

January 15, 1981

LB 193-222

rules which the motion is before the desk.

SPEAKER MARVEL: Any further discussion? All those in favor of that motion vote aye, opposed vote no. Have you all voted? The motion is the Wesely motion. Have you all voted? Record the vote.

CLERK: 25 ayes, 10 nays on adoption of the permanent rules, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Senator Cullan wants to meet with the Public Health and Welfare Committee underneath the south balcony. Is that right, Senator Cullan? What is the next item?

CLERK: Mr. President, I have a series of matters to read in, if I may. First of all, Senator DeCamp offers a proposed rule change which will be submitted to the Rules Committee for their consideration. (See pages 180 and 181 of the Legislative Journal.)

Mr. President, new bills: LB 193 (Title read). LB 194 (Title read). LB 195 (Title read). LB 196 (Title read). LB 197 (Title read). LB 198 (Title read). LB 199 (Title read). LB 200 (Title read). LB 201 (Title read). LB 202 (Title read). LB 203 (Title read). LB 204 (Title read). LB 205 (Title read). LB 206 (Title read). LB 207 (Title read). LB 208 (Title read). LB 209 (Title read). LB 210 (Title read). LB 211 (Title read). LB 212 (Title read). LB 213 (Title read). LB 214 (Title read). LB 215 (Title read). LB 216 (Title read). LB 217 (Title read). LB 218 (Title read). LB 219 (Title read). LB 220 (Title read). LB 221 (Title read). LB 222 (Title read). (See pages 181 through 188 of the Legislative Journal.)

Mr. President, in addition your Committee on Business and Labor gives notice of public hearing for Wednesday, January 28. (See page 189 of the Legislative Journal.)

Mr. President, communication from the Chairman of the Executive Board which will be inserted in the Legislative Journal. (See page 189 of the Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Beutler regarding deferred compensation funds which will be inserted in the Legislative Journal. (See pages 189 through 192 of the Journal.)

SPEAKER MARVEL: May I have the attention of the members of the Legislature for just a second. I think the last few days have been tough on all of us. I think we are all

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LR 48, 49
LB 56, 209, 291, 311, 355

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Morning prayer is to be given by the Reverend T. M. Rollerson, the Pastor of God's Missionary Baptist Church.

REVEREND T.M. ROLLERSON: Prayer offered.

SPEAKER MARVEL: Please record your presence. Are you ready to record? You've got a quorum, I think.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: How about number 3?

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read communication as found on page 1321 of the Legislative Journal regarding LB 446.)

Mr. President, your Committee on Government, Military and Veterans Affairs reports LB 209 to General File with amendments. (See pages 1322 and 1333 of the Legislative Journal.)

Mr. President, LB 291, 311, 355, and 56, as well as LR 48 and 49 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 291, LB 311, LB 355, LB 56, LR 48, LR 49. Do you have anything else under item 3? Okay, item 4. Item #4.

CLERK: Mr. President, the Public Health and Welfare Committee reports on the appointments of M. L. Chaloupka, John Estabrook, Ramona Freeman, Dwaine Peetz, Robert Quick and Tod Voss. That report is found on page 1299 of the Journal, Mr. President. Signed by Senator Cullan as Chair of the Public Health and Welfare Committee.

SPEAKER MARVEL: The Chair recognizes Senator Cullan. Item #4 on the agenda.

SENATOR CULLAN: Mr. President and members of the Legislature, I believe this is the Committee on Committee reports from the Public Health and Welfare Committee. I would ask you to adopt the nomination to...in this particular case these are individuals from the Rural Health Manpower Commission, and one individual from the Board of Health that the committee heard. The committee sent these recommendations to you and asked for your approval.

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CLERK: (Read record vote as found on page 1752 of the Legislative Journal.) 42 ayes, 1 nay, 3 excused and not voting, 4 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. We are now ready for item #7, General File, priority bill LB 209.

CLERK: Mr. President, if I may, right before that...

SENATOR CLARK: Do you want to read something in?

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CLERK: Yes, sir, if I may. Mr. President, I have two letters from the Governor making certain gubernatorial appointments to the Public Employees Retirement Board and to the Safety Center Advisory Council. (See pages 1753 and 1754, Legislative Journal.)

Mr. President, I have a new resolution, LR 85 introduced by Senator Lamb who is Chairman of the Executive Board. (Read. See page 1755, Legislative, Journal.) This will be referred to the Executive Board for reference, Mr. President.

Mr. President, with respect to LB 209, it is a bill offered by Senator Koch. (Read title.) The bill was read on January 15 for the first time. It was referred to the Government Committee for hearing. The bill was advanced to General File. There are committee amendments pending by Senator Kahle's Government, Military and Veterans Affairs Committee.

SENATOR CLARK: Senator Kahle on committee amendments.

SENATOR KAHLE: Mr. President and members, LB 309 (sic) as introduced attempts to accomplish three major things. The major thing would be to adopt a September rather than a May primary date for the statewide primary held every two years. Because the September primary would be after the national convention during presidential election years, every four years the state would hold a presidential preference primary in May. Finally, LB 209 would allow registered independents to receive any party's ballot in the primary. The committee amendments eliminate everything in the bill except for the September primary. The cost of this separate presidential preference primary every four years is estimated to cost the counties one million dollars. We considered this too high of a cost so the separate primary has been removed from the committee amendments. The result is that delegates to national conventions will be selected by party rules. We have also deleted provisions allowing independents to receive a party ballot. Recent court decisions question the constitutionality of this procedure. Except for some changes in the reporting requirements under the Political...I believe that is all of the committee amendments. This deals with Political Accountability. Perhaps I should maybe relate. Except for some changes, the reporting requirements under the Political Accountability Law, all that is left in this bill is the issue of September primary. If this bill is passed in 1982, the statewide primary would be held in September rather than in May. Those political subdivisions that do not hold their election at the May primary time like cities and school districts are not affected by this bill. They will continue to hold their primary and general

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election at the same time they do now. I should tell you that if the body does adopt the September primary idea, our election laws will have to be greatly rewritten to reflect the shorter time period between the primary and general elections. I have been assured by Secretary of State Beermann that this is a technical work and that he and the Government Committee can do this over the interim period. I believe that covers the committee amendments. I move for their adoption.

SENATOR CLARK: Senator Vickers on the committee amendments.

SENATOR VICKERS: Mr. President, members, I wonder if Senator Kahle would respond to a question please. Senator Kahle, you indicated the committee took out the parts of the section that allowed the independent voter to receive a nonpartisan ballot or to receive a partisan ballot of his choice and you indicated that the committee did that because of some recent court decisions. Were those Nebraska court decisions that you are referring to?

SENATOR KAHLE: Would you repeat that last part of it again.

SENATOR VICKERS: Were those Nebraska court decisions that you are referring to?

SENATOR KAHLE: No, I think that is national.

SENATOR VICKERS: Supreme Court decisions?

SENATOR KAHLE: What is it? Wisconsin Supreme Court, I have been informed, have made this decision. Now whether it holds in Nebraska, of course, that is up to us.

SENATOR VICKERS: The Wisconsin Supreme Court made the decision in Wisconsin that an independent...registered independent couldn't receive a partisan primary ballot, is that correct?

SENATOR KAHLE: That is the way I understand it. Whether that is official. You know how our attorney friends do in the courts, they copy from one another. It hasn't been tried in Nebraska.

SENATOR VICKERS: Okay, thank you, Senator Kahle. I, personally, object to taking that part of the bill out of LB 209. I have no indication, I guess, I haven't really visited with Senator Koch as to how he feels about it but it seems to me that if you are registered as an independent in this state, I, personally, think it is wrong that we don't have an open primary in

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the State of Nebraska anyway, but to deny an individual that is registered as an independent his choice of one or the other of the partisan ballots, I cannot see how that could be unconstitutional. It seems to me that the argument could possibly be made that to force somebody to be a member of a particular party in order to get a ballot perhaps could be unconstitutional but I certainly can't see how it could be worked the other way around so, again, I just raise the issue. I am not going to promote it enough to divide the question or anything of that nature but I do object to the committee amendments taking that portion out of LB 209.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I am a member of the committee and I object to the committee amendments. What this does is this returns the selection of delegates to the smoke filled room. This means that just those people who are somebody or something or big contributors to the party that go to the state conventions have the opportunity to be a delegate. As it is now, any citizen in the State of Nebraska can file the papers and ask for the voters to vote for him or her to be a delegate to the national convention and I believe it should stay that way. We should not return back a step backwards to the old political smoke filled room, the old wheeling and dealing, and just those people who are in the know, just those people, for example, like state senators that can do something influential for somebody should be able to get the nod from whichever party and be a delegate to the national convention. Therefore, I ask you to oppose the committee amendments. Thank you very much.

SENATOR CLARK: Is there any further discussion on the committee amendments? If not, all those in favor vote aye, all those opposed vote nay. Voting no, Mr. Clerk.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote.

CLERK: 10 ayes, 16 nays on the motion to adopt the committee amendments, Mr. President.

SENATOR CLARK: The committee amendments are not adopted. Senator Koch, on the bill.

SENATOR KOCH: Thank you, Mr. Chairman. Sometimes one gets a little concerned about actions because normally in here we

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go to the Chairman and ask to either adopt the committee amendments and it was at my request, Senator Kahle, and members, that those amendments be made to strike the independent voter section because in the Supreme Court case recently over the Wisconsin issue of the ballot, the Supreme Court struck down the Wisconsin open presidential primary and crossover by nonparty members by a vote of 6 to 3 so why leave that in a piece of legislation when you know you are flying in the face of the federal Constitution and Supreme Court. Secondly, as Senator Kahle said, we struck the preferential primary for the present which I think is appropriate and now we have strictly a bill which would place before you, or we would have had, a primary election which would take place in September and, obviously, both parties have done their work well and some county clerks have done well as well and somebody can print that in the newspaper because the county clerks have sent you some information which is not correct. They can perform their responsibilities and do it as well as any other state where they have primaries and I want you to know that today there are over 20 states that have their primaries in September and another seven that have them in August, and for your historical reference and background, I would provide you this information. Back in 1907, the Legislature saw fit to establish a primary election and it was the first Tuesday in September but I suppose that was ahead of the State Fair, I am not quite sure because I don't go back that far, but we all know that that was an agrarian society and then we have had a number of different dates over the years and one was in August and once it was in July and once in April and once in June, and then for some reason in 1955, the Legislature moved it to May. I have a feeling they did that because they wanted it to be bellwether for presidential races. Now if we really want to be a bellwether for presidential races, then we ought to beat New Hampshire. We ought to put our date ahead of New Hampshire so all those candidates will parade around here in the winter snows and will help our economy. Now I will remind you the last time we had a major impact by the Kennedy's and others in this state, they left the state paying 25¢ on the \$1 for the debt they incurred. Now if that is good economy, I submit to you that you have got a different point of view on economies. I would also remind you this last election, even though Nebraska was strong Reagan, I didn't see the presidential candidates tromping across this great state, none at all, because with the advent of the media and television, there is probably not that much need for them to come here particularly when they know the state has dedicated itself to one candidate or the other. Now if you are worried about the two political parties and how this is going to hamper them, I suggest all

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you have to look at is the last election where Iowa used the caucus system and Iowa had 250,000 people involved in those caucuses. That is 250,000 people who are dedicated to either one party or the other, 250,000 people who will pound stakes and signs and 250,000 people who will probably contribute, 250,000 people deeply involved in the political parties and I submit to you when you run in Nebraska and you file a statement to some time in April and you run in May, many people forget that you can file to be a delegate and so as a result the parties then fill those seats whether or not filed and most of the time there is no opposition for those who do file. It is a procedure. I submit Iowa is not a bad state to look at. So wouldn't it be nice if we and Iowa would have our caucuses at the same time in terms of presidential candidates and how we select our delegates. If you are really interested in a deep folklore of history, we used to use caucuses frequently in terms of our political systems, the old town hall meetings. The first time I was ever elected to the City Council of Ralston it was by a caucus. That is how I was nominated and then ran in election and won. I don't think caucuses are outdated under certain kinds of conditions. I am amazed though when I bring this bill before the committees and I have had it here three times. Once it got to the floor and the only people who really oppose it primarily are the two political parties because they have to make some changes and I submit to you, does this Legislature legislate for the parties or do we legislate for the people of the State of Nebraska. I also submit to you that lengthy campaigns are turning people off, absolutely turned off. I don't know how you campaign but one of the questions I have always campaigned on when I would campaign is, how do you like our process, our system of election? The people very candidly tell you, we can't take all that propaganda. We get sick of it. You wonder why we don't participate. You wonder why we have empathy. That is the reason. We get tired of tarring on television and all we see is candidates making promises and seldom a commitment. They write platforms and planks and those planks become warped the day after they are elected. Not only that, but it gives you a chance to run two different campaigns, one early, and then when you see your position is not quite the way it should be you can change your position and go clear around the other way. Not only that, but you have lame ducks many times that parade across the great halls like this who can enact certain kinds of laws not in the best interest of people, both locally and at state levels. Now then, it is obvious that this body is not very receptive to this piece of legislation but I think you should think about it seriously because there is always another way to get the vote to the people. That is a con-

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stitutional amendment. We will give the people a chance to vote on it. I assure you they are going to vote to move it to September. They talk about our great voting record in Nebraska, the Secretary of State did in the hearing. All the states around us who have their primaries in September beat us every step of the way in percentages in terms of people who actually participated in the voting privilege. I handed out to you in that form, it shows you and I will not repeat it, but New Hampshire and Minnesota, all those people beat Nebraska in terms of people going to polls. Not only that, but we talk about the high cost of elections. Why don't you put it in a more compact form so when you get ready to run you really have only one election. If you get beat in the primary you are done but in a process you know you are going to win because you are confident and your ego is that strong and so you gear up for that election plus one which will follow ten weeks later in November. There you have it. Your committee is intact. They are still energetic and they are ready to go. The way it is now you gear up sometime the first of the year and you go through the process. So then your committee is in limbo until you decide again to gear up and go sometime whenever that automatic target date is you are going to start up again and you have got the costs which there again face you again and again. And I submit to you, if you are concerned about the people out here who watch this body in their exercise of judicial prudence that you would take in consideration the fact that people may want this piece of legislation for one time. And I submit to you, I would wish the World Herald would run a poll on whether or not we should have a primary in September or if we should continue to carry on the activity in May. I have heard the stories about well the State Fair is there. Well, good. Isn't that something? We have got the State Fair. For goodness sakes, we are going to impede the State Fair? Not at all, not at all. Henry Brandt would not be bothered by it one iota and people would not be worried about it too much. Not only that, one time our schools started at a certain time and others a certain time because you had to plant corn or get the ground ready because you only had three mules and some human power and so as a result the kids went to school when it was convenient and they farmed when they needed them. Now we also start our schools before Labor Day. Once upon a time our schools did not start until...

SENATOR CLARK: You have one minute left.

SENATOR KOCH: ...after the State Fair but no longer do we make that observation, not in disrespect to the great fair but the fact that people still have the opportunity to go on their own. So I would submit to you that this primary election

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I am proposing to you is brought to you in good faith. Sure, there were not all that many people there clamoring for it but you always say to me, I have heard you say many times, all we get to our hearings are the bureaucrats. That is what we had there. We had a couple election commissioners and we had the executive secretaries of the two parties. We had another person who has been there to support my position, a political science professor from the University of Nebraska in Lincoln plus others who have written me letters privately. I think they also sent you some. It is time, I think, that we move to the September primary and get in tune and in step with most of the states because that is where they are going to.

SENATOR CLARK: I'm sorry, Senator Koch, your time is up.

SENATOR KOCH: Thank you, Mr. Speaker. I would ask for a special privilege to continue since the precedence is not without some recent consideration.

SENATOR CLARK: I cannot give any special priveleges at this point.

SENATOR KOCH: Thank you, Mr. Chairman, I will return the favor some day.

SENATOR CLARK: We have a motion on the desk.

CLERK: Mr. President, the first motion I have on the bill is to indefinitely postpone. That is offered by Senator Haberman.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I am going to ask that we accept the amendments before the Clerk and before the Legislature by Senator Newell and myself. These amendments in effect, kill the bill, and in killing the bill these amendments gut it and make it into a bill that is needed which is essentially 359 that Senator Newell will explain. Now the reason that I am asking that we do this is first of all, let's talk about the original bill and why we or I and I hope the majority of this body are opposed to it.

SENATOR CLARK: Senator Haberman, have you withdrawn your kill motion and you are talking about amendments?

CLERK: The first thing I had was your kill motion to the bill.

SENATOR HABERMAN: Okay, I will withdraw my kill motion.

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SENATOR CLARK: Fine.

SENATOR HABERMAN: Now I am talking about the amendment.

SENATOR CLARK: All right.

CLERK: Yes, Mr. President, I have an amendment offered by Senators Haberman and Newell. It is request #2380.

SENATOR HABERMAN: Now, all right.

SENATOR CLARK: Now you are on the subject.

SENATOR HABERMAN: Fine, now you can start my time. The opposition were the following people: the Secretary of State, the Lancaster County Election Commissioner, the Douglas County Election Commissioner, the Nebraska Association of County Officials, Nebraska State Republican Party, the Seward County Clerk and the Democrat State Party. So you got the Republicans and the Democrats, believe me, on the same side. They do not want the bill. In favor of the bill was Senator Koch and Herb Schimek. Speaking against the bill, by the way, was DiAnna Schimek. This is going to cost the counties over a million dollars. It would have cost the counties over a million dollars if we do not accept these amendments and quite frankly, they do not have the money to have a chance to change the primary from May to September. My constituents have not said anything to me. They have not complained once about the length of campaigning and how can a person like myself cover twenty-three towns, twenty-three schools, nine counties, nine county fairs, three hundred and fifty miles from one end of the district to the other and meet the public in person in two months? You can't do it. We do not have people go to door to door for us when we campaign. Our constituents want to see us and talk to us. We are to be in the county fair parade, we are to be at the free barbecue, we are to hand out literature and stand there so they can either pat us on the back or kick us in the rump. It is their privilege, whichever they want to do and we cannot do this in two months. So I strongly suggest that you support the amendments and Senator Newell will give you an explanation of exactly what they do and I would like to also add at this time, the amendments came out of the...the amendments as bill....359 which came out of the committee and is hung up. So that is what we are trying to do is substitute that bill as these amendments for this bill. Thank you, Mr. President.

SENATOR CLARK: Senator Hoagland. Yes, what is your point?

SENATOR LAMB: Well, I would like a ruling from the Chair as to whether or not the amendment is germane to the bill.

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SENATOR CLARK: Wait until I get my legal counsel here. I am afraid I will have to rule that it is not germane. You are amending Chapter 31 while Senator Koch is amending Chapter 33, 32. So I will rule that it is not germane. Any other motions? Senator Newell.

SENATOR NEWELL: Since it is not germane, and I will accept that. It was a nice try. I figured we would use this bill for something useful as opposed to what it is. Then I think Senator Haberman would like to go ahead with his kill motion if we withdraw this and allow the kill motion.

SENATOR CLARK: We have a motion ahead of that.

CLERK: Mr. President, the next motion I have is an amendment by Senator Hoagland to strike Section 17 of the bill.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President, and colleagues, let me say at the outset that I am a strong supporter of the basic concept of this bill to move the primary from May to September and what this amendment is designed to do is to begin the process of cleaning the bill up so that the bill will deal only with that concept as the committee had originally intended. Now what my amendment does is it strikes the open primary provisions of LB 209 and let me just state in one sentence why I think an open primary idea is a bad idea. In an open primary idea you will recall is a system whereby somebody who is registered as an independent can go to the polls and can request a ballot from either the Republican Party or the Democratic Party and then vote that ballot. Now I think that is a bad idea for a very simple reason. If you are a Methodist, I don't think you would want the Lutherans coming in and telling you who your minister ought to be and I think if you are a democrat, you don't want the independents coming in and telling you who your party candidate is going to be. If you are a republican, the same applies. Now over the last forty or fifty years we have seen a steady erosion in the general political power of the parties in this country. Now I think we all lament that fact. I think all of us feel that our political system would work better if the parties have more strength than they have right now and I think that the whole open primary concept which has been in effect in the State of Illinois for many, many years now is just another chink in the armor. It is just something else that ultimately weakens our party system. Now, as I indicated before, I am a very strong believer in moving the primary in Nebraska from May back to September for a whole variety of reasons. I think it really

is an assault on the voters' sensibilities to have campaigns for the state Legislature run from March all the way through to September. I think lengthy campaigns with a long dormant period over the summer does not do anybody any good but in particular, in addition to all the reasons that are self-evident to all of us about why such lengthy campaigns are not good, and I might add that in Omaha right now we are undergoing a campaign for the mayor's race where there is only one month between the primary and the general and it is working very well, but there is one particular reason that such an early primary and such a late general bothers me with a respect to the Legislature and that is that it tends to put reelection politics into the Legislature during the sixty day session every other year because right now when we are undergoing our sixty day session in the Legislature, we are in the midst...(interruption.)

SENATOR CLARK: (Gavel.) Could we have a little quiet in here, please?

SENATOR HOAGLAND: We are in the midst of a primary election and it means that half of our members are or the seats of half of our members are up for election and occasionally reelection politics is going to work its way into speeches on the floor, occasionally maybe even the votes that are cast on the floor. And just as alcohol and gasoline do not mix as we have heard for many, many decades, I don't think reelection politics and good law making mixes and I think the best way to insulate the Legislature from reelection politics of course is impossible to do it 100% but by moving the primary back to September would certainly be a step in the right direction, so as a means of cleaning up this bill, ladies and gentlemen, and enabling it to deal only with a September primary election, I would ask first of all that you adopt this amendment to strike Section 17 of the bill which would follow the committee's recommendation and take out the open primary provision of the bill. So as I indicated before, we are not going to have the Lutherans telling the Methodists who their minister ought to be. Thank you.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. Chairman and members, I oppose the Hoagland amendment. As I indicated earlier I think that it is important. Senator Koch mentioned that the voters or the people of the State of Nebraska would probably support through a constitutional amendment a change in the primary time. I would suggest to you that the voters of this state, by and large, would support an open primary. It is the

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political parties that do not want open primaries. It is not the people. I think most people in this state vote for the individual. They do not vote for the individual because of the particular party that they belong to and it is my conviction that if an individual is registered as an independent they should have a right to ask for and receive whatever ballot they so desire. Of course, philosophically I would much rather that the entire primary would be open but I understand the power of the political parties in this state so I think Senator Hoagland is wrong in his assessment of making this a better bill by taking out Section 17. I think Section 17 is one of the most important parts of this bill. I think it is a step in the right direction and from my perspective I believe the people of the State of Nebraska feel it is a step in the right direction but I am referring to people that are not perhaps in political realm as this body is. I think the average citizen, I am referring to the average citizen that does not feel very strongly toward either political party but instead, votes for the individual that they think and feel in their own heart would do the most good. In response to Senator Hoagland's last remark about the Lutherans and the Methodists, it seems to me that we are all in this together and whoever is the person that is elected in the end, no matter what political persuasion they might belong to, then is, in fact, the representative that is representing us. So I do not see that as a valid argument whether it be in the primary or in the general election. If anybody wants to skip party lines, I think that should be the individual's prerogative. So I strongly object to the Hoagland amendment in removing Section 17 from LB 209.

SENATOR CLARK: Senator Haberman, on the Hoagland amendment.

SENATOR HABERMAN: I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed no.

CLERK: Senator Clark voting yes.

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

CLERK: 28 ayes, 0 nays, Mr. President, to cease debate.

SENATOR CLARK: Debate is ceased. Senator Hoagland, do you want to close on your amendment?

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SENATOR HOAGLAND: Mr. President and colleagues, let me just make a couple of brief remarks. As I indicated before, I think Senator Koch's original concept to change the primary for state elections from May back to September is an excellent one and what I would like to do is clean this bill up so we can deal only with that issue and none other. Now I have another amendment up that would take out all the provisions of this bill relating to the special presidential primary which is supposed to be costly and so forth and if we can keep the bill alive why then we can strip those provisions out as well. Now in terms of the merits of this amendment, as I indicated earlier we have seen a long erosion of the powers of the political parties nationwide as well as in the State of Nebraska. Now there is nothing to prevent an independent or anyone else for that matter from registering to vote and designating a party affiliation. Somebody who has registered as an independent now can anytime he or she wants register as a republican or a democrat and that way acquire the right to vote in the primary of the Republican Party or the Democratic Party but if an independent has failed to do that, I don't have any sympathy for the fact that they are then excluded from voting in the primary of that particular...of either party because again, I think the people that have registered as republicans and the people that have registered as democrats ought to have the right to select who their candidates and who their leaders are going to be. I don't think we should have people shifting over at the last minute to select a candidate for a particular party, perhaps intentionally selecting the weaker candidate as the candidate of the other party and prevail. So, again, I think that the open primary system which has been adopted in very few states in this country, no more than four or five that I know of, is basically not a good concept. It tends to contribute again to the weakening of the political parties that we have been seeing over the last several decades. In response to Senator Wickers' argument there is nothing whatsoever to prevent any adult in this state eighteen years or older who is a resident from registering to vote and affiliating himself with one party or another. Then he can vote in that party's primary but until he is willing to do that I don't think he should be entitled to. So I ask for your support of this amendment. Thank you.

SENATOR CLARK: All those in favor of the Hoagland amendment vote aye. All those opposed vote nay. Voting no.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote.

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CLERK: 14 ayes, 17 nays, Mr. President, on adoption of the Hoagland amendment.

SENATOR CLARK: The amendment failed. Senator Haberman, would you like to recess us until one-thirty right after the Clerk reads something in.

CLERK: Senator, excuse me, if I may. Mr. President, I have amendments from Senator DeCamp to LB 557, 558, 559, 560, 561 and 562 to be printed in the Journal. (See pages 1756-1757 of the Legislative Journal.)

Urban Affairs Committee will have an executive session at 11:00 a.m. underneath the North balcony on Thursday, Mr. President.

Mr. President, the Miscellaneous Subjects Committee will meet in executive session in Room 2102 at noon today. Public Works Committee will meet underneath the North balcony right after recess at noon. That is signed by Senator Kremer. That is all that I have, Mr. President.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, I move to recess until one-thirty this afternoon.

SENATOR CLARK: You have all heard the motion. All those in favor say aye, opposed no. We are recessed until one-thirty.

Edited by Arleen McCrory.
Arleen McCrory

RECESS

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LB 209, 284, 284A,
327, 331

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record.

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

Mr. President, right before we start, your Enrolling Clerk respectfully reports she has on this day presented to the Governor for his approval LB 327, 331, 284 and 284A.

SPEAKER MARVEL: Okay, the first order of business is where we left off on LB 209.

CLERK: Mr. President, we left off on 209, the next motion that I had was a motion to indefinitely postpone and that was signed by Senator Haberman but Senator Haberman is not yet with us so I have got a Hoagland amendment. Mr. President, while we are waiting for Senator Haberman, I have a motion from Senator Hoagland to amend the bill. (Read amendment found on page 1758, Legislative Journal.) That is offered by Senator Hoagland.

SPEAKER MARVEL: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, this amendment strikes the presidential primary provisions of LB 209. It follows the recommendations of the Government Committee in reporting this bill out. I think there has been some criticism of the bill because of the amount of money that it would cost the taxpayers to schedule a special separate presidential preferential primary. I don't think that there is much support in this body for this particular aspect of LB 209 and this amendment would clean the bill up to that respect. I would be pleased to answer any questions anybody might have about it. I am sure Senator Koch would as well. I ask for your support for this amendment.

SPEAKER MARVEL: The motion before the House is the Hoagland amendment. Any further discussion? All those in favor of the adoption of the Hoagland amendment to LB 209 vote aye, opposed vote no. This is the...have you all voted? Have you all voted? Senator Hoagland, what is your pleasure.

SENATOR HOAGLAND: Yes, this amendment, Mr. Speaker, strikes the presidential preferential primary which I think has received a lot of opposition and I see that we need about 8...I hate to have a Call of the House...waiting for people to come back into the Hall from lunch so I would be content

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just to wait a minute or two, Mr. Speaker, to see if any additional people come.

SPEAKER MARVEL: Have you all voted? Okay, Senator Hoagland.

SENATOR HOAGLAND: I will reluctantly ask for a Call of the House, Mr. Speaker, until enough people get in here so we have the 25 votes that we need.

SPEAKER MARVEL: Okay, the motion before the House is, shall the House go under Call? All in favor of placing the House under Call vote aye, opposed vote no. Have you all voted? Record.

CLERK: 18 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence. The Clerk is authorized to accept call in votes. Record, I guess. Senator Kilgarin, will you please record your presence?

CLERK: Senator Goodrich voting yes. Senator Be voting yes.

SPEAKER MARVEL: Senator Maresh, will you record your presence? Senator Kahle, will you record your presence?

CLERK: Senator Chronister voting yes. Senator Maresh voting no. Senator Higgins voting no. Senator Rumery voting no.

SPEAKER MARVEL: Senator Burrows, Senator Warner, Senator Wesely, Senator DeCamp, Senator Fitzgerald, Senator Chambers. While we are waiting for the rest of the legislators to report in, in the North balcony it is my privilege to present members of the national group of women, fourteen members from the Association for Continuing and Professional Education. Mrs. Green is the host. (Gavel) I can't hear myself. Will you raise your hand so we can see where you are please? Welcome to the Unicameral. From Lowell Johnson's District, 53 students from Hooper, Nebraska. Mrs. Keithley is the teacher in the North balcony. Where are you located? They are coming in now. From Senator Barrett's District, 12 students from Funk Elementary School, Funk, Nebraska. Wayne Koehler is the teacher and where are you located? Welcome.

CLERK: Senator Burrows voting yes. Senator Beutler, did you vote, Senator...voted yes. 25 ayes, 12 nays, Mr. President, on the adoption of the Hoagland amendment.

SPEAKER MARVEL: The amendment is adopted.

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CLERK: Mr. President, the next motion I have is from Senator Haberman to indefinitely postpone the bill.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I gave a half a dozen good reasons this morning why we don't need the bill, amended or unamended. So I will briefly touch on those again so we can go ahead and vote and see what we are going to do about this. Number one, both of the major public parties are against it, the Democrats and Republicans. The County Officials Association is against this. The Secretary of State says we don't need it. Seward County Clerk says we don't need it. The Douglas County Election Commission says we don't need it and there is really no need to change what we have. We are getting along fine. I don't think we have to have any more debate. We have debated it before, and, Mr. President, I just ask that we have the support to definitely postpone 209. Thank you.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, Senator Haberman in previous remarks in his efforts to indefinitely postpone LB 209 was discussing diversity of legislative districts and other kinds of boundaries we respect for political purposes. He was talking about the great distances and barbecues and I want Senator Haberman to listen to this. Now in Wyoming they have their primaries in September and I am certain he is familiar with Wyoming. Yet the people who run for offices there have found this not to be a great obstruction in terms of their political endeavors. North Dakota has it. Nevada has it. Utah has it. Wyoming. Those are areas rather sparse in terms of population and yet they have found no problems with this. So, Senator Haberman, that is really not a good reason to oppose the bill. As I told you before, I think it is time that we come into tune with the mood of other states and people and move into the late twentieth century and the beginning of the twenty-first century. I would remind you that the letters you received from county officials to some degree telling you about their problems, it is obvious other county officials don't have the same problems and I know that the Secretary of State says he is going to have to change many chapters of law but that is why he is retained in that position to make those kinds of changes and I think that we should not pass laws here because it inconveniences some elected officials in terms of their duties but we ought to pass laws in terms of what is convenient to the public and I am talking about the citizens of this state. In addition to this, I have a letter here from

Senator or Congressman Bereuter. Congressman Bereuter, and I will quote, "I noted in a December 24 article which stated that you intended to place the primary election in September. As you undoubtedly are aware, Nebraska has one of the earliest primaries. I think there is wide support among knowledgeable citizens in Nebraska for moving towards a late primary. I have heard a great many complaints about the political process and suggestions for moving the primary closer to the general election. Additionally without question, the wide separation between the two elections cause expenditure of additional funds. The whole process must be geared up twice. Finally, it is a particularly difficult situation now for those of us who face reelection every two years with the primary coming long before we adjourn. Many of my House colleagues express sympathy for we Nebraskans who have one of the earliest primary elections in the nation. From my experience and knowledge of the situation, Kansas, for example, I think they manage quite well with a September primary." That is an endorsement from Congressman Bereuter, one of my colleagues in the Republican party. Now then, as I said before, this bill I think has caused some people to make hasty decisions. Sure, I know that both parties do not particularly have a sympathetic point of view for it but I also know that there are many people who belong to both the Democrat and Republican parties do have and I submit to you that the two parties can select their own rules by which they elect their delegates. They can either do it by caucus or by other ways in which other states have done it in the past. Now then, there is an old quote that comes from Marco Grouch. What's his name, Dick? One of the famous Marx brothers. But anyway, this is what he said and I think it is rather amusing. "Politics is the honor of looking for trouble, finding it everywhere, and diagnosing it incorrectly and applying all the wrong remedies." And I think that is about what we are trying to do here. We realize that the people by and large have in large numbers gotten out of politics, and one of the reasons they tell me is because they just plain get tired of it being carried on for such a length of time. If you want to talk about economics, as I said earlier in my remarks, the economics will also be beneficial to candidates. Not only that, there is some people who think the incumbent has an advantage if you go to the Fall primary. I submit to you the last election of the State of Nebraska did not particularly show that incumbents had great advantages. The races were difficult. And I also will submit to you that anyone who wants to be so political can use this position in the Legislature to begin their campaign from January on and offer a steady barrage of bills, resolutions and other kinds of things for public consumptions.

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SPEAKER MARVEL: You have fifteen seconds.

SENATOR KOCH: That is a distinct advantage of the incumbent being here. The incumbent leaves here next year. Then he goes home and starts his game of trying to get reelected. I believe the advantage of the incumbent and the candidate seeking the office is not nearly as great. So in closing, I would say there is a song that I would like to sing to you but I am not that good a singer but it says, (Sang), "From May to September", and that is what we are trying to do. We are trying to move the primary from May to September in the best interest of the people and if you don't get the message I hope the people will join with me and adopt that as our theme song. We are going to get May to September some way if we don't get it through just a legislative act. I oppose the kill motion.

SPEAKER MARVEL: You lost ten votes with that last presentation. Senator Cope. Senator Cope, do you wish to be recognized to speak on LB 209?

SENATOR COPE: Mr. President, members, I would go along with Senator Haberman on the kill motion for one reason and that is this. I don't believe that it is going to save that much time for anyone who is campaigning. I think it probably might cost more money because you will have longer to work on the primary and you will have to do it because there will be less time to work between the primary and the general election. So there may be a half a dozen or seven or eight people that are running for office that will be putting in a great deal of time in the primary probably starting as early as they do now when the primary is in May and working on through just to get the nomination so that they may run and have a short time between the primary and the general. So I, for that reason and that reason only, I just don't like the bill in its original form.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, I would like to ask Senator Haberman a question or two if he doesn't mind. First of all, I am against the kill motion. Senator Haberman, before I get into my heavy questions, do you think sometimes the debates are too long on some issues down here?

SENATOR HABERMAN: Yes.

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SENATOR CHAMBERS: Do you think sometimes the session is too long? That the people might like it better if we weren't here quite as many days as we are?

SENATOR HABERMAN: Yes.

SENATOR CHAMBERS: Thank you. We don't need any other arguments from Senator Haberman because he just showed why we shouldn't have long political campaigns. They talk too long and they go for too long a period of time. Those are the questions I wanted to ask him. Now people reach a saturation point with politicians in the same way that legislators reach a saturation point here. People's attention span is not the longest. So the more time that exists between the time a statement is made and when a decision has to be made based on that statement, the people have forgotten. That is why there is repetition ad nauseam over platitudes and things which when they are said one time ought to be sufficient but it is not because the nature of political campaigning in this state is such that people view it something like a carnival or circus where you expect people to say over and over and over and over again things that have no substance and many times were not worth being said in the first place. Now Senator Koch has prepared a handout for us to look at and I think if it would be digested there are some very good reasons that we would see for keeping his bill. Now if his attempt to sing that song It Is A Long Time From May to DeCember lost ten votes, I heard Senator Pirsch say it won one. So Senator Koch might have one more vote than he had anyway. In all seriousness, we ought to try to remove ourselves from the position of having been elected to an office and view the political campaigns as somebody who is an observer and not a participant in the sense of running for an election. Even politicians get tired. You make people have to try to manufacture things of interest to say. Most of the political races in this state are so trifling and trivial because there is nothing to talk about that it is a waste of time to have a campaign anyway. So the whole time is spent trying to make people remember your name or remember your face. If you ask anybody how they feel about any political race, whether it is from the school board to the presidency, they will tell you that politicians are just lying. They are going to make promises they don't intend to keep. We won't see them until election time. We can't find them until election time, and when they come at election time, they forget all of the promises that they broke while they were in office if they were there before and repeat the same tales. So the public has become so disillusioned that when you ask them why then will you vote for this person or that person, the standard reply is that they are taking the lesser of the evils. What

Senator Koch is offering by his bill is an opportunity to inject some positive good into the campaign structure of at least this state. So Senator Koch, as I supported the bill in committee, I support it here and I think there are times when people in legislative bodies will do things a certain way just because they have been done that way for a long time. Change is needed. This bill offers a change. I haven't heard a rational argument against it, and by rational, I would take to mean an argument which shows that greater harm than good would result from the bill being passed. If you put all of the arguments against the bill on one side, they would fill a thimble and leave room for a finger. If you put all of the arguments in favor of the bill on the other side, they probably would fill this Chamber, but those of us who favor the bill don't want to talk the issue to death, so I want it crystal clear that I will support the bill now by voting against the kill motion and I will vote to advance it all the way across the board.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker, I would just like to speak very briefly in opposition to the kill motion for two reasons. I really don't think it does anybody in the State of Nebraska good to have legislative races and other statewide races dragged out over a nine or ten month period. I think they can be handled in four or five months quite adequately. Secondly, I don't think it makes any sense for this Legislature to endorse a system where every sixty day session we have half of the seats of this body up for reelection. I think it inevitably gives much more of a campaign tone to the proceedings before this body than there should be. I think it inevitably calls on people to stand up and make political speeches from time to time and may even affect votes. So I think in order to preserve the integrity of our lawmaking procedure here, we really do much better to have the primary in September, months after we have adjourned our semiannual or our biannual sixty day session, and in that way as much as we can, try to get the politics of reelection out of the lawmaking procedures here because in my view the politics of reelection and lawmaking just don't mix very well. So I would urge you to oppose the kill motion. Thank you.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker, I move the previous question.

SPEAKER MARVEL: The question has been called for. Do I see

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five hands? All those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Record.

CLERK: 26 ayes, 6 nays to cease debate, Mr. President.

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

SENATOR HABERMAN: Yes, Mr. President, just a few remarks. Senator Koch said let's get in tune, let's get in tune with the other states. I say, okay, Senator Koch, let's get in tune with the other 49 states and have two houses instead of one. I think that is one of the poorest excuses you could have used to support this bill. I won't say "excuse", I will say "reason" because I could find no reason to support the bill, no input from the citizens, no phone calls, no letters, no uprising. It took five meetings to even get it out of the committee. So I would ask the Senators, we have debated it, and debated it, and amended it, let's just postpone it so I ask you to vote to postpone, vote "yes" on the motion to postpone on 209. Thank you, Mr. President.

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

SENATOR KOCH: A point of personal privilege, Mr. Speaker.

SPEAKER MARVEL: State your (interruption).

SENATOR KOCH: I want to correct the record. The Constitution says we have one house. That is in constitutional law so we have no control over that and, Senator Haberman, you know that as well as I do and you shouldn't make those incorrect statements on the floor.

SPEAKER MARVEL: Okay. The motion before the House is Senator Haberman's kill motion. All those in favor of indefinitely postponing the bill vote aye, opposed vote no. Have you all voted? Senator Stoney.

SENATOR STONEY: Mr. Speaker, a point of information, I see that Senator Wiitala is listed as voting but I do not see him in his chair. Did he cast that vote? If not, (mike off) the body is deserving of an explanation.

SENATOR KOCH: Mr. Speaker, Senator Wiitala is visiting with some students and he asked me to punch that button for him and I am sure he is here to answer for himself. That is not unusual here. That has been going on for several weeks.

SPEAKER MARVEL: Okay, record the vote.

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LR 86
LB 209, 242, 95A, 400

CLERK: 27 ayes, 12 nays, Mr. President, on the motion to indefinitely postpone the bill.

SPEAKER MARVEL: The motion is carried. The bill is indefinitely postponed.

CLERK: Mr. President, Senator Nichol would like to print amendments to LB 242.

A new study resolution, LR 86 (read).

Mr. President, a new A bill, LB 95A. (Read title.)

SPEAKER MARVEL: Okay, the next bill, LB 400.

CLERK: Mr. President, LB 400 (read title). The bill was read on January 20, referred to the Public Works Committee for hearing. The bill was advanced to General File. There are committee amendments pending by the Public Works Committee, Mr. President.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, LB 400, I would like to explain the bill. LB 400 is a bill which is designed to use excess power which is available in the State of Nebraska, excess power which is now shipped to other states to be used by and sold to other utilities in other areas. This bill would make this power available to irrigators in the State of Nebraska at the same price that's been used in other states. Now a number of utilities have had a number of meetings in regard to this bill. Much of the concern about the bill stems from the fact that they think their particular utility or their class of utilities may be harmed by the bill, that they may be picking up more than their share of the cost. Repeatedly from the first introduction of this bill, I have assured the people that this is not the intent of the bill. We are building in all of the safeguards possible so that does not happen. The only thing that is to happen is to make the excess power available to these users in the State of Nebraska at the same price it is being used in other states by other utilities. The most recent meeting in regard to this bill was yesterday morning when a number of utility persons met to discuss the bill. Their suggestion was that the bill be held over until next year to give them time to work out the contractual arrangements in regard to the bill. My first inclination is not to go along with their thinking because I think the bill is necessary and could be passed on the floor of this Legislature. However, these people