

January 6, 1982

LR 197 - 201
LB 646 - 655

and put it in the bill books. It is not that difficult an assignment. It could be spread around as the committee chairperson desires. It is optional. It is something that can be worked out very easily on each individual case as the committee chairperson feels is most appropriate. So as far as the chairpeople is concerned, I think they aren't legitimate and I think that the rule change is absolutely well written and could handle the situation that we have had a problem with. So I ask your support for the rule change and I think we will all benefit from it.

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

CLERK: 17 ayes, 25 nays, Mr. President, on adoption of the proposed rule change.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, if I may, new bills. LB 646 offered by Senator Goodrich. (Read title). LB 647 offered by Senator Hefner. (Read title). LB 648 offered by the committee on Agriculture and Environment. (Read title). LB 649 offered by the Administrative Rules and Regulations Committee. (Read title). LB 650 offered by the Education Committee. (Read title). LB 651 offered by the Education Committee. (Read title). LB 652 offered by the Education Committee. (Read title). LB 653 offered by the Education Committee. (Read title). LB 654 offered by the Education Committee. (Read title). LB 655 offered by Senator Beyer. (Read title). (See pages 102 through 105 of the Legislative Journal.)

Mr. President, I have received from the Reference Committee a reference report on gubernatorial appointments. That will be referred to them. (See pages 105 and 106 of the Legislative Journal.)

Mr. President, I have new resolutions. LR 197 offered by Senator Koch. (Read LR 197 as found on pages 106 and 107 of the Journal.) LR 198 offered by Senator Warner. (Read LR 198 as found on pages 107 and 108 of the Journal.) That will be referred to the Reference Committee, Mr. President, pursuant to our rules. Mr. President, LR 199 offered by Senators Fowler and Labeledz. (Read LR 199 as found on page 108 of the Journal.) Mr. President, LR 201 offered by Senator Wagner and the members. (Read LR 201 as found on pages 109 and 110 of the Journal.) That too, will be laid over, Mr. President. And finally, Mr. President, I have a notice of confirmation hearing by the Banking Committee for later this week.

February 8, 1982

LB 139, 413, 573, 633,
647, 681, 696, 744,
767, 779, 827

Senator Wagner would like to print amendments to 696.

Your committee on Education whose Chairman is Senator Koch reports LB 827 to be advanced to General File with committee amendments. Signed by Senator Koch.

Your committee on Government reports 647 advanced to General File; 696 General File; 767 General File; 681 General File with amendments; 744 General File with amendments. All signed by Senator Kahle.

Mr. President, Senator Marsh would like to print amendments to LB 139 in the Journal.

Senator Chambers moves that the body reconsider its Final Reading vote on LB 413. That will be laid over.

Your committee on Rules gives notice of hearing.

Your committee on Public Works reports LB 573 advanced to General File with committee amendments; 633 advanced to General File with amendments. Signed by Senator Kremer.

SENATOR CLARK: LB 779.

CLERK: Mr. President, LB 779 (read title). The bill was read on January 12, referred to the Banking Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SENATOR CLARK: Senator DeCamp, committee amendments.

SENATOR DeCAMP: Mr. President, since the committee amendments are nothing more than putting in four words that were left out by the bill drafter when the bill was drafted which coordinate with the rest of the bill, what I thought would be proper then would be to explain the whole bill or attempt to and deal with the whole bill rather than just deal with the amendment separately. LB 779 has several sections and several purposes and once again it was a bill introduced at the request of the Nebraska Bankers Association. It deals with matters in banking. As everybody knows, banks also need on occasions to borrow money to meet day to day reserve and other requirement. Okay, Section 1, in line 5, in other words, Section 1 of the bill eliminates a term called "rediscounts and bills payable". The reason this is eliminated is because it is obsolete and nonapplicable language and we substitute instead the modern language of "direct borrowing". Now this section broadens, so everybody understands, I am broadening the

February 11, 1982

LR 219
LB 458, 647, 705, 782

Senator Vard Johnson would like to print amendments to LB 647 in the Journal; Senator Carsten to print amendments to 705. (See pages 670-673 of the Journal.)

Your committee on Nebraska Retirement Systems whose Chairman is Senator Fowler reports LB 458 advanced to General File with committee amendments attached. That is signed by Senator Fowler. (See pages 673-676 of the Legislative Journal.)

Mr. President, Senator Fowler would like to add his name to LR 219 as co-introducer.

SENATOR CLARK: No objections, so ordered.

CLERK: Mr. President, LB 782.

SENATOR CLARK: 782?

CLERK: Yes, sir. It was introduced by Senator Marvel and Senator Kilgarin. (Read title.) The bill was read on January 12, referred to Government, Military and Veterans Affairs. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Government Committee.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, the amendments to 782 are to clarify some of the provisions that needed some attention in that bill, so I move for adoption of the committee amendments.

SENATOR CLARK: Before I take that motion, I would like to introduce two guests before they leave. One from Norfolk, Marlin Winter, guest of Senator Richard Peterson. Also Senator Haberman has Gaylord Lacey from Grant, Nebraska. They are both under the north balcony, or one is under the north and one under the south, I guess. Will you stand and be recognized, please? Welcome to the Legislature. The question before the House is the adoption of the committee amendments. All those in favor vote aye, opposed vote nay. We are voting on the committee amendments on 782. Have you all voted?

CLERK: Senator Clark voting yes.

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

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

March 1, 1982

LB 378, 647

SENATOR CLARK: The question before the House is to indefinitely postpone 378. All those in favor vote aye, opposed vote nay. Have you all voted? Once more, have you all voted to indefinitely postpone 378? Record the vote.

CLERK: 13 ayes, 19 nays, Mr. President, on the motion to indefinitely postpone the bill.

SENATOR CLARK: The bill is not indefinitely postponed. Do you have more amendments?

CLERK: I have several, yes, sir.

SENATOR CLARK: Senator Remmers, as soon as he reads in, would you like to adjourn us until Wednesday morning at nine o'clock.

CLERK: Mr. President, very quickly, Senator Hefner would like to print amendments to LB 647 in the Journal.

Mr. President, notwithstanding the fact that the Legislature will be in recess, the Appropriations Committee will conduct a public hearing scheduled tomorrow. The Appropriations will go ahead and conduct a hearing.

The Public Works Committee, Mr. President, will meet in executive session right upon adjournment underneath the North balcony. The Public Works Committee, North balcony, upon adjournment.

SENATOR CLARK: Senator Remmers.

SENATOR REMMERS: Mr. Chairman, members of the Legislature...

SENATOR CLARK: Wait just a moment.

CLERK: Mr. President, the Speaker would again like to remind the Legislature that we will not be in session tomorrow. The Legislature will not be in session tomorrow.

SENATOR CLARK: Senator Remmers.

SENATOR REMMERS: Mr. Chairman, members of the Legislature, I move that we adjourn until nine o'clock Wednesday morning.

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

March 8, 1982

LB 852, 647

SENATOR KREMER: Then, Mr. Chairman, I move the bill be advanced to E & R as amended. I have explained it rather simply. I know that it is rather simple and it is quite necessary that this legislation be passed. As I tried to explain before because of funding and this is a financial intensive program that the rurals are in because of the expanded need for electrical energy especially in the rural areas as especially irrigation wells are changing from natural gas and propane to electrical energies operating our pumps and it is of such nature that we actually have to have something and we have got to get more financing if we are going to beat this demand for electrical energy. It is important that the rural power districts obtain the necessary capital at the lowest possible interest rates because of the problem that we now have with making ends meet especially as we see the economy that is related to the rural areas at this time. To summarize, the rural electrics must acquire more supplemental financing. We do have federal financing but it is not going to be sufficient. The federals are discouraging...or rather trying to encourage local financing and by this joint venture we can do that, and that is exactly what we are trying to do, work together to borrow capital at the least cost possible basis and LB 852 will save money for the rural and the rural customers. So I move the advancement of LB 852 to E & R.

SENATOR CLARK: The question before the House is the advancement of 852 to E & R. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. The next bill is 647.

CLERK: Mr. President, LB 647 is a bill introduced by Senator Hefner. (Read title.) The bill was read on January 6th of this year. It was referred to the Government, Military and Veterans Affairs Committee for hearing. The bill was advanced to General File, Mr. President. I have no amendments. I do have some amendments to the bill, however.

SENATOR CLARK: Senator Hefner, do you want to explain

March 8, 1982

LB 647

your bill first, please.

SENATOR HEFNER: Mr. President and members of the Legislature, this bill, LB 647, was introduced by me after an interim study pursuant to LR 159. The intent of the bill is to address several items in Nebraska's initiative process. Earlier in the day I passed out some material to you that I think will help you understand the bill a little bit better. First we outlined the bill and the proposed amendments and then we give you an overview of the initiative process here in our State of Nebraska, and then there is also some other information for you. But let me explain the bill to you and give you a summary of the proposal in LB 647. Under the current Nebraska law a circulator is required to explain the provision of an initiative petition at the time he or she seeks a signature. However, there is no penalty for not doing so. We are inserting a Class V misdemeanor which is up to \$100 fine for noncompliance with this provision. However, we are striking that provision now because during the committee hearing there was some objection to this, so I will propose an amendment a little bit later to strike that. It also provides that language for expenditures incurred by a circulator be stricken. Although we do not have paid circulators as such in Nebraska, this expense loophole in essence permits them to exist. Currently, only registered voters are permitted to circulate petitions. If they do outside their county or residence, they must post a bond. This procedure combined with expense reimbursement allows teams of circulators to canvass the state. We would remove this provision which would permit a noncounty resident from circulating a petition. The result then would be that only registered voters in their counties of residence could circulate the petition. This would prohibit strangers from coming into the counties or communities to circulate these petitions. By requiring that the circulators be registered voters in the county in which the petition is being circulated, insures that circulators have a knowledge of the community, have a knowledge of the people and also have a knowledge of the proposal. Existing law provides that the county clerk of each county shall maintain a copy of the petition available for signatures in said office. However, there is no provision requiring an explanation of the petition. We will amend the law to require that the proponents of a petition supply to the county clerk material explaining the impact of the proposed initiative action. Let me just briefly explain the initiative process in Nebraska. The initiative process in this state exists both at the state and local level. Local initiatives have become an increasing occurrence nationally in recent years. However, this memorandum will address these

March 8, 1982

LB 647

topics and issues which impact on state initiatives in Nebraska. I truly believe that the initiative and referendum process should not be taken lightly. It is a very important process and it is either amending the Constitution or changing a state statute. This bill will not, and I repeat, it will not make it more difficult to circulate a petition. It will just make the process more thorough. If you will notice, there was no one that opposed the bill at the public hearing and therefore I move for the advancement of this bill to E & R Initial.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Senator Clark, I have a question of Senator Hefner.

SENATOR CLARK: Senator Hefner, would you yield, please?

SENATOR HEFNER: Yes, Mr. Speaker.

SENATOR DWORAK: Senator Hefner, what kind of problems did you come across during your interim study that dictates this legislation? What kind of abuses have we had in the State of Nebraska in the area of petition circulation and in the area of initiative and referendum that caused you to bring forth this corrective legislation?

SENATOR HEFNER: Senator Dworak, one of the problems that I came across is groups that were circulating a petition coming from the cities out into the rural areas. Many of them did not know even what the petition was about and a lot of them would leave them on counters of businesses in a local community and take another petition to get signatures. And so I just thought that it would be better if they would be registered voters in that particular county.

SENATOR DWORAK: Well, were these rural people signing these petitions that they didn't know or understand? Do most rural people just sign something at face value without questioning, or...the people of the rural areas I represent, they are pretty cautious and pretty careful. Now, have we had a lot of rural signatures that were obtained by these city...these folks from the city, city slickers?

SENATOR HEFNER: Senator Dworak, that depends upon whether you talk about residents of these small towns being rural people, but, yes, some of them did sign these petitions and didn't know what they were about.

SENATOR DWORAK: And you think now that this bill with rural

March 8, 1982

LB 647

people distributing the petitions that the rural people signing will be more cautious signing a petition with a rural person carrying it than they would be signing a petition with a city person carrying it, they would have more caution?

SENATOR HEFNER: Senator Dworak, I would just say that a lot of these people would be known to those persons that are signing the petition and therefore I think they would be given a better explanation, yes.

SENATOR DWORAK: So then they would sign it not on the basis of what is in the petition but on the basis of the person carrying the petition?

SENATOR HEFNER: That is right, and knowing these particular persons, yes.

SENATOR DWORAK: Well, Mr. President, I really have problems seeing need for this legislation. Talk about an overworked phrase, you know, if it works, why fix it, I don't think we have had a lot of abuses. I think it is just another law. It is just another impediment to the initiative and referendum process. I think most Nebraskans I am familiar with are pretty cautious on signing anything. In fact, if anything, I think that there is probably more protection now than there would be after this particular piece of legislation passes. I think that we would be getting signatures based on personalities rather than signatures based on issues. I am not going to pass another law and put another impediment to the people that desire to sign and carry a petition. I think if somebody from Coleridge wants to circulate a petition in Platte County, so be it, that person ought to be able to do it if he believes strong...if that person believes strong enough in that issue. To say that only a petition can be circulated by a registered voter of that particular subdivision is just an unnecessary requirement that causes...it makes it more difficult for people to get directly involved in government. I think we try to shut people out of government too much instead of opening it up and making it easier for them to get involved and become a part of it.

SENATOR CLARK: Senator Hefner, would you like to adjourn us until tomorrow morning at nine o'clock? We have three more speakers on here and two more amendments. Pardon me? He has something to read in.

CLERK: Mr. President, very quickly again a reminder, the Appropriations Committee will meet upon adjournment in Room 1003.

March 10, 1982

LB 647

CLERK: Mr. President, LB 647 offered by Senator Hefner, (read title). The bill was read on January 6th and referred to the Government for hearing. The bill was advanced to General File, Mr. President. The Legislature considered the issue on March 8th of this year. I have pending, Mr. President, a motion from Senator Hefner and the amendment is on page 922 of the Journal.

SENATOR CLARK: Senator Nichol or Senator Hefner.

SENATOR HEFNER: Mr. President, colleagues, I would like to give you just a short summary of the bill. I passed out some information the other day and in this bill we strike the expenditures incurred by a circulator. Also we remove the provision which would permit a noncounty resident from circulating a petition. The result then would be that only registered voters in their counties of residence could circulate petition. Existing law provides that the county clerk of each county shall maintain a copy of the petition available for signatures in their office. This bill, LB 647 would require an explanation of the issue to be with the petition. And now to the amendment, you will find the amendment on page 922. "On page 5 strike the new language in line 7 through line 11." Under the current Nebraska law, a circulator is required to explain the provision of an initiative petition at the time he or she seeks a signature. However, there is no penalty for not doing so and we are inserting a Class V misdemeanor which is up to a \$100 fine for noncompliance with the provision. We had problems with this in committee and so the amendment that I am proposing would strike that and so I would urge you to support this amendment to strike the penalty clause.

SENATOR CLARK: I would like to announce that in the North balcony there is ten preschool and some 6th graders from Syracuse, District 69. This is in Senator Carsten's District. The teacher is Shirley Stubbendick. Will you stand up and be recognizes please. Welcome to the Unicameral. Senator Chambers is next. The question before the House is the amendment as explained by Senator Hefner. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The amendments are adopted. Senator Hefner, did you have something else on the bill? All right, we

March 10, 1982

LB 647

have other amendments on the bill.

CLERK: Mr. President, Senator Vard Johnson would move to amend and the Johnson amendment is found on page 670 of the Legislative Journal.

SENATOR CLARK: Senator Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I am a member of the Government, Military and Veterans Affairs Committee that heard this bill and in the course of hearing this bill I heard a few things about our initiative and referendum process that I was not aware of and one of the things that I learned is that whenever a registered voter is going to circulate a petition in a county in which he does not reside he has to post a bond of \$500 to be able to circulate that petition. And when I heard that I said, you know, I think that represents a fairly significant impediment on the movement of voters from one county to another to circulate a petition so my amendment does two things. The first thing it does is it eliminates this language. It doesn't require any bond to be posted by any registered voter who wants to circulate an initiative or referendum petition outside of his own county residence, and the second thing my amendment does is my amendment effectively eliminates all the changes that LB 647 was going to make to existing initiative and referendum law so it leaves the remainder of our initiative and referendum law in exactly the condition it presently is in. Thus if my amendment is adopted, it becomes in effect this bill. We really will have liberalized our initiative and referendum law a bit by providing simply that any person who wishes to circulate an initiative or referendum petition does not have to file a bond of \$500 to be able to go into a different county and circulate that petition. Let me just tell you for a few minutes what my own philosophy on the initiative and referendum movement is. If you look at the Nebraska Constitution, you will discover that our drafters in 1920 said the initiative power is the first power reserved to the people and the referendum power is the second power reserved to the people. It was made clear back in 1920 that the folk in the State of Nebraska felt that the right of the people to be able to initiate law and to be able to vote on laws that we had passed for the referendum process was of critical importance. I happen to agree with that. I think there comes a time when Legislatures become unable to move legislation that people genuinely want. We become unable because we have not got a full sense as to what people genuinely want. We become unable because we really have only heard one point of view and that might be the

lobbyist point of view, and as a result of that, we either pass laws that people don't want, or the alternative, we fail to provide laws that people do want. And so the initiative or referendum process is a way of the people themselves putting on our books law that they think is appropriate or removing from our books laws they don't think are appropriate and to me we need to have a liberal initiative and referendum process and any untoward constraints on that process I think...I think undercut the importance of our constitutional assurances to the people that the initiative is the first power reserved to the people and the referendum is the second power reserved. It is for that reason that I offer this amendment. Now Senator Hefner opposes this amendment as well he should because the amendment effectively destroys the provisions of his own bill to narrow the initiative and referendum power and literally broadens our existing law to make it somewhat easier for people to circulate petitions. Let me give you an example. You know a lot of folk in Douglas County have wanted to remove the sales tax on food for a long period of time but measures to do that never get through the Legislature. Now if I became so impassioned with that desire that I wanted to initiate a law to remove the sales tax on food, frankly, I would want to be able to go down to Sarpy County and get people to sign my petition or go to Washington County and get people to sign my petition. I wouldn't want just personally to be confined to Douglas County to get signers of my petition. But to do that, to be able to move from county to county, I have got to post a \$500 bond. I don't think that is a protection. I don't think that is necessary. I think I ought to be able to go into any county I want to go and circulate my petitions. It is for that reason that I am offering this amendment. I would ask you to support the amendment.

SENATOR CLARK: We have fifteen minutes left on the bill. Senator Chambers, did you want to talk on the amendment? All right.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, I sat on the Government Committee when this bill came before us and I agree with Senator Johnson's amendment. What Senator Hefner failed to tell you while the bill was being discussed by him in his opening is that this bill was not brought to us by a grassroots organization of citizens. It was brought by a business group who did not like the petition drives to get bottle bills enacted into law because Legislatures refused to do so. As a matter of fact, as it came out in the testimony when I was talking to Mr. Walt Radcliffe, who is the lobbyist on this bill,

the businesses that were impacted by these petition drives were the ones who wanted this bill. It was stated at page 22 of the hearing report, the transcript, that these businesses wished to counteract citizen initiatives. In other words, they are trying to stop the citizens from having these initiatives because the businesses don't want to be confronted with these types of issues on the ballot. It was also stated that these businesses are concerned because the citizens are making too much use of the initiative petition. So my response to that was this, a constitutional right is considered to be all right by some politicians until the people begin to exercise it. The right to petition was put there for the citizens to use. We as a Legislature should not now seek to restrict that right simply because citizens are starting to use it. That is why the bill was brought to us. Neither Senator Hefner, nor Mr. Radcliffe, nor the paid person from this organization that wanted it was able to point to a single abuse of the initiative petition system in the State of Nebraska. This lady who testified wanted to say that you should not let people outside of their own county circulate a petition in a different county. You should not let them be paid their expenses for circulating such a petition outside their county. So then I asked her, "Are you coming here from Denver voluntarily?" She said, "No." I said, "You are paid to come here?" "Yes." "So you can come from outside the state paid to do so to petition the Nebraska government but a citizen within the state cannot do so." Well, she was a little puzzled, not really puzzled. She knew what I was getting at. And here is the point that I was making, that this business group paid a person to come from outside the state to try to get the Legislature to agree that citizens within the state cannot go from one county to another to do what she came from outside the state to do. A person in one county could have an interest in a matter that is of statewide concern, and as Senator Johnson pointed out like to circulate petitions in other counties. A person's citizenship does not end with the boundaries of his or her counties. So what this bill would attempt to do is let a business group who has got headquarters in Denver send a paid representative to this state to get the Legislature to pass a law that would say citizens inside this state cannot exercise the right of petition outside their county. I think that is pernicious and I think it is wrong. Not only does the Nebraska Constitution protect the right of initiative but the First Amendment to the U. S. Constitution guarantees the right of citizens to petition their government for redress of grievances. We should not enact any kind of legislation that is going to restrict that right. And I do not believe that a legitimate basis is shown for

March 10, 1982

LB 647

restricting a constitutional right when certain business groups don't want to face an initiative matter which has been placed on the ballot. I just have a couple of other things that I would like to point out to you from that hearing. Here was my statement in the transcript of our hearing, Senator Hefner, and if you don't recall it, I will give it to you. "I just have a few questions to ask, then I will be done with you", I was saying to the lady who was paid to come in from Denver, "Based on this law a person could not circulate a petition outside his home county but a person could come from outside the state to try to influence legislation by testifying. A person could not be paid to circulate a petition outside his or her own home county even though the issue may be of statewide significance and of great concern to that person but people can be paid to come and testify from outside the state on an issue that will not affect them in their state at all. So if you begin to weigh equities, some people may see a greater concern for the ordinary citizen than for the outfits that are paying people to do the very things they don't want other people paid to do." I am in favor of Senator Johnson's amendment. I think the initiative law ought to remain as it is but I have one question of Senator Hefner that I asked him during the committee and then I am through. Senator Hefner, would you yield to this question and you can answer very quickly?

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Yes, Senator Chambers.

SENATOR CHAMBERS: Senator Hefner, do you recall that I asked you because it says on the face of the bill that this bill was introduced on behalf of the citizens of Nebraska, when I asked you is the words "Citizens of Nebraska" an alias for Walt Radcliffe, what did you tell me?

SENATOR HEFNER: I don't remember anymore and I am sure you have the answer right there in front of you.

SENATOR CHAMBERS: Well, then I will ask you again, is the words or are the words "citizens of Nebraska" an alias for Walt Radcliffe?

SENATOR HEFNER: I introduced this on behalf of the citizens of Nebraska (interruption).

SENATOR CLARK: You have about fifteen seconds left.

SENATOR CHAMBERS: Thank you. Senator Hefner did point out

March 10, 1982

LB 647

that Mr. Radcliffe asked him to introduce the bill and he introduced it on behalf of the glass and can manufacturers.

SENATOR CLARK: Senator DeCamp. The question has been called for, do I see five hands? I don't see five hands. I still don't. Now I do. All right, all those in favor of ceasing debate vote aye, opposed vote nay. Would you vote again? Thank you. Ceasing debate, have you all voted? Record the vote.

CLERK: 11 ayes, 8 nays to cease debate, Mr. President.

SENATOR CLARK: Debate does not cease. Senator Higgins.

SENATOR HIGGINS: Mr. President, Senator Hefner, would you yield to a question please?

SENATOR HEFNER: Certainly, Senator Higgins.

SENATOR HIGGINS: In regards to the bond that has to be posted in order to circulate a petition in another county, is that one bond to run to the State of Nebraska or is it a bond for every county that you want to circulate a petition in?

SENATOR HEFNER: Senator Higgins, if you would pass this bill, you wouldn't have to have a bond because just the citizens in this particular county could circulate it.

SENATOR HIGGINS: Is it is going to restrict it just to the county.

SENATOR HEFNER: In answer to your question, I would say if you get a bond, why then you would be able to go across the state.

SENATOR HIGGINS: I wouldn't need to post that bond for every county?

SENATOR HEFNER: I don't think so, no.

SENATOR HIGGINS: Do you know if the bond would run to the county or to the state?

SENATOR HEFNER: I think you file it with the state, with the Secretary of State I believe.

SENATOR HIGGINS: Thank you.

SENATOR CLARK: Senator Kilgarin. Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to support Senator Johnson in his amendment. For purposes of an individual that isn't on the committee and didn't have an opportunity to study this issue beforehand, I read the language on page 2 of this bill, the existing language in the statutes, and it bothers me quite a little when it talks about the registered and qualified voter of the State of Nebraska can carry a petition in the State of Nebraska provided that they also give the indication as to what county and when the signatures were obtained. When we consider that many of us in this Legislature, myself included, represent several counties, it seems to me that what we are saying is that we can represent several counties as a member of this Legislature, yet an individual who lives out there in one of those counties cannot represent anymore than the county they happen to live in when it comes to the matter of carrying a petition petitioning their government and that bothers me somewhat. I cannot see the analogy between those two. I happen to live very close to a border of a county. As a matter of fact my hometown is in a different county and it is only five miles from my home and I have to go through three counties to get there. There is a lot of county lines right there in that general area and those people are all Nebraskans and they are all interested and concerned about the same issues particularly when it relates to state government, state issues and that is the petitions that we are talking about here, and to say that one individual could not carry a petition to his neighbor that might live a half a mile away or a mile away just because he happens to be on the other side of the county line seems really ridiculous to me. To also say that that same individual before he carries a petition having to do with any changes that they might like to see in their government has to post a bond of \$500 is even more ridiculous. Those of us that are in this body or those of us that are up for reelection this year had to come up with \$48 in order to file. If we can come up with less than \$50 and manage to get elected, we can serve in this body, but yet we say in our statutes that if you want to try to affect a change in your government as an individual, you have got to come up with more than ten times that amount. Again I fail to see the analogies in those circumstances. So for those reasons, I support Senator Johnson in this amendment to this bill. Thank you, Mr. President.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I think it is clear to the Legislature what this bill is designed to do. It is designed to prevent or at least make

it much more difficult for citizens to voice their concerns about government and I don't think I could support anything that would do that. But let me give you a concrete example of the fallacy behind the restriction on individuals carrying petitions from one county to the other or making it more difficult for individuals to carry petitions outside of their home counties. I don't remember whether it was the City of Lincoln or Lancaster County, whichever one it was, was interested in a wheel tax not too long ago and the wheel tax had an impact that greatly exceeded the residents of this city or this county. It had an impact on the 20,000 students at the University of Nebraska here. It had an impact on people who come to Lincoln to visit and to work and to participate in the governing process here as lobbyists or other representatives and it simply didn't make sense. Now under this bill, as I understand it and correct me if I am wrong, Senator Hefner, if a student at the University who lived in Hemingford was very much opposed to having to pay more tax, wheel tax, here in Lancaster County, he would have to post a \$500 bond before he could carry a petition in this county and yet that tax would impact him directly and that doesn't make sense to me. That just makes no sense at all. That is one of the individuals who definitely should not be impacted by bonds and be restricted from participating in the process. It just doesn't make sense. I don't know why this Legislature would want to make it more difficult to affect and participate in the democratic process. I am very much opposed to LB 647.

SENATOR CLARK: I would like to announce that Jan Carpenter from N.C.S.L Denver office who is a staff assistant assigned to Nebraska among other states is under the North balcony talking to Senator Marsh. Would you stand and be recognized please. Also under the South balcony as guests of Senator Nichol is Mr. James Brisson, Superintendent of Schools, Scottsbluff. Will you stand and be recognized. Thank you. Welcome to the Legislature. Senator Hoagland. We have about eight minutes on this bill. At that time if the bill is not...time runs out, we are going to continue the bill later at another time. We are not going to take a vote at that time.

SENATOR HOAGLAND: Mr. President and colleagues, I would like to rise in support of Senator Johnson's amendment. When the voters in 1912 in Nebraska enacted the right of initiative in this state, why Nebraska became the second state in the Union to permit its own people to write its own laws by drafting a law, circulating a petition, putting it on the ballot, and voting on it. Only South Dakota had the right of initiative before Nebraska does and now only twenty-four or twenty-five states in the Union have that

right and the history of the initiative process is quite an interesting one because that provision in Nebraska's Constitution, which is in Section 2, and the referendum provision in Section 3 of Article III in the Nebraska Constitution, was one of the products of the great era of populism that we went through in Nebraska between 1890 and about 1915 and 1920 and it is one of the lasting effects of the populous movement we still have on our books and, of course, we have seen the power of initiative used repeatedly in the State of Nebraska by organizations everywhere in the political spectrum, from the most conservative to the most liberal. Now in construing the kind of regulations that this Legislature can place on the initiative process to make it work better, to prevent fraud and to be sure that people understand the provisions when they are explained to them, why the Nebraska Supreme Court has indicated that the Legislature is entitled to regulate the process to a certain minimal extent, again to be sure that things aren't fraudulently done and to be sure that people understand the proposal. And in a case called State versus Swanson which was decided many, many years ago, the Nebraska Supreme Court indicated again as I indicated that certain minimal restrictions were legitimate, but that there had to be a rational basis for those restrictions. Now the principal difficulty I have with Senator Hefner's proposal is I just fail to see how limiting circulators to only obtaining signatures from people that reside in the same county that they reside in is in anyway going to further the legitimate purpose of this Legislature in enacting laws that will on one hand prevent fraud or on the other hand that will, and I am quoting from the Supreme Court, "render intelligible the purpose of the proposed law or constitutional amendment". I just don't see how restricting circulation to the county in which you reside particularly when in a rural state like Nebraska we have 93 counties, many of which are sparsely populated, many of which out in greater Nebraska are homogeneous in terms of population base and in terms of point of view, it really makes any sense at all, as Senator Vickers pointed out, to say that you can collect signatures from somebody on your side of the county line but not somebody on the other side of the county line and I think that if we were to enact a provision like this it would really shackle the ability of people to go out and collect sufficient signatures to put something on the ballot, it would be subject to challenge in the Nebraska Supreme Court as not being a rational, legitimate restriction designed to prevent fraud, but instead be something that is just put on the people of the State of Nebraska to make it more difficult for them to exercise their constitutional power to put measures on the ballot. So I would

March 10, 1982

LB 647

ask you to think about what the real motives are behind this. Is this a sincere concern to be sure that we have less fraud when an initiative petition is circulated or is this designed simply to put up a roadblock or a stumbling block to prevent people from putting measures like the bottle bill provision or tax limitation provisions or any of the other social provisions that we have had on the ballot in recent years? And it seems to me that regardless of where you are in the political spectrum, whether you are someone who is a proponent of zero percent lids or seven percent lids, or whether you are someone that likes to come in with referendum petitions to repeal tax increase, or if you are someone who likes to impose bottle bills or sunshine acts, or wherever you are in the political spectrum, this sort of legislation undermines your fundamental ability to affect the statutes of the State of Nebraska by making it more difficult for you to take advantage of the initiative process. So for that reason I would support Senator Johnson's amendment. I think it is a good amendment and if passed will turn this into a piece of legislation that will advance the initiative rights rather than curtail them unjustly. Thank you, Mr. President.

SENATOR CLARK: Senator Kahle. We have two minutes left on the bill.

SENATOR KAHLE: I yield my time to Senator Hefner.

SENATOR CLARK: Senator Hefner. Two minutes.

SENATOR HEFNER: Mr. President, members of the body, I oppose the Johnson amendment and I think that I would like to answer some questions that have been posed by some of the other Senators. This bill would eliminate the bond and right now you are required to post a \$500 bond but this bill would eliminate it because it would just allow those residents in that particular county to circulate the petition. And Senator Cullan's example of a wheel tax, Senator Cullan, this would not be covered because that would be a local initiative and this does nothing to do that. And I think Senator Vickers mentioned something about bordering county borders. Yes, you would not be able to go into another county but the people from my area have told me that they are getting sick and tired of people from other areas coming into their particular county and circulating these petitions. At the present time if you live along a state border, you are not allowed to carry this petition into another state. And one other thing, Senator Chambers mentioned lobbyists. The biggest lobbyist against this bill

March 10, 1982

LB 647

is the Common Cause people. If you want to throw everything out, well, let's talk about them a little bit. They oppose this bill but I really think that this bill is a good bill. I think that Senator Johnson is trying to gut this bill and, therefore, I would ask you to vote against Senator Johnson's amendment. If you look in your bill book, you will find that Senator Johnson did vote this bill out of committee and so I submit to you if he voted it out of committee he must of not thought it was so bad. So I would like to have you consider that.

SENATOR CLARK: Senator Johnson, I will give you one minute to close and we will take a vote on your amendment and then we will cut off the bill.

SENATOR JOHNSON: Yes, thank you, Mr. Speaker, members of the body. My amendment very simply would allow a registered voter in Douglas County to go down to Sarpy County and circulate petitions on an initiative or referendum matter and not have to post a bond. LB 647 would not allow a voter of Douglas County to go to any other county, couldn't post a bond or anything. He just can't go any place. To me that is too great an impediment on the great right to initiate and referenda matters. My amendment also would eliminate all of the narrowing restrictions that LB 647 intends to put on our initiative and referendum process. I happen to think those narrowing restrictions are bad restrictions. I did vote to get the bill out of committee making it quite clear at the time that it was my intention to try to liberalize the initiative and referendum law as opposed to narrow them as LB 647 would do. I would ask your support for this amendment. I would also ask a record vote.

SENATOR CLARK: The question before the House is the adoption of the Johnson amendment. All those in favor vote aye, opposed vote nay. Have you all voted? Voting on the Johnson amendment. A Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed vote nay. Record the vote.

CLERK: 15 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor please. Other Senators will take their seats and, Sergeant at Arms, can you get them into their seats please and they will all check in. We have four excused. We are looking for Senator Lowell Johnson, Senator DeCamp. Senator DeCamp, will you check in please? Senator Kremer. Thank you. Senator Fowler.

March 10, 1982

LB 647

Senator Haberman, are you here please? Senator Haberman is not here. That will be recorded. Mentally or physically? Senator Newell. Senator Pirsch is the only one we don't have. Senator Johnson, did you want a roll call vote? We are only short Senator Pirsch. Do you want to go ahead? We have four excused and Senator Pirsch is the only one. All right. The Clerk will call the roll.

CLERK: (Roll call vote taken. See pages 1091 and 1092, Legislative Journal.) 18 ayes, 22 nays, Mr. President.

March 10, 1982

LB 208, 573, 587, 568,
626, 647, 807, 875

SENATOR DeCAMP: Mr. President, just to say that in the interest of saving time I will not attempt my amendment today. I do repeat that I will attempt it if and when, and I do believe these conditions will occur, the State Patrol, alcohol people, agree to support that amendment. I think they have been studying it and they think it may be a workable approach and if it is, I am going to offer it on Select File. I urge you to take the time to read it. It has been in the Journal quite a while, and I think it is a little different approach that may be more workable.

SENATOR CLARK: The question before the House is the advancement of LB 568. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on the advancement of the bill? Have you all voted? Record the vote.

CLERK: Mr. President, Senator Kilgarin requests record vote. (Read the record vote as found on page 1097 of the Legislative Journal.) 34 ayes, 4 nays, Mr. President, and 10 not voting.

SPEAKER MARVEL PRESIDING

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

CLERK: Mr. President, Senator Vickers would like to print amendments to LB 647. I have a Reference Report on gubernatorial appointments. Senator Schmit and DeCamp to print amendments to LB 626; Senators Wesely and Kremer to LB 573; Senator Koch to 208. (See pages 1098 through 1104 of the Journal.)

I have a gubernatorial appointment letter appointing Mr. Roy Smith to the State Highway Commission. (See page 1106 of the Journal.)

Your Committee on Education whose Chairman is Senator Koch instructs me to report LB 587 as indefinitely postponed, Mr. President.

Mr. President, Senators Landis and Remmers would like to print amendments to LB 875, and Senator Landis to 807. (See pages 1106 and 1107 of the Journal.)

SPEAKER MARVEL: At this time I would like to welcome the

LR 270

LB 127, 259, 601, 611, 623, 642, 644,
647, 651-2, 659, 678, 696-7, 700,
716, 724, 757, 767-7A, 774-776,
779, 784, 792, 816, 828, 839, 845,
877, 931, 941, 951, 961-2, 705

March 29, 1982

Mr. President, three communications from the Governor addressed to the Clerk. (Read. Re: LBs 775, 776, 601, 623, 651, 659, 697, 705, 716, 724, 774, 779, 784, 792, 839, 877, 931, 941, 951, 961, 962, 259, 642, 644, 678, 696, 828, 845, 767, 767A. See pages 1415 and 1416, Legislative Journal.)

Mr. President, I have a series of Attorney General's opinions. The first is to Senator Vickers regarding LB 647; one to Senator Wesely regarding LB 700; a third to Senator Hefner regarding LB 611; a fourth to Senator Haberman regarding LB 127; and a fifth to Senator Carsten regarding LB 816. All of those will be inserted in the Legislative Journal.

Mr. President, a new resolution, LR 270 offered by Senator Newell. (Read. See pages 1424 and 1425, Legislative Journal.) That will be laid over pursuant to our rules, Mr. President.

Finally, Mr. President, Senator Wiitala asks unanimous consent to remove his name as cosponsor from an amendment to LB 652, Request 2652.

SENATOR CLARK: Is there any objection? So ordered.

CLERK: That is all that I have, Mr. President.

SENATOR CLARK: All right, is Senator Koch here? I think we will go ahead and pass over Senator Koch's request here until he arrives. We will go to item #5 on General File, the priority bills, the revenue priorities, 757 is the first bill.

CLERK: Mr. President, LB 757 introduced by the Speaker at the request of the Governor. (Read title.) The bill was read on January 11 of this year, referred to the Revenue Committee for public hearing. The bill was advanced to General File, Mr. President.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, in the absence of Senator Marvel I suspect that I should take the bill. The bill is very straightforward. There is no committee amendment. It is in its original form to reduce the minimum of the overlevy or cushion from 3% to 2%. It was a recommendation from the Governor in a bill that he had introduced by Senator Marvel and I would move that it be moved from General File to E & R Initial.

SENATOR CLARK: We have a motion on the desk.