for local control in a reasonable and well run manner. I urge you to support the bill and move it over to E & R. Thank you.

SPEAKER MARVEL: There is an amendment on the desk.

CLERK: Mr. President, Senator Stoney moves to amend the bill by striking Section 7.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. President, members of the Legislature, if you will refer to your copy of LB 17 you will find that Section 7 provides that the two school districts that presently are facing budget limitations, that being Omaha Public School District and the Nebraska Public Schools, are now totally exempt from the action that was taken by the voters in those individual districts to place budget limitations on those particular budgets. Ladies and gentlemen, I think that this is a very important issue. I think that the bill does address now some of the problems and the conflicts that we had in earlier legislation in statute but I personally

feel that the individuals that voted on that particular issue in both of those school districts should have the same equal opportunity to remove that budget limitation as they did to impose it and I think it is rather ludicrous when we, as a body, provide individuals with the opportunity of initiative petition to impose budget limitations to turn around and then say we feel in our judgment, which is better than that of those who were successful in imposing this limitation, we would like to eliminate what you said in imposing that budget limitation and make this statutory change. Well I find that unconscionable and I am not talking just about this particular budget limitation because it affects this school district, a portion of which I represent but I think if we look at it from a broader perspective, that being any limitation that is placed, and I think we are totally disenfranchising these people. We are saying to the voters in those particular districts who made this decision that we do not agree with that decision and we feel that the action that you had taken should be negated through passage of this particular new law. Ladies and gentlemen, I have requested of the Attorney General here in the State of Nebraska an opinion on this particular issue. It has yet to have been rendered but I suspicion that it may be a little difficult for us to make this statutory change once this decision was reached by the voters in this particular limitation issue. So I would ask that you exercise some caution in advancing the bill without having that benefit of the opinion which will be rendered by the Attorney General. Once again, I feel that there has been sufficient information that has been obtained by the voters in the Omaha Public School District since the imposition of the lid. They see the negative impact that has come about and I feel that they, through the exercise of good judgment, if given the opportunity to address this issue again, would lift the budget limitation which exists, at least in OPS, and I would think that this would be consistent with Nebraska City also. So, ladies and gentlemen, all I am asking you to do, is to honor the wishes of those individuals who voted on this issue in both the Omaha Public School District and the Nebraska City School Districts and allow them the opportunity in the way that this limitation was imposed to remove it in a like manner. Thank you.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Well, Mr. Speaker, one more time we are going to the Attorney General for one of those famous opinions and when you are in trouble that is what you always do. Let me remind Senator Stoney the Legislature giveth and they taketh away as well. We have got all kinds of sunset provisions in our statutes and Senator Stoney is one of those great sun-setters. I had a bill here earlier in the session. He sunset that after two years. We sunset the City of Omaha's sales tax. That is what we are going to talk about that

again one of these days because we said after so much time has elapsed, the Legislature wants to review this one more time. The Legislature created this local option and so when we created it we can also amend it and Senator Stoney knows this and I would be willing to mortgage my salary against Senator Stoney's salary, that the Attorney General is going to say the Legislature has the power to amend any of its own legislation unless it flies right into the face of the Constitution and this does not fly in the place of the Constitution, in the face of the Constitution at all but this is...I speak occasionally to groups of people on the art of diplomacy and how you persuade and dissuade legislation and I usually say when you are in doubt always ask for an Attorney General's opinion because that puts everyone sort of on their knees. God forbid, they don't want to do anything in here without an Attorney General's opinion, particularly when we need help from outside. Senator Stoney can go ahead and get his Attorney General's opinion but if he wants to make a small wager I know what the Attorney General's is going to be. The Legislature can amend its own laws as long as it is not disregarding the Constitution. Senator Stoney didn't say anything about it in here the Constitution, did he, about where in the Constitution it says that we are flying against it. He did not say one word, didn't quote you an article nor a section. And I am saying to you that we are saying that after two years of local limitations we think there should be a sunset provision regardless who suffers and I don't think that is unreasonable. If the people of Omaha again want to place it on themselves, they can. We do not take away that privilege and that great vote that turned out on that issue was 38% of the eligible voters, Senator Stoney. That is a hue and cry. Do you know what that is? That is a majority of a very small minority who went to the polls. That is really democracy at its highest level. That was not a majority. It should have been 51% of all people registered to vote. Then that would have been a resounding victory but that is not the case in that election. Check the records. I oppose Senator Stoney's amendment to strike Section 7.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. Chairman, Mr. President and members of the Legislature I also rise in opposition to Senator Stoney, my good friend. I believe that what we are doing here is only putting into proper form the procedure that puts everybody at the same starting gate and Omaha and Nebraska City have been barred from that gate for two years and I think everybody is going to be on the same level and as Senator Koch has said, that which the Legislature gives can be taken away and I think that that is well stated and well founded. I believe that

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LB 17

everybody is going to be in the same position from here forward. Everybody will know what the rules are and they are proper and adequate and I would certainly oppose the removal of this section. Thank you, Mr. President.

SPEAKER MARVEL: Senator Stoney, do you want to close on your motion?

SENATOR STONEY: Mr. President and members of the Legislature, I will make my close very simplistic and I think that Senator Koch properly framed it. The decision that you will make here is whether we allow those voters to make the decision, the ones who did originally or we as a legislative body all omnipotent will make that decision for them. So the approach is just that simplistic. Allow the individuals who made the original decision to alter that decision or we as a body to alter it. I move that you support the amendment to strike Section 7 of LB 17. Thank you.

SPEAKER MARVEL: Okay, the motion is the adoption of the Stoney amendment. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 8 ayes, 19 nays, Mr. President, on adoption of Senator Stoney's amendment.

SPEAKER MARVEL: The motion is lost. Senator Koch, what do we do with the bill?

SENATOR KOCH: Mr. Speaker, I move to advance LB 17 as amended to E & R initial. Thank you.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 28 ayes, 6 nays, Mr. President, to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Before we proceed with other business it is my privilege to introduce from Senator Wiitala, Senator Koch, Senator Stoney, and Senator Goodrich's district, in the South balcony, 90 twelfth grade students from Westside High School, Omaha, Nebraska, Mr. Joe Higgins, teacher, Mr. Rod Karr, teacher, and where are you located? Just raise your hand so we can say good morning to you. Also in the South balcony from Senator Wagner's district, 31 juniors and seniors from Burwell Junior and Senior High School, Mr. Lester Piper, teacher, Mrs. Connie Piper, teacher, in the South balcony. Where are you located? Okay, welcome to you. Do you have some items you want to read in, Mr. Clerk?

March 23, 1981

LB 17, 47, 56, 79, 84, 151,
220, 224, 313, 446, 485, 544.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain Coordinator Palmer.

DR. ROBERT PALMER: Prayer offered.

PRESIDENT: Roll call. Has everyone registered your presence?

CLERK: Mr. President, Senators Fitzgerald, Koch, Howard Peterson, Wagner excused; Beutler, Cullan, Gc11, Hoagland and Vard Johnson until they arrive.

PRESIDENT: While we are waiting for those to register their presence, the Chair would like to recognize from Senator Sieck's District, seven students from Benedict High School, Bud Exstrom, their teacher. They are up here in the north balcony. Would you folks stand up and be recognized. Welcome to your Legislature. Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

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

CLERK: No, sir, there are no....

PRESIDENT: The Journal then stands correct as published. Any messages, reports or announcements, Mr. Clerk?

CLERK: Mr. President, the committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 17 and recommend that LB 17 be placed on Select File, LB 446 Select File with amendments. (Signed) Senator Kilgarin. (See pages 1050 and 1051 of the Legislative Journal.)

Mr. President, your committee on Public Works whose Chairman is Senator Kremer, reports LB 224 to General File with amendments, 485 General File with amendments, 544 General File with amendments and LB 79 indefinitely postponed. (Signed) Senator Kremer as Chair. (See pages 1051 and 1052 of the Legislative Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 47 and find the same correctly engrossed; 56, 84, 151, 220, 313, all correctly engrossed. (Signed) Senator Kilgarin.

I have a report from the Legislative Accountant regarding legislative employees. It will be inserted in the Journal. (Page 1052 of the Journal.)

March 24, 1981

LB 475, 17, 168, 253, 334A, 500

Senator Kahle, Senator Cullan. Okay, call the roll. What is the motion now?

CLERK: Mr. President, the motion is to return LB 475 to Select File for a specific amendment, that amendment being to strike all of Section 9 of the bill. (Read roll call vote as found on page 1102 of the Legislative Journal.) 6 ayes, 32 nays, Mr. President, on the motion to return.

SPEAKER MARVEL: The motion lost. What is the next order of business?

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

SPEAKER MARVEL: All provisions having been complied with, the question is, shall the bill pass. All those in favor vote aye, opposed no. It has the emergency clause. Record the vote.

CLERK: (Read record vote as found on page 1103 of the Legislative Journal.) 36 ayes, 4 nays, 9 excused and not voting, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is passed on Final Reading. LB 500, the Clerk will read.

ASSISTANT CLERK: (Read LB 500 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass. Those in favor vote aye, opposed vote no. Record the vote.

ASSISTANT CLERK: (Read record vote as found on page 1103 of the Legislative Journal.) The vote is 36 ayes, 2 nays, 2 present and not voting, 9 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Now we will...Senator Sieck.

CLERK: Mr. President, if I may before, a few items to read in. LB 334A. (Read by title for the first time as found on page 1104 of the Journal.)

I have an Attorney General's opinion addressed to Senator Stoney regarding Section 7 of LB 17.

I have amendments to be printed in the Journal by Senator Carsten and Senator Hoagland, Senator Carsten's to LB 168 and Senator Hoagland's to LB 253.

March 26, 1981

LB 351, 17

the issue in a broader sense but to go ahead at this point and pass the bill and name the home for Senator Fitzgerald who is most deserving of that recognition and so I ask for unanimous consent to withdraw my amendment at this point. Yes, I would like to ask that my amendment be withdrawn.

SPEAKER MARVEL: Hearing no objections, so ordered.

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

SPEAKER MARVEL: Senator Wagner, do you want to move the advancement of the bill?

SENATOR WAGNER: Mr. Speaker, I would move the advancement of the bill.

SPEAKER MARVEL: The motion before the House is the advancement of LB 351 to E & R for engrossment. All those in favor of that motion vote aye, opposed vote no. This is the advancement of 351 to E & R for engrossment. Have you all voted? Record the vote.

CLERK: 26 ayes, 3 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next item of business is LB 17E.

CLERK: Mr. President, there are E & R amendments to LB 17.

SPEAKER MARVEL: Senator Koch, do you want to move the E & R amendments to LB 17?

SENATOR KOCH: Mr. Speaker, I so move the E & R amendments to LB 17.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. The E & R amendments are adopted.

CLERK: I have nothing further on the bill, Mr. President. Just a second. Senator Pirsch has an amendment, Mr. President. Mr. President, Senator Pirsch moves to amend the bill.

SPEAKER MARVEL: Senator Pirsch.

SENATOR PIRSCH: Yes, thank you, Mr. President, members of the body, I move to amend LB 17. On page 5, Line 23, I am sorry I did not get my amendment up there sooner. I have a concern with the words, "or special election." When we are

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LB 17

eliminating or we are allowing the local tax option lid to be off in two years, it seems ludicrous to me that we would allow a special election within a one year, within the first year period. I want to remind you particularly in the City of Omaha it costs \$200,000 to have a special election. We have some kind of an election every year. There is no year without an election and I think that we need to look at what the local tax option is doing is trying to save money, it is trying to conserve and then we encourage a special election which, in my opinion, would be a great waste of any money that would be conserved. I urge your adoption of this amendment.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I think that Senator Pirsch is offering a friendly amendment. I haven't had a chance to really look at that but I understand what she is trying to say, is that special elections in large communities do indeed cost considerable dollars and it would appear to me that if the boards, whoever they might be, the elected officials, if they want to put it to a vote of the people they should by either the primary or the general have sufficient knowledge to whether or not they want to go to a vote of the people to repeal the action initiated by a former petition. So, Mr. Speaker, I would accept Senator Pirsch's amendment as a proper amendment. Thank you.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, as cointroducer of LB 17 I would agree that the amendment is a friendly amendment and I have no objection either. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Pirsch amendment to LB 17. All those in favor of that motion... Senator Pirsch, do you wish to close? Okay. All in favor of that amendment vote aye, opposed vote no. Have you all voted? The motion before the House is the adoption of the Pirsch amendment to LB 17. Have you all voted? Have you all voted? Record.

CLERK: 25 ayes, 0 nays on adoption of Senator Pirsch's amendment.

SPEAKER MARVEL: Okay, the motion is carried. The amendment is adopted.

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

March 26, 1981

LB 17, 446

SPEAKER MARVEL: Senator Stoney, do you wish to discuss the advancement of the bill? Machine vote? Okay. The motion before the House is the advancement of LB 17 to E & R for engrossment. A machine vote has been requested. All those in favor of advancing the bill vote aye, opposed vote no. The motion is to advance the bill. Record the vote.

CLERK: 29 ayes, 4 nays, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Okay the next item of business is LB 446 on Select File.

CLERK: Mr. President, LB 446 does have E & R amendments pending.

SENATOR KAHLE: Mr. President, I move the E & R amendments to LB 446.

SPEAKER MARVEL: Is the motion to adopt the E & R amendments? Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I have an amendment on the desk, Pat.

SPEAKER MARVEL: The motion first of all is the adoption of the E & R amendments.

SENATOR DWORAK: I rise...a point of...I would like to ask the Chair a question. I would like to...how many E & R amendments are there? I would like to strike E & R amendment #7 and I was wondering if we could divide the question on the E & R amendments or would it be better, Pat, to accept all E & R amendments and then go with the...

CLERK: Senator, I think if we adopt E & R your amendment will take care of the E & R amendments then.

SENATOR DWORAK: All right, okay, very good. I have no objection to E & R amendments.

SPEAKER MARVEL: Okay, the motion before the House is the adoption of the E & R amendments to LB 446. All those in favor of adopting the E & R amendments say aye, opposed no. The motion is carried. The E & R amendments to LB 446 are adopted.

CLERK: Mr. President, Senator Dworak now moves to amend the bill. "Strike the Koch amendment in the Journal on page 995 and E & R amendment #7, page 61, in lines 20 and 21 reinstate the stricken matter and in line 21 after the 'reinstated council' insert 'and approved by the'." That is offered by Senator Dworak.

March 30, 1981

LB 17, 132, 351, 446

SENATOR MARSH: May we go to lunch?

SPEAKER MARVEL: The Clerk has some items to read in and then we will go. So if you would like to go, that is fine. Go ahead.

CLERK: Mr. President, Government Committee will meet underneath the North balcony right now. Government Committee, Senator Kahle says right now.

Mr. President, your committee on Enrollment and Review respectfully reports that they have examined and engrossed LB 17 and find the same correctly engrossed, 351 correctly engrossed, 446 correctly engrossed. (Signed) Senator Kilgarin.

Senator Kremer would like to print amendments to LB 132 in the Journal, Mr. President. That is all I have.

SPEAKER MARVEL: Senator Marsh, do you want to recess until 1:26 p.m. 1:36 p.m., I am sorry.

SENATOR MARSH: I move we recess until 1:36 p.m.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. We are recessed until 1:36 p.m.

Edited by

Arleen McCrory
Arleen McCrory

March 31, 1981

LR 49
LB 313, 17

CLERK: (Read LB 313 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 313 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 1209, Legislative Journal.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 313 passes and that will conclude Final Reading today. Mr. Clerk, do you have some things to read in?

CLERK: Yes, very quickly, Mr. President, a new resolution, LR 49 offered by Senator Sieck. (Read. See page 1209, Legislative Journal.) That will be laid over, Mr. President.

Senator Koch would like to print amendments to LB 17 in the Journal, Mr. President.

April 1, 1981

LB 17, 40, 47, 84, 151, 220,
245, 245A, 313, 478

particular bill. I will get another shot on Select. But I hope you mark well what you are doing this morning, and I hope the impact of it will not be lost on you. So, Mr. Chairman, I am making that request for a Call of the House and a roll call vote.

SPEAKER MARVEL: Shall the House go under Call? All those in favor vote aye, opposed no. Okay, record.

CLERK: 17 ayes, 11 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence. Senator Beutler, Senator Newell, Senator Schmit, Senator Hoagland. Mr. Sergeant at Arms, will you see if you can find Senator Schmit, please?

CLERK: Mr. President, while we are waiting for Senator Schmit, I have an Attorney General's Opinion that is addressed to Senator Carsten and one addressed to Senator Haberman. (See pages 1247 through 1252 of the Legislative Journal.) Senator Pirsch would like to print amendments to LB 17, and Senator Landis and Howard Peterson to LB 478, and your Enrolling Clerk respectfully reports that she has presented to the Governor for his approval the following bills: 47, 84, 151, 220, and 313.) (See pages 1252 through 1256 for amendments to LB 17 and 478 in the Legislative Journal.) And your Committee on Enrollment and Review respectfully report that they have carefully examined and engrossed LB 245 and find the same correctly engrossed, and 245A correctly engrossed.

SENATOR CLARK PRESIDING

SENATOR CLARK: Do you want to continue, Senator Chambers, or do you want to wait for Senator Schmit? Call the roll.

CLERK: (Read the roll call vote as found on page 1246 of the Legislative Journal.)

SENATOR CARSTEN: Mr. President, may we have the motion restated. I am not quite sure that anybody knows....

SENATOR CLARK: The Clerk will restate the motion.

CLERK: Mr. President, the motion is to overrule the Speaker's agenda by removing LB 40.

SENATOR CLARK: If you want to support the Chair, you vote no.

April 2, 1981

LB 174, 190, 17

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass with the emergency clause attached. Those in favor vote aye, opposed vote no. Voting on LB 174 on Final Reading. Have you all voted? Have you all voted? The Clerk will record the vote.

CLERK: Read record vote. 41 ayes, 2 nays, 6 excused and not voting. Vote appears on page 1271 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading with the emergency clause attached. Next bill on Final Reading LB 190. Senator Warner, do you wish to be recognized?

SENATOR WARNER: Mr. President, I guess I would have to ask unanimous consent to pass over for a few minutes. I have an amendment I would like to offer which I don't have up here yet from the bill bill room.

SPEAKER MARVEL: To what. . .

SENATOR WARNER: LB 190. from the bill drafter.

SPEAKER MARVEL: Is there any objection? Okay, if not proceed with the next bill LB 17.

CLERK: Mr. President, I have a motion on the desk.

SPEAKER MARVEL: Read the motion.

CLERK: Mr. President, Senator Koch moves to return LB 17 to Select File for a specific amendment. The amendment Mr. President is found on page 1210 of the Legislative Journal.

SPEAKER MARVEL: Chair recognizes Senator Koch.

SENATOR KOCH: Thank you Mr. Speaker. During the course of action on LB 17E on Select File, a late amendment was offered by Senator Pirsch and it was to strike one section of the bill that pertained to special elections. In reviewing that it gave an advantage to certain people the fact that it only allowed the people who wanted to carry a petition to use a special election and others are denied the privilege and in equity in terms of what we are trying to get to in this bill I can not accept that amendment and I'm asking that 17E be returned to

Select File for the purpose of striking that amendment which is to replace special where it was originally in the original bill which would allow then the bill to be one of general consensus and a continuity. Because, we use the word special in several other sections of law. I would remind you that we need to be constantly uniform and I suggest that we reinsert the original language of special and strike the Pirsch amendment. I ask for the return of 17E to Select File for that specific amendment.

SPEAKER MARVEL: Chair recognizes Senator Pirsch.

SENATOR PIRSCH: Thank you Mr. Speaker and members of the body. In the interest of equity I have also an amendment up on the Clerk's desk which would strike the special election in each of the provisions of the local tax option law. I think that the question is when we put on one of these tax option limitations it is to save money. I am sure that the people who are putting on the limitations would not want to have a special election either which in the case of the City of Omaha according to our election commissioner would cost \$200,000. So my amendment would strike all of the special election in the parts of this exemption. Now the reason it came to me on this one particular section alone is because in the first year I feel that it would be a great temptation to automatically, for that governing board, to put this on the ballot the first year. You are allowed to do that and I think it would be an automatic thing whether it won or failed it would still be worth the gamble. I don't think that it has a place in a special election and I think that the solution to this problem is to take out the special election as my amendment does in the entire provision, the local tax option limitation act. I urge that you do not support taking out the special election in the . . . and give the local governing boards the opportunity to automatically file in the first year for a special election. Now I might remind you that also Senator Koch has taken out of the bill the provision that you could not put it on the ballot more than twice in one year. Now remember that is out. So, I think that it would be a great temptation and I think that it is a big waste of money to use special elections for this purpose and I urge your support or your.... I urge you to vote against Senator Koch's amendment.

SPEAKER MARVEL: The motion at the moment is Senator Koch's to return the bill for a specific amendment. Senator Koch, you have the floor.

SENATOR KOCH: Well Senator Pirsch is really talking about another. . . .

SPEAKER MARVEL: Are you closing now Senator Koch?

SENATOR KOCH: Yes. Senator Pirsch was talking about another amendment she has in the Journal and we are talking about what I am trying to do. That is more germane. I am requesting that we bring LB 17E back to Select File for the specific amendment to insert special in the original bill as it was. As printed in the Journal.

SPEAKER MARVEL: Okay, the motion, Senator Koch was closing, so the motion is to return the bill for a specific amendment. All those in favor vote aye, opposed vote no. Have you all voted? All unauthorized personnel are supposed to be off the floor. We are in the midst of. . . . Are we ready? Record the vote.

CLERK: 32 ayes, 4 nays, Mr. President on the motion to return the bill.

SPEAKER MARVEL: Okay, the motion is carried, the bill is returned. Now, Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body I ask for the adoption of the amendment as placed in your Journal to reinsert the original language and place the special election back in the bill. Thank you.

SPEAKER MARVEL: Once again you are asking?

SENATOR KOCH: Yes sir.

SPEAKER MARVEL: The motion is the adoption of the amendment as explained by Senator Koch. All those in favor of the adoption of that amendment vote aye, opposed vote no. Record the vote.

CLERK: 34 ayes, 2 nays on the motion to adopt the Koch amendment.

SPEAKER MARVEL: The motion is carried, the amendment is adopted. The motion now is to readvance the bill. Those in favor of that motion say aye, opposed no. Motion is carried the bill has been readvanced.

CLERK: I now have a motion from Senator Pirsch to return LB 17 to Select File for a specific amendment. That amendment is on page 1252, Mr. President.

SPEAKER MARVEL: Chair recognizes Senator Pirsch.

SENATOR PIRSCH: Mr. Speaker, members of the Legislature, I guess you made your decision on that last vote. What you have done is to retain special elections so that the first year the governing board can automatically put on for a special election. My amendment simply covered the rest of the tax option limitation and since you have made your choice on including special elections I respectfully withdraw my amendment.

SPEAKER MARVEL: Hearing no objections so ordered.

CLERK: Mr. President, I have a motion from Senator Stoney to return LB 17 to Select File for a specific amendment.

SENATOR STONEY: Mr. Speaker and members of the Legislature, I'm going to attempt, with this amendment, and having you help me returning this to Select File for this consideration of this amendment to restore a sense of fairness and equity to this particular proposal. Now what this amendment would do and it is being duplicated at the present time and will be on your desk in just a moment, is that it would have an effect on the two budget limitations that are presently in place, that being the Omaha Public School system and the Nebraska City School system. What the amendment would provide for is that this issue could again be placed before the voters in these districts in two fashions. The same as....the same fashion as was used in imposing the budget limitations, that being initiative petition and once again to create equity no more than 5% would have to sign that petition to have it placed on the ballot for a vote of the people. The second alternative that they would have would be for the elected school board members, themselves, by a majority vote to place this issue before the people. Once again ladies and gentlemen I want to say publicly that I understand that a zero percentage lid in the 1980's is totally intolerable and it is unacceptable. But what I am attempting to do with this amendment is to maintain the integrity of this body who gave individuals through the initiative process the opportunity to place this issue on the ballot and to impose a lid if they so chose. Now what I am attempting to do is to create a standard for those who would like to remove the lid which equates with that of the imposition. Ladies and gentlemen I think that is only fair, that is only equitable, the people that I have heard from, the input that I have received, the feedback that I have received is not that people wish to

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maintain the lid but they are very disappointed that by a majority vote of this body that what they had accomplished through the initiative process could be turned aside. It totally contradicts what their wishes dictated. Ladies and gentlemen I mentioned on General File that I found such a situation intolerable and again I restate, I feel that that is unconscionable. I do believe that if this issue were placed again on these....on the ballot for people to vote on this particular issue that the lids that are presently imposed would be lifted. So I ask you to join me in returning this bill to Select File for this specific amendment. Thank you.

SPEAKER MARVEL: Motion is to return the bill to Select File for a specific amendment. Senator Koch and then Senator Carsten.

SENATOR KOCH: Mr. Speaker, we went through this on General File. We argued the merits of number of people on a petition. As I quoted to you then the statutes dealing with the subdivisions of government is rather consistent. It is generally consistent at 15% for cities and those kinds of subdivisions for any petition. We arrived at a reasonable compromise, it was five and we said ten is reasonable. I'm willing to accept that. Now we are going to try to go back to 5% and I'll state the fact again. When you are in smaller communities it doesn't take many signatures to get a petition and many times this can be used as a harassment against elected officials in terms of good government procedure. I think that if the statutes that we have had here historically used 15% for cities and other subdivisions, if that wasn't appropriate we should have changed that a long time ago. I sit on the Public Works Committee, the other day we adopted an amendment on petitions and we used 10%. The logic behind that was that we had just recently set in 17E the 10% was a figure that could be defended in terms of initiating a petition. I hope the body will reject Senator Stoney's proposal to return 17E to Select File for the 5% figure to get a petition as well as the remainder. I will let Senator Carsten speak to this because the community that he is close to is also effected by this piece of legislation. Thank you.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I have got a question of Senator Stoney first I guess relative to the time frame and the process that would, that could be

used to do it this year, if I may Mr. Speaker. Senator Stoney, what about the time frame of getting this on the May ballot in Omaha and Nebraska City I'm not sure, I don't know that they have an election this spring, they would have to have a special election, what is the time frame for Omaha, do we have time to do it?

SENATOR STONEY: Senator Carsten before offering the amendment I did check with the Election Commissioner's office in the City of Omaha and was advised that if this bill were acted on and they knew what the decision was by April 13th of this year, they would have sufficient time through what the provisions of the bill would be, that being either the initiative process which I would not think would be utilized but rather the alternative of the Omaha School Board by a majority vote placing this on the ballot they would have sufficient time, if they were advised by April 13th to have that on the ballot May 12th and that would be no expense to the voters in the City of Omaha.

SENATOR CARSTEN: If I may ask a second question Mr. President. Senator Stoney, according to your amendment and my understanding you are changing the requirement of the percentage of voters back to 5%, is that correct from the 10 that we had adopted. Is that correct?

SENATOR STONEY: Senator Carsten, I appreciate your allowing me the opportunity to clarify that. I am in this one instance as it relates to the budget limitations on both of those school budgets, nothing subsequently, only on the vote of this initially. It would not change what you have in the bill. What it really does and Senator Koch in his comments regarding the change in the percentage really talks against those people that would place this on the ballot to remove the lid. Because, it makes it easier through the initiative process requiring only five percent to place it on the ballot than it would with the 10% which is indicative in the bill, but once again I say that this 5% would be in place only for the initial vote for Nebraska City and the Omaha Public Schools but the intent of the bill at 10% would remain in tact for subsequent elections should this issue be an issue again.

SENATOR CARSTEN: Then to follow up in the Nebraska City case Senator Stoney, without an election, a regular election, this spring the board then by majority vote of the board could call a special election or 5% of the voters by petition could have a special election. Is that my understanding of your amendment?

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SENATOR STONEY: That is your understanding and that is the intent of the amendment Senator Carsten exactly.

SENATOR CARSTEN: Mr. President and members of the Legislature I certainly am not one to want to remove the opportunity of the people of the state to go the petition route. I have a mixture of feelings because of the difference in the two situations this year, and I guess I go back to the concern that Senator Pirsch had relative to cost. However I guess we must realize that those that are able to put it on the ballot are aware of costs of a special election when they do so whether it be by the board or whether it be by the people. At the moment I am not quite sure whether I support it or whether I don't. But I will keep thinking. Thank you Mr. President.

SPEAKER MARVEL: Chair recognizes Senator Goodrich.

SENATOR GOODRICH: Mr. President, will Senator Stoney yield to another question or two?

SPEAKER MARVEL: Senator Stoney, do you yield?

SENATOR GOODRICH: Senator Stoney, I'm having a little difficulty in justifying in my own mind, and I want to be sure since we don't have the amendment in front of us, I want to be sure that I have the correct understanding of it, that is that you are treating the Nebraska City School District and the Omaha School District one way and you are treating the rest of the state another way. Is that correct?

SENATOR STONEY: Senator Goodrich, the reason for the difference in treatment is that these two school districts have budget limitations and no other school district in the state does have. So I think that is the reason and the rationale for that difference.

SENATOR GOODRICH: Then elaborate a little bit for me, maybe I am asking for you to repeat something, but I sure didn't get a clear understanding of what you were saying on what would happen in the Omaha School District if your amendment goes through. I mean what is specifically available to them if your amendment goes through?

SENATOR STONEY: Senator Goodrich, if this amendment is adopted there are two alternatives for the Omaha Public School District, since you are asking about them specifically. Individuals who wish to remove this budget limitation could

through the initiative process requiring 5% to sign to place this on the ballot. The other alternative that they would have would be for the Omaha School Board through a majority vote to place this on the ballot and having talked with the election commissioner earlier this week, I am advised that if the amendment were adopted, and if the bill were enacted into law and they had this information by April 13th it could be placed on the May 12th general election ballot in the City of Omaha.

SENATOR GOODRICH: Thank you. I'm afraid Larry I can't support your amendment. I do not believe that you should penalize the school districts in the two communities by treating them one way and then saying to the rest of the state you can do it a different way. It is either all or none at all. That seems to be the philosophy that this legislature has been going with the last three or four years and I'm afraid I just can't support your amendment. Thank you.

SPEAKER MARVEL: Senator Koch, do you wish to be recognized again?

SENATOR KOCH: Mr. Speaker, members of the body, this bill as drafted attempted to bring equity to all positions as it relates to limitations. You must be reminded that very few communities have elections in off years. Now the City of Omaha and the City of Lincoln do have, but that is in relation to their elected officials of the government of that city. Now then you look at other communities in the state and they have elections state wide just like we do. They run 82, 84, 86, 88 except if they have a special election. So what we are doing here is we are assuming that all communities have the same election process, and that is not correct. The other factor is that we all know in this time span to get 5% of the signatures in this brief period of time is not very logical and secondly I would remind you that even though Lee Terry and I called him prior to Senator Stoney also, he did say that if this were there and it could be placed on the ballot by April 13th it could be. But I want to remind you that that is a very short period of time. I am not willing to take that extra effort to expedite this bill for that purpose. You already know that Senator Stoney has always supported the lid limitation and many of us feel that they have gone through their two years of hell and why extend it. I think if the people of Omaha want to exercise the limitation again the vehicle is here and let them do it. I would hope that this body does not at

this time return to 17E to Select File for that special amendment. It is interesting isn't it that the bill went across here with little opposition. It is also interesting that suddenly there is an amendment, that is not yet placed on my desk, and I have always felt that when you are interested in something at least put it in the Journal so all can have a chance to look at it. I'm not going to support, hope you will not either.

SPEAKER MARVEL: Senator Stoney, do you wish to close?

SENATOR STONEY: Yes, Mr. Speaker. Let me respond to Senator Koch's comments relative to the amendment. I have been attempting over the past few days to have this drafted to grant the proper protection and that is the reason it was not printed in the Journal. If I am not mistaken I did not receive it before yesterday or possibly the day before. Once again, ladies and gentlemen, I want to stress one point, that is the issue of equity and fairness. Set aside if you can, and I know that it is difficult to do that because many of us have biases all of us have biases but we are talking about an issue that the people in the Omaha School District and the Nebraska City School District voted on. Ladies and gentlemen in 1978 when there was a move a foot to provide for budget limitations in this state's constitution, this legislative body, during a special session, enacted LB 2, the local option tax control act. One of the reasons they did that and I was in agreement with it and I supported it and you will recall that Senator Koch was one of the co-introducers along with Senator Warner, was because I didn't think this type of language should be in the constitution. But I certainly felt that people through initiative should have an opportunity to impact on budgets. Knowing what we faced then in the 1970's and what we look forward to in the 80's and the 90's. Ladies and gentlemen unless we adopt this amendment, we are by a majority vote in this body thumbing our nose at the public. Again it is a matter of principle with me. If you can consider the fact that this legislature gave citizens in the state of this Nebraska an opportunity to vote on an issue and now because some people are disappointed with the outcome of that vote, we want to disenfranchise those people by passing a law that says that the action that you took does not count. Ladies and gentlemen I find that unconscionable. You know there is a great chasm that is growing between this Nebraska Unicameral and the public at large. When we act in the fashion such as proposed in LB 17 that chasm grows wider and wider. I also think that it is a bit hypocritical on our parts when we act to enact laws

such as LB 17 to continually go to the voters and say we are doing such a magnificent job down in Lincoln for you each year we would certainly appreciate your giving your full and careful consideration to a salary increase. This is the epitome of hypocrisy ladies and gentlemen. I would ask if there is any sinew of fairness or equity in a majority of the members of this body, that you will help me in returning this bill to Select File for this specific amendment. Thank you.

SPEAKER MARVEL: Motion is to return the bill for a specific amendment. All those in favor of returning LB 17 for a specific amendment vote aye, opposed vote no. Have you all voted? Senator Stoney.

SENATOR STONEY: Mr. Speaker, are we not on Final Reading and under Call?

SPEAKER MARVEL: Yes.

SENATOR STONEY: How many are excused?

SPEAKER MARVEL: Three are excused.

SENATOR STONEY: Although we are under Call I am going to ask for a Call of the House and a roll call vote on this issue please.

SPEAKER MARVEL: Will you all record in so we can find out who is here and who we need to call. Record your presence please. Senator Schmit, will you record your presence please. Senator Landis, will you record your presence please. Senator DeCamp, will you record your presence please. Senator Kahle, will you record your presence please. The motion is to return the bill for a specific amendment. Senator Stoney, everybody is accounted for. There are three absent. Shall we proceed? Okay. Proceed with the roll call.

CLERK: Roll call vote. 17 ayes, 28 nays, 1 present and not voting, 3 excused and not voting. Vote appears on page 1273 of the Legislative Journal.

SPEAKER MARVEL: Motion lost. I'm sorry, Senator Stoney.

SENATOR STONEY: A point of personal privilege please.

SPEAKER MARVEL: State your point to the Chair.

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SPEAKER MARVEL: In the back of the room visiting for a short time today is the former Sergeant at Arms, Walter "Robby" Robinson. Robby, where are you? Welcome. Senator Nichol has two groups of students in the north balcony, 7 eighth grade students from Lake Alice School, Charles Bar, instructor and also Mrs. Dale Carrier and Mrs. Ray Carrier, where are you folks located? Will you raise your hands so we might see you. Welcome. Also, 9 eighth grade students from the Lake Minatare School, Delmar Cropski is the instructor and also Virginia Lynheart, Catrina Newland, Alma Barker and Vera Appelgate. Now where are you folks located? Will you raise your hands. Welcome.

CLERK: Mr. President, just one final item. I have an Attorney General's opinion addressed to Senator Witala regarding LB 350. (See pages 1368-69 of the Legislative Journal).

SPEAKER MARVEL: Okay, we are now ready for Final Reading, item number four which will take us up to the time we have a visitor. The first bill on Final Reading is LB 17E.

CLERK: Mr. President, I have a motion on the desk.

SPEAKER MARVEL: Excuse me just a moment. We are going to have a little better attention or we are not going to be able to get through Final Reading. Go ahead.

CLERK: Mr. President, Senator Stoney moves to return LB 17 to Select File for a specific amendment. That amendment being to strike the enacting clause.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker, members of the Legislature, it is difficult for me to rise and ask that you support me with this, but I feel very, very strongly about it. It should not come as a revelation to you, this bill has been considered by the Legislature. I have at each stage expressed my opposition to certain provisions in the bill and for this reason I rise and ask that you help me in returning it to Select File for the specific amendment, to strike the enacting clause. I would like to say that this is the first time in my career here in the Legislature that I have made such a request and again, it has taken a great deal of thought and consideration on my part before offering it. Ladies and gentlemen I would like you to attempt, if you can for a moment, to isolate the issues

that we have here and consider each in a vacuum, consider not the budget limitations that are placed on the school districts in Omaha and Nebraska City for the moment, but consider the fact that through action taken by this legislative body, people with the enactment of LB 2, the local option tax control act were given the opportunity to impact on budgets on all subdivisions through the initiative process. Now in the school districts in Omaha as well as in Nebraska City the citizens through the initiative process placed this issue on the ballot and by a majority vote, ladies and gentlemen, budget limitations were imposed on both these school budgets. Now I have attempted with amendments offered formerly to provide those citizens that made this decision with the same opportunity to remove that limitation as they had in its imposition. I have not been successful in that but I was encouraged the last time that we considered this measure when sixteen colleagues joined me in attempting to adopt the amendment that would have made for this provision. Now it has been my contention during the debate on this issue that individuals in these school districts if given the opportunity would lift the limitation as presently imposed. Now I personally find a zero percent lid imposed at this time intolerable and I know others do also. I think that this is fairly well confirmed, if you will refer to the article, which I circulated to you today, on a poll that was recently conducted that is indicative that what I have been saying is indeed correct. There was a poll that was taken just within the past two weeks, March 28th through 31st and those individuals that they visited with, by a majority in Omaha, expressing an opinion, indicated that the Omaha School District tax lid should be removed. Now ladies and gentlemen I concur with that philosophy. But the thing that I find highly offensive is the fact that we are, by our action in enacting this bill into law, totally contradicting the decision that was reached in the imposition of these lids. Ladies and gentlemen I can not in good conscience support a proposal which would accomplish this. So I would ask that you join me in returning LB 17 to Select File to attach the specific amendment. Thank you.

SPEAKER MARVEL: Chair recognizes Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, one thing about it I don't respect Senator Stoney's proposal but I guess I have to respect his tenacity. I guess it is not new, I remember a number of years ago he appeared before the Omaha School Board questioning their budget procedures before there ever was a lid. Yet he works for a large company

who can not live on zero increases for carrying out the business. Also, another person that I know who works for a very huge company who recently got a 17% increase, rate increase for carrying on the business of that corporation. I remind you that education is a corporation. It is charged with the responsibility by the State of Nebraska to educate the children in a beneficial way. Omaha has some very unique problems in educating children. It is not a homogeneous setting of people. There are different needs, some of them are very difficult. I suggest to you that what we are doing here is not improper. We were the authors of this piece of legislation. We did this in a special session. We are also the authors now to try to make it equitable for all sides. There have been times I have fought bills across the floor but I thought that I had some ethics. I took one good shot at them and if I didn't get it done I realized then the majority of the body was in favor. Senator Stoney, the other day when we were on Final Reading wanted to bring it back for a special amendment and didn't accomplish that mission. It would appear to me that that should have been his last shot. I'm getting a little bit concerned about what we can do on Final Reading, continue to nag it, nag it, nag it. Sure there is a poll which demonstrates at least by that poll people of Omaha would vote to remove. I remind you the City of Omaha schools would have to live one more year under severe limitations. We all know that the State of Nebraska isn't going to provide much additional support in terms of general aid to public education due to some economic factors. When you have a mass of students that number somewhere close to 46,000 and you have a responsibility as an elected board of education, individuals selected to administer the school it is difficult to determine where you are going to cut programs. I can't believe that Senator Stoney had a son in that system who received a good education would now want to deny other children of an equal opportunity to receive a similar education. Not all children seek the same kind of education at all. We talk about individual needs of students when we educate them and I submit to you Omaha has a lot of individual needs to try to meet the needs of the student. For us to allow them to go on one more year and a no win situation means one thing. That means cut programs which are vital to help each child reach some degree of dignity and job interest skill. To me, this nation can sit and debate and use the first amendment because we are a democratic society, educated, civilized and christianized. I submit for us to return this bill to strike the enacting clause is folly. I'm sorry we didn't read the bill and let it go and see what happens. I oppose

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Senator Stoney's amendment to bring it back to Select File. This bill has had its hearing waived from General File, Select File, it was attacked several times, again on E & R it was attacked again. I don't think that it is appropriate that we attack it one more time. So, I request that the body does not return the bill to E & R for specific amendment but leave it there and go on with the Final Reading. Thank you very much.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I'm sure that you naturally would expect me to stand and oppose Senator Stoney's amendment, which I am going to do. He is a good friend of my mine and a close seat mate and I recognize his sincerity and what he feels he needs to do. Mr. President and members of the Legislature by that same token I have co-signed LB 17 with Senator Koch believing that I have a responsibility too. I think that those two school systems which have operated differently for two years than other school systems in this state have paid their penalty long enough. Senator Stoney, I want to remind you, that in my district and in Nebraska City there are two factions on this subject. I have to live with both of them. It was a problem for them and us the way the original lid bill was written and the chance to take it off was not very good. I think now without any question even a good share, as I have visited with people in Nebraska City, a good share of those that supported the zero base lid are willing to let us do it and take it off so that all school systems are going to be on the same level now with the same opportunity to proceed as the tax payers see fit. We are not taking away the right of the people for a petition. No way does 17 do that. I'll grant you that it does not give them the right to take off that which they have imposed. I think the zero base was an improper imposition to begin with and I can tell you that they are suffering. I would hope that this body would put everyone on the same level starting with the same game plan and rules this time. I would ask you to not support returning this bill for the specific amendment. Thank you.

SPEAKER MARVEL: Senator Labedz and then Senator Higgins.

SENATOR LABEDZ: Thank you very much Mr. Speaker. The Omaha School District voters approved the lid in August, 1979 by a 60 to 40% margin. I'm standing here in support of Senator Stoney's motion. At no time during the last two years, at

any time, I should say, the school board could have introduced a resolution to put the issue on the ballot again without going through any petition drive or whatever to remove the lid. I myself, if it was on the ballot would vote to remove the lid. I don't especially approve of a zero percent lid. But I do approve of the peoples right to vote and the school board did have the opportunity at any time in the last two years to introduce a resolution to remove the lid but they chose not to do so. I think that we should have come up with a bill, as Senator Koch mentioned, that bring the rules and regulations that would be equitable for all. But, in as much as we did include removing the lid from the Omaha School District and Nebraska City, I think it is wrong, we should have allowed, and the school board should have had enough gumption to introduce a resolution allowing the people to remove the lid themselves. The polls do show that there is a turn about, they would have removed the lid and if we want to establish credibility, which we need badly in this Legislature, we should allow the people to remove the lid themselves and I'm confident they would have done so. But right now again, in the correspondence that I am getting we are now taking away their right to vote. We gave them the authority to vote on it and now, as someone mentioned on the floor, what the Legislature giveth they take it away and I think it is wrong. Thank you very much.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, members of the Legislature. I too support Senator Stoney on his amendment. I think this Legislature is going to lose more credibility than we have lost in the past with the pople. I have sat at public hearings and then gone into executive session and have been told, we are going to kill this bill because it is a local issue. It is like so much sounding brass in your ears, when the senators say, lets not interfere with local issues. Lets let them solve their own problems. Then what do they do? The people voted for the lid, I agree with Senator Labedz, I agree with Senator Koch, you can't operate a business from one year to the next in these inflationary times on a zero percent. But, by the same token, how many of you live in Omaha? And, know what the school system is doing there. I once got a woman out on parole that spoke two languages and I got her a job with the Omaha School Systems as a teachers aide. After a month she came to me and said, Mrs. Higgins, I really thought that I was going to be able to do something, but as a teachers aide I go in every morning and I bake cookies for kindergarden and I pour their milk.

She was getting \$10,000 a year to do that. I think that is why the people of Omaha voted for the lid. They were trying to send a message to the school board, the board of education in Omaha, cut out the frills, cut out the silliness and give our children the basic education. Here in Lincoln you people are giving highschool credits for water polo. You call that an education? I spend months in my own insurance business trying to find an educated secretary. Somebody that knew how to spell. But what is coming out of the schools today they can't read, they can't write and they can't spell. I agree with Senator Labedz, why didn't the school board put this to a vote of the people when they had a right to and it wouldn't have cost them a penny. I want to say this in all honesty. Look up the accountability report senators and see how many senators are here this year not by the Grace of God and not by the vote of the people but by the donations they received from the Nebraska State Education Association. They have got enough money and own enough property they could cut our taxes in half just by splitting with us half the money they take from the poor teachers in union dues. When it comes time to vote for the teachers retirement program I'm going to vote for it but I am sick of the bureaucrats and I'm sick the paper pushers and that is where our tax dollars are going and that is why we need to send a message to the school board in Omaha, quit hiring more bureaucrats and three or four assistants to assistants. I'm going to support Senator Stoney even though I don't believe in a zero percent budget but I support the people in Omaha who put it in. The next time that you tell me you don't believe in interfering in local issues remember the vote today and this message from Governor Thone today saying that....lets cut the budget, lets cut the budget. Lets think about it. This is what the people of Omaha tried to do. So I urge you to support Senator Stoney's amendment.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, some of you might be wondering why I'm getting into this issue because it pertains to Omaha and Nebraska City. The reason I'm getting into the issue is because of principle. The City of Omaha and the City of Nebraska City had their tax payers vote on a tax issue. They voted for the issue. Now if you want to change the formula, if it wasn't fair as to how to get the petition on, that is fine, but for this body to override what a group of citizens have done in their

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community is wrong. That is where I stand on this issue. These citizens made the decision, let them undo it if they don't like it. As far as everybody starting out equal in having a ball game this doesn't have anything to do with ball games. I stand and support Senator Stoney as I feel these people made the decision and it should be their right to change that decision. Thank you Mr. President.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker, I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. The question before the House is to cease debate. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 25 ayes, 9 nays to cease debate Mr. President.

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

SENATOR STONEY: Yes, Mr. President, members of the Legislature, I want to rise in my closing and re-enforce what I have said in the past. Ladies and gentlemen this issue with me is one of principle. Now it is not because it is education. I can say with a clear conscience if it were any other subdivision that had a lid imposed on it by the voters that I would be standing and making the same presentation to you that I am today. You that know me in this body, I feel very comfortable with you judging my integrity and my credibility. I would like to say, and I will repeat this since Senator Koch perhaps did not understand me formerly, that I find a zero percent lid in 1980 in this economy to be intolerable. The thing that concerns me ladies and gentlemen is that we are disenfranchising people. The people that we represent. The people who we provided an opportunity through their action to make a decision we are contradicting with a majority vote of this body. Ladies and gentlemen I feel that is most unfair. Senaor Koch was concerned that I would attempt to kill this proposal. I would like to say in my own defense that I have attempted conscientiously at every stage of debate to amend this proposal to provide some equity. Ladies and gentlemen you know that I have no alternative at this point in time but to offer the motion that I am offering. I think that the issue has been discussed fully. Once again it is a

matter of equity. It will provide this body, if we act favorably on this amendment to show the public that we are concerned with the actions that we take. That we are persons of our word, that if given an opportunity to vote on an issue we feel that that right is very important and would not deprive them of that right. I ask that you support me in returning the bill to Select File to add the specific amendment.

SENATOR CLARK: The question is the return of LB 17 to Select File for the specific amendment to strike the enacting clause. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 11 ayes, 25 nays on the motion to return the bill Mr. President.

SENATOR CLARK: Motion failed. Thirty-six students from Loveland Elementary School in Omaha, Nebraska; Mrs. Perry is their teacher. They are in the north balcony. Will you hold your hands up so we can see where you are. Welcome to the Legislature.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The Clerk will read LB 17E.

CLERK: Read LB 17 on Final Reading.

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 34 ayes, 12 nays, 2 excused and not voting, 1 present and not voting. Vote appears on page 1370 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. Clerk will read the next bill on Final Reading, LB 59E.

CLERK: Read LB 59E on Final Reading.

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Senator Peterson.

SENATOR H. PETERSON: Prayer offered.

PRESIDENT: Thank you, Senator. Roll call.

CLERK: Mr. President, Senator Higgins would like to be excused until she arrives, Senator Fitzgerald all day, Senator Pirsch for the day, Senators Haberman, Hoagland, Newell, VonMinden and Warner until they arrive.

PRESIDENT: Would everybody register your presence so we can get started on Final Reading. Has everyone registered your presence so we can get started with Final Reading and the Speaker would like to have a productive day so we had better get going. Senator Nichol is ready to go so why don't we all join him? Senator Labeledz, will you press your button so we can get going here. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 257 and recommend that same be placed on Select File with amendments; 249 Select File with amendments, (Signed) Senator Kilgarin.

Mr. President, LB 17, 59 and 167 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LB 17, LB 59 and LB 167.

CLERK: Mr. President, Senator Barrett offers explanation of vote. I have a report of registered lobbyists for the week of April 2 through April 9. (See page 1392 of the Journal.)

Senator Sieck would like to print amendments to LB 241 in the Journal and, Mr. President, new resolution, LR 55 offered by Senator DeCamp. (Read. See pages 1392-1394 of the Journal.) That will be laid over, Mr. President.

April 10, 1981

LB 243, 17, 22A, 59, 158A,
167, 271, 317A, 326, 483

SENATOR GOLL: Mr. Chairman, members of the Legislature, the hour is late. I have no prepared minutes but I just want to say as one who has been involved with an NRD development very closely, very personally, that I would stand in opposition to Senator Sieck's motion. I know people that are on the NRD boards, know them personally. They are fine people. They are elected by us. They do a job. They do it to the best of their ability, and though it is no time to become dramatical, when you say "eminent domain" to me, it is like running in front of that big red bull out in the pasture and no fence within a good three wood shot, and as far as I am concerned, Senator Schmit, the ratio should have been fifty percent instead of seventy-five, and I think we have got to look at this question with a lot of sincerity and purpose in our views. I am for the bill. I am against the proposed kill amendment. Eminent domain is bad. Thank you, Mr. Chairman. It is 11:58 a.m.

SENATOR CLARK: I think we are going to stop right here and we are going to continue this afternoon with priority bills on General File so we will continue with this bill, after the Clerk reads some things in, at one-thirty.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 483; Senator Kremer to LB 326.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor LB 17, 59 and 167.

Your committee on Enrollment and Review reports LB 22A correctly engrossed; 158A correctly engrossed; 317A correctly engrossed; and 271 correctly engrossed. (Signed) Senator Kilgarin.

SENATOR CLARK: Senator Cope, would you like to recess us until one-thirty this afternoon?

SENATOR COPE: Mr. President, members, I move we recess until one-thirty.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. We are recessed until one-thirty at which time we will take up General File priority bills.

Edited by Arleen McCrory
Arleen McCrory

April 13, 1981

LB 11, 17, 59, 132, 167,
LB 205, 253, 253A, 284,
LB 284A, 329, 333, 366,
LB 483

first one now and then see how we get along.

CLERK: Mr. President, if I may, right before we go to that, your committee on Enrollment and Review respectfully reports LB 132 correctly engrossed; 253, 253A, 284, 284A, and LB 483 all correctly engrossed.

A letter from the Governor addressed to the Clerk. (Read. Re: LB 59, 167, 17 and 205. See page 1446, Legislative Journal.)

Senator Wagner would like to print amendments to LB 11.

And your Enrolling Clerk has presented to the Governor LB 329 and 333.

Mr. President, LB 366 (Read title). The bill was first read on January 19, referred to Retirement for public hearing. The bill was advanced to General File. There are committee amendments by the Retirement Committee.

SPEAKER MARVEL: Senator Fowler, do you wish to explain the committee amendments?

SENATOR FOWLER: I do. I move adoption of the committee amendments. LB 366 is a bill that deals only with police and fire in the City of Lincoln or that is cities of the primary class. The committee amendments are a compromise, a negotiated compromise, between the police, the fire and the city administration. It is acceptable to all sides and acceptable with an amendment that Senator Landis offers. The basic thrust and the reason for the agreement is that civilian employees if you want to use that term, the nonpublic safety employees, are currently being matched \$2 for every \$1 that they contribute. The city matches \$2 for every \$1 that is contributed. The city working with its actuary developed a proposal to improve the Lincoln Police and Fire system to the point that the same matching ratio would be used and that the 7% of employees salary contributed by the police and fire would be matched with a 14% of payroll contribution by the police. So these are amendments. 366, there is a companion bill, 367. That bill was killed. This integrates the proposals. It may be less than the public safety organizations initially wanted but it is something that provides equity and comparability between the systems. I would move for the adoption of the amendments.

SPEAKER MARVEL: The motion is the committee amendments to LB 366. Okay, the motion is to adopt the committee amendments. Senator Schmit, do you wish to speak to the committee amendments?