

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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LB 44, 47, 56, 84, 113, 151,
173, 218, 220, 308, 313, 331,
370, 379, 392, 478.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The Reverend Sidney D. Ellis of the Church of Christ, Lincoln, Nebraska.

REVEREND SIDNEY D. ELLIS: Prayer offered.

CLERK: Mr. President, Senators Beyer, Fowler and Vard Johnson would like to be excused for the day. Senators Hoagland, Cullan and Wiitala until they arrive.

SPEAKER MARVEL: Record the vote, Mr. Clerk.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Do you have anything for item #3?

CLERK: Yes, sir. Mr. President, first of all I have got a correction in the Journal found on page 1221. (See page 1230 of the Journal.)

Mr. President, your committee on Education whose Chairman is Senator Koch reports LB 218 to General File with amendments; 370, General File with amendments; and 308 indefinitely postponed. (Signed) Senator Koch. (See pages 1230 through 1235 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 56 and find the same correctly reengrossed.

Mr. President, LBs 47, 84, 151, 220 and 313 are ready for your signature.

Mr. President, I have a Reference Report from the Executive Board referring LB 556 to the Appropriations Committee and that is signed by Senator Lamb as Chairman of the Reference Committee.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 47, LB 84, LB 151, LB 220, LB 313.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 379 and recommend that same be placed on Select File with amendments; 44, Select File with amendments; 173, Select File with amendments; 331, Select File with amendments; 392, Select File with amendments; 478, Select File with amendments; 113, Select File with

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LB 460, 218

SENATOR DeCAMP: Well, I hate to interrupt their meeting if we can get five votes here to advance it. We need 25. Senator Rumery is going to vote now.

PRESIDENT: Well, we need a couple more votes if that would work out we could save them from coming in but....

SENATOR DeCAMP: Yes, it will work. Schmit will vote.

PRESIDENT: Maybe Senator Schmit will vote. Nothing like being put on the spot, Senator Schmit, maybe you will vote. We will be very patient, but I think we better....have to have a Call if we don't get this. Record the vote.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

PRESIDENT: The motion carries and LB 460 is advanced to E & R Initial. The next bill is LB 218, Mr. Clerk.

CLERK: Mr. President, LB 218 offered by Senator Sieck. (Read title.) The bill was first read on January 15 of this year, Mr. President. It was referred to the Education Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President.

PRESIDENT: Senator Beutler, will you take the committee amendments? The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, the committee amendments are basically technical amendments and also amendments which narrow the scope of the bill. So I think what I will do is briefly say that to you and explain a little bit, but give you the general thrust of the committee amendments which is to cut down on what Senator Sieck wants to do, and then when Senator Sieck talks about the bill, you can make up your own mind as to whether it is a good thing, although with these amendments the Education Committee felt that the bill was a good bill. The bill basically allows for the construction of certain types of facilities but we wanted to be sure that the school district, for example, or the community college, didn't own the facilities following their completion so that it wasn't used as a technique for getting around some of the fiscal restraints that we have put on the different political subdivisions. And the second thing that we wanted to do was to be sure that the buildings once constructed were in fact inspected by one regulatory body or another, and the bill in its original form wasn't entirely clear as to who would be responsible for the

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inspection of the buildings and I think Senator Sieck has agreed to these amendments, and it would make clear that somebody at least is inspecting them. So with that, I will stop and let you ask any questions that you may have.

PRESIDENT: Senator Sieck, do you wish to discuss the committee amendments then?

SENATOR SIECK: Yes. Mr. President and members of the body, it makes a good bill even better, so I move that we accept the committee amendments.

PRESIDENT: Any further discussion on the committee amendments? Senator Beutler, I guess that will be your closing unless you have any other. The question then is the adoption of the committee amendments on LB 218. All those in favor vote aye, opposed nay. We are going to have to have some people come back and vote because the committee chairmen are still meeting. Voting on the committee amendments on LB 218. Could we get some people in here to vote, please. Only a couple more days, it shouldn't take too long to vote. 218, yes, sir, the committee amendments.

SENATOR SIECK: I need a few more votes. I mean, I don't believe there is enough people in the body here to vote, and I counted them, there is only 20 people here, 21.

PRESIDENT: There aren't that many chairmen so there....and there aren't that many excused so there has got to be somebody lurking around the hallways here that could come in and vote....if we had some volunteers along the side that will come down and vote. For those of you that just came in, we are voting on LB 218, adoption of the committee amendments. There is a motion for a Call of the House. All those in favor vote aye, opposed nay. We are voting on a Call of the House. Could we at least vote to take a position on that?

SENATOR SIECK: I will accept call in votes.

PRESIDENT: Yes, we will as soon as we get a Call of the House, we can take call in votes and that will take care of it probably. We only have to have a couple people come in. Record the vote.

CLERK: 14 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: We will go under Call for this with the number that are here. All right. The House is under Call. Just get

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enough people in here to take in call in votes. You needed how many, just a few.

SENATOR SIFCK: Three votes.

PRESIDENT: Yes, just a few. We will take call in votes.

CLERK: Senator Richard Peterson voting yes.

PRESIDENT: The House is under Call. Everyone record your presence.

CLERK: Senator...you had voted, Senator. Senator Koch voting yes. Senator Landis voting yes.

PRESIDENT: All right, record the vote.

CLERK: 25 ayes, 0 nays on adoption of the committee amendments.

PRESIDENT: All right, motion carries, the committee amendments are adopted. Are there any further amendments?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: All right, Senator Sieck, you may proceed with the bill.

SENATOR SIECK: Yes, Mr. President....

PRESIDENT: Keep the House under Call until we get this bill disposed of.

SENATOR SIECK: Mr. President and members of the body, what this bill does is takes the tech colleges out of the requirement for health inspectors to come in and inspect the homes. The amendment requires that the local zoning jurisdictions do this very same thing, and the reason this bill came about, we found a duplication of services and the amendment was first attached because of the modular homes was under the Health Department, and this will take the tech colleges' homes, and these are actually homes, they are not modular homes. They are homes that are built just like your modern home would be built. Now the other portion of the bill includes the same thing for the public high schools. At the present time we have high schools that are buying a person property and then building a home on it, and then selling that property, and the amendment to the bill says that this is required that they do this, and that they cannot build a facility for their own use under...they have to have the bid processed in order to do this. But with this portion of it they can build this home. Now are there any questions

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LB 218, 134, 224, 326, 360

on the bill? I will be happy to answer them, but I move that we advance the bill.

PRESIDENT: All right, are there any further discussions then on LB 218? Hearing none, I guess that is your opening and your closing. The question now is, the motion is to advance LB 218 to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? We are under Call. The House is under Call so I guess we will have to start rounding up some people if we don't get the votes. Or have a roll call vote, whatever you want to do. We will accept call ins. There are quite a number of people that are not here. Sergeant at Arms, do you want to start finding somebody? There's no tie, or I would, I'll tell you. If I could contrive this into a tie, I would sure vote. You are tied up, huh? Record the vote.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

PRESIDENT: The motion carries. The LB 218 is advanced to E & R Initial. Do you have some matters to read in, Mr. Clerk?

CLERK: Mr. President, I don't believe I do, no.

PRESIDENT: That will conclude the General File portion of the agenda. I don't know what...whether the Speaker wants to start with Select File. I would suggest too because they will probably want to continue their meeting. Just be at ease for a moment, we will see if we probably will just recess at this time, and then come back right after lunch to continue with Select File, but we will check with the Speaker. We have one matter to take care of and then we will recess for lunch.

CLERK: Mr. President, LBs 134, 224, 326 and 360 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 134, LB 224, LB 326 and LB 360. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: Senator Marsh, would you recess us?

SENATOR MARSH: I move we recess until 1:30.

PRESIDENT: Motion to recess until 1:30. All those in favor signify by saying aye. Opposed nay. We are recessed until 1:30.

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LB 218, 406, 460

RECESS

SPEAKER MARVEL: Record your presence, please. Okay, record.

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

SPEAKER MARVEL: Do you have any items to read in?

CLERK: Yes, sir. Mr. President, very quickly, your committee on Enrollment and Review respectfully reports that they have carefully examined LB 460 and recommend that same be placed on Select File with amendments and LB 218 Select File with amendments, both signed by Senator Kilrarin as Chair. (See pages 2259-2260 of the Legislative Journal.)

SPEAKER MARVEL: I would like to read an announcement to you. It has to do with the next few days. A chairmen's meeting was called today to discuss the 90th legislative day. By a majority consent I now advise you that the 90th legislative day will be Friday, June 5. This is my first recommendation to deviate from our tentative calendar as set up in January of this year. This decision was made in fairness to all legislators. By meeting on June 5 the Governor will have sufficient time to return all bills presented to him this Thursday, however, any bills remaining on Select File tomorrow, Wednesday, May 27, the 88th day will not be read until June 5, the 90th day. It is important that we move all bills off of Select File today so that this material can be on Final Reading Thursday, May 28. Due to the volume of bills on file scheduled for Thursday, May 28, the 89th day, it is not feasible to expect the Governor to be in a position to return all this material by the 90th day if the 90th day were to be this Friday. By holding the 90th day until June 5 this allows the Governor the constitutional time limit Wednesday, June 3, midnight. The schedule allows the Governor sufficient time to act on the legislation and it allows us, the Legislature, sufficient time to react. This was presented to the chairmen and resulted in a recommendation which I have read to you on the part of the chairmen. The next item of business is item #6, Select File.

CLERK: Mr. President, I have E & R amendments to LB 406.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker, the recommendation that you just made, are we going to discuss this at all or are we to accept it without debate?

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LB 460, 487, 487A,
218, 385

lot of bankers in the rotunda lately. Maybe you could talk to them. And with that, I would move the bill be advanced and we would commit ourselves to providing more information before Final Reading.

PRESIDENT: The motion is to advance LB 460 to E & R for engrossment. All those in favor signify by saying aye, opposed nay. LB 460 is advanced to E & R for engrossment. Next bill on Select File is LB 218. Yes, Mr. Clerk, you may read in or do any announcements.

CLERK: Very quickly, Mr. President, Senator Schmit would like unanimous consent to add his name to 487 and 487A as cointroducer.

PRESIDENT: 487, any objections? If not, so ordered.

CLERK: Mr. President, then I move to 218. I have E & R amendments pending, Mr. President.

PRESIDENT: All right, E & R amendments. The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 218.

PRESIDENT: Motion to adopt the E & R amendments on LB 218. Any discussion? All those in favor of adopting the E & R amendments to LB 218 signify by saying aye, opposed nay. The E & R amendments are adopted. Anything further on LB 21, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 218.

PRESIDENT: LB 218, motion is to advance to E & R for engrossment. Any discussion? All those in favor of advancing LB 218 to E & R for engrossment signify by saying aye, opposed nay. LB 218 is advanced to E & R for engrossment. The next bill is LB 385.

CLERK: Mr. President, there are E & R amendments to LB 385.

PRESIDENT: The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 385.

PRESIDENT: Motion to adopt the E & R amendments to LB 385.

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LB 548, 460, 218, 385

SENATOR CLARK: The next bill is 548.

CLERK: Mr. President, if I may, right before that, the committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 460 and find the same correctly engrossed; 218 correctly engrossed and 385 correctly engrossed, (Signed) Senator Kilgarin, Chair.

Mr. President, with respect to LB 548 Senator Nichol would move to return the bill for a specific amendment. The amendment would read as follows: (Read amendment found on page 2,35 of the Legislative Journal.)

SENATOR CLARK: Senator Nichol. Senator Nichol, on 548.

SENATOR NICHOL: Mr. Chairman, this is a reconsideration of something we did the other day which has to do with a claim for Misterns Nance and Parratt and I feel that this has far-reaching implications that we may not perceive and contrary to the information given to the Legislature the other day, they committed no intentional acts of wrongdoing and I would just like to tell you what happened. On December 23, 1976, Booker Robinson was placed in the adjustment center at the penitentiary for possession of narcotic paraphernalia and contraband. This placement was on the order of the Deputy Warden David Watson. On December 29, 1976, the penitentiary's principal hearing officer, John Tyrenerry met with Robinson and notified him of the disciplinary charges being brought against him, lodging those charges on the proper forms. However, no formal misconduct report was prepared concerning Robinson's disciplinary violations and no hearing was held. Then, as now, the deputy warden and the principal hearing officer were assigned the responsibilities of enforcing inmate discipline and coordinating procedural due process. Unfortunately, due to the staff changes, Robinson's case did not received the procedural attention that it warranted. David Watson resigned on January 27, 1977, and John Tyrenerry left the employ of the penitentiary on February 26, 1977. Mr. Vance (sic.) replaced Watson in acting deputy warden until late February 1977. Tyrenerry papers were left in a state of chaos and Robinson's status did not come to the attention of Warden Parratt until shortly after the present Deputy Warden Tom Mason assumed the position at the end of February 1977. Neither Warden Parratt nor A.V. Nance knew that Robinson was in the adjustment center without benefit of the proper procedures. As soon as warden discovered the matter he ordered Robinson's release into general population. That was on March 2, 1977. No evidence of Robinson vs. Parratt case showed any intentional wrongdoing on the part of Parratt or Nance, however,

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LB 172, 218, 234, 234A, 285

CLERK: (Read record vote as found on page 2392 of the Legislative Journal.) 47 ayes, 0 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 172 passes. The next bill on Final Reading, Mr. Clerk, is LB 218.

CLERK: (Read LB 218 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 218 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 2392-2393 of the Legislative Journal.) 48 ayes, 0 nays, 1 present and not voting, Mr. President.

PRESIDENT: LB 218 passes. The next bill on Final Reading is LB 234, Mr. Clerk.

CLERK: (Read LB 234 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 234 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 2392 of the Legislative Journal.) 49 ayes, 0 nays, Mr. President, on adoption of LB 234.

PRESIDENT: LB 234 passes. The next bill on Final Reading, Mr. Clerk, is LB 234A.

CLERK: (Read LB 234A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 234A pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 2394 of the Legislative Journal.) 47 ayes, 0 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 234A passes. The next bill on Final Reading, skipping over then, 242, is LB 285.

ASSISTANT CLERK: (Read LB 285 on Final Reading.)

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want to take one more bill then? Okay, fine. Have you all voted? Record the vote.

CLERK: (Read record vote as found on pages 2406-2407 of the Legislative Journal.) 37 ayes, 8 nays, 2 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 352 passes with the emergency clause attached. The next bill on Final Reading before the break for lunch is LB 385.

ASSISTANT CLERK: (Read LB 385 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 385 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 2407-2408 of the Legislative Journal.) 29 ayes, 14 nays, 2 excused and not voting, Mr. President, 4 present and not voting.

PRESIDENT: LB 385 passes. If you would read some matters in and then we will get ready for recess.

CLERK: Mr. President, a letter from the Governor addressed to the Clerk. (Read. Re. LB 406, 548, 389 as found on page 2409 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 321 and find the same correctly enrolled.

Mr. President, I have a veto message from the Governor addressed to Dear Mr. President and Senators. (Read. Re. 129A. See page 2408 of the Legislative Journal.)

Mr. President, finally LB 95, 95A, 172, 218, 234, 234A, 235, 302, 389A, 318, 344 and 352 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LB 95, LB 95A, LB 172, LB 218, LB 234, LB 234A, LB 285, LB 302, LB 318, LB 344 and LB 352. Well, let's let somebody... Senator Marsh, do you wish to recess us until one-thirty.

SENATOR MARCH: I move we recess until one-thirty.

PRESIDENT: The motion is to recess until one-thirty. Any... All those in favor to recess until one-thirty signify by saying aye, opposed nay. We are recessed until one-thirty.