

January 13, 1982

LB 69, 139, 805-809

SENATOR CLARK: The bill is advanced. We are now ready for #7, General File, priority bill and I understand that wants to be passed over. Is that right?

CLERK: Yes, sir. I have a request to have the bill passed over, Mr. President.

SENATOR CLARK: Alright. We're ready for #8 on General File, LB 139 by Senator Marsh. Oh, you've got a few things to read in first.

CLERK: Yes, sir, I do. Mr. President, I have a new resolution, LR 205. (Read. See pages 260-261 of the Legislative Journal.) Mr. President, pursuant to our rules that resolution will be laid over.

Mr. President, I have a series of new bills. (Read by title for the first time LB 805-809. See pages 261-262 of the Legislative Journal.)

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The next bill is LB 139.

CLERK: (Read.) The bill was first read on January 13 last year. At that time it was referred to the Banking, Commerce and Insurance Committee for public hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Banking, Commerce and Insurance Committee.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, the bill that about a year and a half time has been invested in trying to work out a solution and maybe it is living proof that if you push hard enough long enough you can bring the sides together. I am going to ask to defeat the committee amendments unless your amendment, Senator Marsh... Senator Marsh has an amendment that has been agreed upon by all sides in this controversy from the Insurance Department through the opponents, proponents and so on and so forth. Is your amendment to the committee amendments or is it a separate amendment?

SENATOR MARSH: I believe it is a separate amendment. Patrick, is that the way it is written?

CLERK: Senator, it is written so that it amends the standing committee amendments.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 335.

CLERK: Mr. President, your committee on Revenue whose chairman is Senator Carsten instructs me to report LB 467 advance to General File with committee amendments attached; LB 770 indefinitely postponed. That is signed by Senator Carsten. (See pages 630-632 of the Legislative Journal.)

LB 807 is advanced to General File with committee amendments attached by the Urban Affairs Committee. That is signed by Senator Landis. (See pages 632-634 of the Journal.)

Banking Committee offers a confirmation report on gubernatorial appointments.

Mr. President, LB 335, the E & R amendments were adopted on January 29 of this year. At that time the bill was laid over. I now have an amendment pending by Senator Marsh, Mr. President, that is found on page 307 of the Journal.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Thank you, Mr. Chairman and members of the Legislature, I agreed with the persons who opposed the legislation that I would bring the amendment to the body. I cannot personally support the amendment and I would like to read from a letter. This letter happens to be from a constituent of Larry Stoney's in District 4 and she says, "I am writing you concerning your bill, LB 335 and more specifically the amendment which would remove doctors, lawyers and clergy from reporting cases of neglect and abuse. I oppose this amendment. I do not oppose LB 335 which protects adults especially the elderly, disabled and handicapped from abuse and neglect. However, to remove anyone from the liability to report these incidents will make our reporting law ineffective. We cannot help adults if we have no way of obtaining the information on abuse and neglect."

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman and members, I rise to oppose the amendment that we are speaking to where we are going to allow supposedly immunity to about four classes of professional people. It reminds you only, and I'll quote a Dr. Paul Nelson of Omaha who has been very interested in child abuse who states and I quote directly. Dr. Nelson, Omaha doctors in child care and abuse said, "The reporting requirement has worked well and hasn't hurt anyone and for us to say that doctors, lawyers and clergymen and others should be

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LB 767A, 807

SENATOR CLARK: The bill is advanced. Now LB 767A.

CLERK: LB 767A offered by Senator Schmit. (Read title.)

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: I move the advancement of the bill, Mr. President.

SENATOR CLARK: The question before the House is the advancement of 767A. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to advance the A bill.

SENATOR CLARK: The bill is advanced. LB 807, Senator Landis.

CLEPK: Mr. President, LB 807 is a bill introduced by Senator Landis. (Read title.) The bill was first read on January 13 of this year. It was referred to the Urban Affairs Committee. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Urban Affairs Committee.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, this bill is placed at this portion of the calendar although there are committee amendments and I hope the Clerk has them there. I would move the committee amendments which seek simply to carry out the policies of the bill a little more accurately. In the committee amendments are the provisions for limited referendum and those places where referendum is limited completely. The principle in this area is simply a clarification of what we already do and breaks issues into three kinds; those which may not be referendumed, those which are subject to limited referendum of a known period of time, thirty days, and then those issues which are not mentioned specifically which of course have unlimited referendum. For example, a statute on the books says a zoning statute would have unlimited referendum, something like a contractual letting, the making of a contract would be subject to a thirty day referendum. An emergency measure would not be subject to referendum. I would move the adoption of the committee amendments.

SPEAKER MARVEL: All those in favor of the motion vote aye, opposed vote no. Record the vote.

CLERK: 29 ayes, 0 nays, on adoption of the amendments, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Senator Landis, do you wish to advance the bill?

SENATOR LANDIS: I do. I would like to explain just basically what I am attempting to do with LB 807. This bill has been before the Urban Affairs Committee and reported out unanimously. It was also discussed with the Government and Military Affairs Committee over the interim and discussed with the members of that committee. There are at the present time in our statutes five different kinds of municipal initiative and referendum methods. It varies by the classification of city. It varies by the form of government such as a commission type, a city manager type, a strong mayor type. In other words, we have five methods of doing one policy. The Urban Affairs Committee, in the study this summer, agreed that this should be brought together and made one viable policy that would be applicable to all of the classifications of cities. That is what we seek to do in LB 807. Essentially then we've telescoped down into one place an easily readable format for anybody who has a question about initiative or referendum in any of the cities of the state. And by the way, each of the steps that we took were in conjunction and consultation with the League of Municipalities and you'll find in your committee statement that they approve of the bill and spoke on its behalf. I can tell you that on Select File I will be offering just a couple of clarifying amendments that the League has brought to me and that Senator Beutler has brought to me but that all parties remain essentially supportive of the bill. There are some substantive changes between what we've had in the past and we will have with this but essentially they work to make initiative and referendum clearer. We've had some difficult statutory interpretations by the Supreme Court that have essentially marred the interpretations of those two processes. One of the virtues of 807 says, initiative puts matters on the books, referendum takes things off. That is the way the textbooks will always describe these processes to you and because of Supreme Court decisions those two processes have been merged into one. We divide them again and put them back into the form they were always meant to be. We also create a requirement that is going to make things a lot simpler for people. It is possible now to get all the way through the petition process bringing your petitions in and then have them thrown out on a technicality because they don't comport with statutes. This bill now authorizes perspective petitions to be approved before they are circulated

to make sure they comply with the law. The virtue of that is that petition passers will be able to know before they begin to do the legwork that their petitions are in the appropriate form, and in the event they get the sufficient number of signatures, the question will go on the ballot. It also indicates the petitions have to be signed in the presence of a circulator, one of the provisions that is not in our law now. It is possible to have an initiative or referendum petition stuck up on a wall and the people who pass by sign their names without there being any knowledge of what is going on or the contact between the circulator and the petition signer to make sure that that person's name is accurate, that there isn't a duplication and that there is somebody who honestly says, I circulated the petition and I tell you that these people signed in my presence. Those standards are written in 807. It also indicates a maximum usage of these processes. It says the same issue when dealt with by referendum or initiative in either form or essential substance cannot be subject to repetition more than every two years. Right now in our statute you could have a referendum that put it on the ballot and the next year it could come back again and the year after that it could come back again, endlessly. There is no limit to the ability to bring about initiatives or referendums to harass local political subdivisions. This says you get one shot every two years. I would move the advancement of LB 807. I think it is a well drawn bill. We spent a lot of time in committee this summer working on the bill. The committee heard an in-depth analysis of the bill. I have a section by section analysis available if anybody has an interest in this area. I would be happy to circulate it to those of you who are interested. I move the advancement of 807.

SPEAKER MARVEL: Senator Wesely, do you wish to be recognized? You have used up a combined total of five minutes on this. You've got ten minutes to go.

SENATOR WESELY: Right. I just have a brief question, Mr. Speaker. Senator Landis, this bill doesn't deal with percentages that are required that initiate a petition in either respect, it just deals with codification?

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Yes. Percentages are set in the bill and I can look through here and find it and I'll be happy to show it to you. The percentages now, as we discovered in the Government and Military Affairs Committee, vary tremendously and this sets a standard amount for initiative and referendum and...I'm looking at an outline hoping to find that provision

so I can read it to you. If you have some comments, go ahead and make them and I'll just search for that provision.

SENATOR WESELY: Okay, I guess the only thing I was concerned about, I think the bill is fine, absolutely needed and I know because I've participated in some initiative petition drives and it is very difficult to get petitions clarified to make sure that they are accurate and I think what we want to do is make it as easy as possible for the public to take petitions to get involved in initiative and referendum. It is the public speaking and I certainly support that effort and I use that to try and get change in some different areas so I think it is a good idea. I just was wondering if the bill did change some percentages, if it would take more voters to sign a petition in order to get an initiative or referendum and those sort of things because I think the intent of the bill is to make it easier for the public to use these and I just wanted to make sure that is very clear, I guess. Did you find it? Okay.

SENATOR LANDIS: Yes. We used as a model the existing standards in Chapter 18 and it is 15% of registered voters for a general election submission, a 20% standard for special election and those are existing figures that appear in a number of the provisions on initiative and referendum. I can tell you that in home rule cities, home rule charter provisions control so that in Lincoln, Omaha and Grand Island they retain the authority that they have right now to set their own standards.

SENATOR WESELY: Would you describe the bill then overall as encouraging and making it easier to initiate a petition drive one way or the other?

SENATOR LANDIS: I would not say that it...it does in some respects. What it does is it creates a mechanism that will eliminate the technical flaws that could be later used to defeat the circulation of a petition. By allowing this perspective petition you'll know in advance before you ever begin whether or not your petition is in the appropriate form. Right now you could pass petitions, they could be badly drawn and at some later point after the signatures are collected but before the election it could be thrown out. So it does make it easier by clarifying the ground rules but it doesn't reduce the standards or the signatures standards that we need now.

SENATOR WESELY: Oh, okay. That is very helpful. Okay, on that basis I will certainly support the bill, and as I said I was involved in some petition drives here in Lincoln and a problem that Senator Landis identified with those of us

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who were amateurs at that time trying to have a petition drive, we needed some help in doing it exactly right and after all the work you go through in a petition drive to find that you didn't draft the petition properly and have it thrown out, it is just very difficult...

SPEAKER MARVEL: You have five minutes.

SENATOR WESELY: I'll finish in just one second. All I will say is that he has identified a serious problem. I know from experience that it is a problem. Obviously this would be helpful and I think we should all support LB 807.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I wish just to take a couple of minutes and I wish you would inform me before the total time elapses because it is not my desire to exhaust the time and prevent a vote. I did want to support the bill generally. I think it is a great advancement over the law that we presently have. It makes a number of very good clarifying and refining changes. I did have a couple of questions for Senator Landis if I may. The bill provides in part that the executive officer and governing body of a municipal subdivision may at any time by resolution provide for the submission to a direct vote of the electors of any measure pending before it, enacted by it or enacted by the electorates pursuant to the initiative and referendum provisions. Senator Landis, do you know if that is the power that all municipal councils and executive officers have at the present time? Can they submit any measure that they so choose to a vote of the electorate?

SENATOR LANDIS: It is my understanding that it is true that they do have that authority now.

SENATOR BEUTLER: Okay, and my second question is, do school districts have that authority? How does initiative and referendum apply to school districts and should it apply to school districts? The question comes up as you may recall because we've been dealing in 688 with the question of district elections and allowing cities to submit a question to the voters...

SPEAKER MARVEL: Senator Beutler, you have three minutes.

SENATOR BEUTLER: ...maybe you can comment briefly on how that relates.

SENATOR LANDIS: LB 807 does not apply to schools for any other political subdivisions other than cities. There are roughly fifteen to perhaps twenty forms of initiative and referendum on our statute books now. They deal with such

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LB 807, 126, 525, 375

diverse subjects as fluoride, NRDs and a wide variety of others. There is one provision for school districts and that has to do with the question of district elections or at large elections that appears in Chapter 5, Section 108, but generally speaking, I do not know of a school's power to place on the ballot educational questions for the decisions of the voting public. I do not know that there is an initiative/referendum form for schools generally other than for their form of governance.

SENATOR BEUTLER: Okay, thank you, Senator Landis. Again, I would encourage you to support the bill.

SPEAKER MARVEL: Senator Landis, are you ready to close?

SENATOR LANDIS: I will only make this offer to the body. In the event you have questions about 807, I hope that you will pass this bill along and bring them to me before Select File. I have indicated to all parties that on Select File whatever amendments are appropriate I will attach and in the event you have questions about it, I will make every effort to see that they are answered clearly by the time this comes up for Select File discussion. Thank you, and I move the bill.

SPEAKER MARVEL: The motion before the House is the advancement of LB 807 to E & R initial. All those in favor of that motion vote aye, those opposed vote no. Have you all voted? Clerk, record the vote.

CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced.

CLERK: Mr. President, if I may, I have a report of registered lobbyists for week of February 25 through March 4. (See page 1018 of the Legislative Journal.)

I have a study resolution offered by Senators Cullan and Koch. It would call for the Education Committee to conduct an interim study on the intellectual and mental capabilities and capacities of our youth. That will be referred to the Exec Board for reference. (Re: LR 241. See pages 1018-1019 of the Journal.)

Mr. President, Senator Cope asks unanimous consent to print a communication from the White House in the Legislative Journal. (See pages 1019-1020 of the Legislative Journal.)

Mr. President, LB 126, 375 and 525 are ready for your signature.

LB 577, 579, 601, 605, 642, 644, 651, 662,
677, 678, 696, 697, 718, 718, 719, 720,
728, 729, 739, 743, 764, 767, 767A, 775,
776, 778, 784, 792, 796, 807, 824, 825,
828, 839, 845, 869, 877, 890, 892, 931,
941, 951, 952, 961, 962

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SPEAKER MARVEL PRESIDING

REV. MORRIS VENDEN: Prayer offered.

SPEAKER MARVEL: If I could have your attention for a moment before we proceed. The chairmen had a meeting today and it was agreed that we would attempt to control debate as we have not done too well in the last few months and that we would try, for instance, with 652 to have the debate and the vote on advancement after one hour and that we try to have the pros and the cons of these issues so it doesn't take forever to get the point across. This time we're in a position where we either try to limit debate or many of the other issues will simply go down the drain. So the Chair would appreciate, the chairmen would appreciate your cooperation in trying to give people an opportunity on both sides and not spend all day in the discussion. Record.

CLERK: There is a quorum present, Mr. President. Yes, sir, I do have some items to read in. Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 579 and find the same correctly engrossed; 662 correctly engrossed; 677 correctly engrossed; 718 correctly engrossed; 719 correctly engrossed; 728, 729 correctly engrossed; 764 correctly engrossed and 778 correctly engrossed. (See page 1060 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 720 and recommend that same be placed on Select File with amendments; 767 Select File with amendments; 767A Select File; 807 Select File with amendments; 941 Select File; 877 Select File; 577 Select File; 792 Select File; 605 Select File; 931 Select File with amendments; 796 Select File; 845 Select File; 644 Select File; 739 Select File; 696 Select File; 828 Select File; 642 Select File; 678 Select File; 775 Select File; 776 Select File; 951 Select File; 961 Select File; 952 Select File; 784 Select File; 651 Select File; 716 Select File with amendments; 743 Select File; 601 Select File; 869 Select File with amendments; 697 Select File; 825 Select File; 892 Select File; 962 Select File with amendments; 839 Select File and 890 Select File with amendments. Those are all signed by Senator Kilgarin as Chair, Mr. President. (See pages 1057-1059 of the Legislative Journal.)

Mr. President, I have a motion from Senator Labeledz to place LB 824 on General File pursuant to Rule 3, Section 18(b). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Okay, we go to item #4 and we're talking about LB 924 and I would caution you to do your best to get

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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

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closing. No one else, so all in favor of the Hoagland amendment to LB 720 vote aye, opposed nay. You are voting on the Hoagland amendment to LB 720. Have you all voted? Record the vote.

CLERK: 25 ayes, 0 nays, on adoption of Senator Hoagland's amendment, Mr. President.

PRESIDENT: Motion carries. Senator Hoagland's amendment is adopted. Any further amendments to LB 720?

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

PRESIDENT: Senator Kilgarin, do you wish to move the bill?

SENATOR KILGARIN: I move we advance LB 720.

PRESIDENT: Motion is to advance LB 720 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. LB 720 is advanced to E & R for Engrossment. The next one I have on my list is LB 807, Mr. Clerk. Is that right?

CLERK: Yes, sir.

PRESIDENT: 807.

CLERK: Mr. President, there are E & R amendments to 807.

PRESIDENT: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 807.

PRESIDENT: Motion is to adopt the E & R amendments on LB 807. Any discussion? All those in favor of adopting the E & R amendments on LB 807 signify by saying aye. Opposed nay. The E & R amendments are adopted. Any other motions, Mr. Clerk, or any amendments?

CLERK: Mr. President, I have an amendment from Senator Landis to the bill that I understand he wishes to withdraw.

PRESIDENT: Senator Landis, what do you wish to do with the amendment?

SENATOR LANDIS: The first of the ones...the one that was published in the Journal I would like to withdraw.

PRESIDENT: All right, Senator Landis withdraws the first

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of the amendments which was published in the Journal. It is withdrawn, Senator Landis. The next one then, Mr. Clerk.

CLERK: Mr. President, the next amendment I have is from Senator Landis and Senator Beutler to the bill.

PRESIDENT: Are you handling it, Senator Landis?

SENATOR LANDIS: I am, Mr. Speaker.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Members, this is the short sheet that has just been placed on your desk. As a matter of fact, we are going to have to take a look at three of these. I am sorry for their late arrival but in fact this bill has required just a little tinkering between General File and Select File. Senator Beutler turned around on General File discussion and said to me, well, gosh in the limited referendum situation when you have got 30 days you don't have any requirements for the Clerk to give you back your prospective petition. I pointed out that we did have a penalty at the end of the law indicating that a Clerk who willfully did not respond in a reasonable time was subject to a penalty, but in discussing it the two of us agreed that we should place the Clerk under an obligation to return those prospective petitions with their decision in a reasonable time. Remember, in limited referendums under current law which we maintain, you have to get those petitions circulated and signed within 30 days of the measure. So the Clerk's role here has to be done quickly. The language is clear in this amendment. You give the Clerk a prospective petition. They have 3 working days to make a decision as to whether or not it is statutorily correct, and they have to give it back to you or they have to authorize it. In the event it is not satisfactory, you have to rework it and give it to them a second time, they have only two working days to make the decision as to whether or not it is authorized. I would move the adoption of the amendment but first let me ask Senator Beutler a question.

PRESIDENT: Senator Beutler.

SENATOR LANDIS: Do these provisions meet the need that you indicated to me for a speedy return or action by the Clerk in the face of a prospective petition?

SENATOR BEUTLER: Yes, Senator Landis, in fact they do better

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than the vague notion that I expressed to you. Very well done.

SENATOR LANDIS: Thank you. With that I would move the adoption of the amendment.

PRESIDENT: Okay, anything further on the Landis-Beutler amendment? Seeing none, Senator Landis, I guess that is your opening and closing. All those in favor of the Landis-Beutler amendment to LB 807 signify by saying aye. Machine vote. All those in favor vote aye, opposed nay. This is on the Landis-Beutler amendment to LB 807. Have you all voted? Have you all voted? Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of the Landis-Beutler amendment.

PRESIDENT: Motion carries, the Landis-Beutler amendment is adopted. The next amendment, Mr. Clerk.

CLERK: Mr. President, the next amendment I have is Request 2796. It is offered by Senators Landis and Pirsch.

PRESIDENT: Before we recognize you, Senator Landis, I would like to introduce some visitors from Senator Apking's District, 41 students from Geneva, from four grades there with Mrs. Bob Higel and Miss Grace Kotas, teachers. They are up in the north balcony. Would you let us know where you are up there? Welcome to your Unicameral Legislature. Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, this amendment was brought to me by the City of Omaha and, in fact, is contained in a bill that Senator Pirsch carried before the Government Committee. The Government Committee heard the bill, reported it out but it languishes very low on the list and, in fact, touches on the sections of this bill. I also asked the City of Omaha to contact the members of the Urban Affairs Committee since this is a committee priority bill, as to whether or not this amendment will be acceptable to them to carry onto the committee bill on an issue of referendum. My understanding is that the committee has agreed to the amendment. There is a cover note on the front to tell you what the language does. It indicates that the statutory rule which we now have for one percent filing fees will not apply in the case of home rule charters. Both Lincoln and Omaha have home rule charters. They also have mechanisms for petitions and filing fees that they have determined on a local level to be appropriate for the offices of mayor and city council. They would like

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to be able to retain those and this amendments allows them to do that. All I can tell you is that the Government Committee has agreed with that proposition and the Urban Affairs Committee has been polled by the City of Omaha and apparently has agreed to it. And I would like to ask Senator Pirsch who cosponsors the amendment if she would yield to a question.

PRESIDENT: The Chair recognizes Senator Pirsch.

SENATOR LANDIS: Senator Pirsch, the amendment which we have advanced, does this satisfy your intent that you had with LB 701 and is the language of the amendment properly drawn to effect that legislative desire?

SENATOR PIRSCH: Yes. Thank you, Senator Landis, I did have my light on to speak but I will take this opportunity to thank the committee for enabling this legislation to get through this session. It will have an effect because there will be city elections coming up and there will be filing that will be needed to be done. And it was only in bringing forth Omaha's problem that we discovered that there were other problems with primary...cities of the primary class and of first class cities. So I appreciate the fact that we can amend this priority bill of the committee and send this on its way so it will be in place and there will be no question on the amount of filing fees for candidates within the various cities. Thank you.

SENATOR LANDIS: Thank you, Senator Pirsch. I would move the adoption of the amendment.

PRESIDENT: I guess that is....any further discussion on the Landis-Pirsch....seeing none, I guess that is the closing. All those in favor of the adoption of the Landis-Pirsch amendment to LB 807 vote aye, opposed nay. Have you all voted? Landis-Pirsch amendment to LB 807. Record the vote.

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

PRESIDENT: Motion carries. The Landis-Pirsch amendment is adopted. The next amendment, Mr. Clerk.

CLERK: Mr. President, the next amendment I have is from Senator Landis to the bill.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, you will find a copy of this

amendment and it is relatively lengthy and it appears on one piece of paper with my initials on the upper lefthand corner, and this apparently is the result of the crush of legislation at the end of the session. I want to thank the body for their attention today and this is the last time I will ask on this measure. It is the final amendment that I ask for. It is language worked out with bond counsels and with the League of Municipalities with respect to the applicability of limited referendum. Referendum, as you know, is that mechanism that takes things off the books. It is the way that the citizens who object to a recently passed ordinance can counteract that ordinance. One of the difficulties that the cities have is if you pass something like a contract or a promise to build a particular facility, oftentimes there are subsequent actions that take place, the letting of certain contracts, the paying of certain fees, the reallocation of money at the next budget term in the event it runs over two or three years. Now if each one of those acts is subject to referendum, you can bring to a grinding halt a project two years after it has been begun. The League of Municipalities has brought this language to me to further refine when limited referendum applies. Now it is not easy to read this language, I know that and I am sorry for that. Let me explain to you as best I can what it does. Right now the statutes say, once you have approved the first piece of the puzzle, thereafter you can never have a referendum. And it just is a blanket kind of thing, and I have asked that they draw that as narrowly as possible, as specifically as possible. If we are going to bring that right of limited referendum to an end, we should bring it to an end in only those circumstances where we are really going to be prejudicing the city and tying their hands. I asked them to go back to the drawing board rather than a simple prohibition that says once you begin any project in any form, that is the end of it, that is the last time you can referendum it. So they have come back with this language written by a bond counsel in Omaha, the Kutak, Rock, Huie firm, Dick Peterson, and it indicates that you have limited referendum rights unless there is an ordinance of necessity. An ordinance of necessity is where you have a petition by the people who ask for a paving district, sewers in their area, or the like. Once they have reacted on the basis of that petition from the public and they pass this ordinance creating a paving district, then the paving contract which might be let six months down the line is not subject to referendum. So after the ordinance by necessity has been passed, limited referendum comes to an end. Secondly, limited referendum comes to an end when you have a project for the improvement or enlargement of public ways, public property, utility systems or other capital projects, when the municipality

publishes a notice that lays out the engineer's estimate, the costs, the plans of the project and tells the public that this is where their right to limited referendum can be used. In other words they say to the public, you have got 30 days. If you don't like this ordinance, this is where the 30 days begins and that notice will be published in the paper. In the event at the conclusion of that publication, the conclusion of the discussion of that ordinance and its past and then the running of 30 days, projects that have met that test cannot subsequently be attacked. The principal came to us from Hastings where they used some federal monies. They brought in this project which was not being funded by city monies but they approved of the project. They wanted to utilize the monies but the creating ordinance was practically two years into the project. They had it on the books. Everybody knew it was there. They had given some tantamount approval prior to that time, but the last piece of the puzzle was the city acceptance. Well, in the event limited referendum was available at that moment, all of these plans, all of the works of the engineers, all of the federal funds that have been utilized, all of the contracts that had been let in contemplation of the creation of this project would have been countermanded and that is why this language is here. I would move the adoption of the language. I also would indicate that this won't be coming up for Final Reading for another week or ten days. If you have questions, you can take it to your own cities. I can only say this language is brought to us by the League of Municipalities. They continue to review it and if there are problems, I will make restitution on Final Reading. I hope not to have to bring it back from Final Reading. That is why I ask you today to pass this amendment. Thank you.

PRESIDENT: Any further discussion on the Landis amendment to LB 807? If not, Senator Landis, again that is the opening and close. All those in favor of the Landis amendment vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 26 ayes, 0 nays on adoption of Senator Landis' amendment, Mr. President.

PRESIDENT: The motion carries. The Landis amendment is adopted. Any further amendments on LB 807, Mr. Clerk?

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

PRESIDENT: All right, Senator Landis, anything further on the bill? Senator Kilgarin, are you there, or, Senator Landis, why don't you just move....here comes Senator Kilgarin. Senator Kilgarin, do you want to move the bill?

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LB 215, 410, 417, 493, 577,
584, 538, 643, 689, 791, 837,
807, 900, 815

SENATOR KILGARIN: I move we advance LB 807.

PRESIDENT: Motion to advance LB 807 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. The motion carries and LB 807 is advanced to E & R for Engrossment. The Clerk will read some matters into the record.

CLERK: Mr. President, I have a reference report referring LB 971 to Appropriations. I have notice of hearing for LB 971 by the Appropriations Committee.

Your Committee on Miscellaneous Subjects reports LB 493 indefinitely postponed; 584, 638, 643, 689, 791, 815, 837, and 900 all indefinitely postponed.

Mr. President, LBs 215, 410 and 417 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 417, LB 410 and LB 215. Ready, Mr. Clerk, then for LB 577.

CLERK: Mr. President, I have no E & R amendments to LB 577. I do have a motion to indefinitely postpone the bill. That is offered by Senator Wesely. That would also lay the bill over unless Senator Beutler or Koch agree to take it up at this time.

PRESIDENT: Senator Koch or Beutler, do you have any reaction to the motion....there is a motion to indefinitely postpone, what do you wish to do? Senator Koch, did you... what do you wish to do?

SENATOR KOCH: Mr. President, I will leave that to the high and profound ethics of my good friend, Senator Wesely. First of all, I did not like the motion in the first place, but obviously Senator Wesely thinks it is important that we discuss it some more, so why don't we discuss it today.

PRESIDENT: Okay, we will let it go then, Senator Koch, is that all right? Let's debate it today then.

SENATOR KOCH: What's my prerogative here?

PRESIDENT: Senator Wesely.

SENATOR KOCH: I would prefer to take it up today.

PRESIDENT: All right. Senator Wesely, he would just as soon take it up right now.

March 18, 1982

LB 458, 756, 761, 807, 933, 942
LB 816A, 966, 970, 971,

A bill to hold this thing up. Thank you.

SENATOR CLARK: Senator Beutler. The question has been called for. Do I see five hands? All those that wish to cease debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 27 ayes, 2 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Carsten.

SENATOR CARSTEN: My only comment is to renew my motion to advance 816A and to Senator Kahle, as a member of the Revenue Committee, if you've got any suggestions or help to make it better or to make the whole thing better, you know that you are perfectly welcome and we welcome you with open arms to give those suggestions to us. You've been aware of that all session and I renew again to you, that pledge to work with you if you've got the answers. Thank you.

SENATOR CLARK: The question before the House is the advancement of 816A. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: 25 ayes, 15 nays on advancement of the A bill, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Nichol. Oh, do you have anything to read in? Go ahead.

CLERK: Very quickly, Mr. President, Miscellaneous Subjects still would like to meet underneath the North balcony.

An announcement from Senator Lamb of moving LB 458 from pass-over to General File.

Your committee on Appropriations whose chairman is Senator Warner reports LB 756 advance to General File with committee amendments attached; 942 General File with committee amendment attached; 933 General File with committee amendments attached; 761 General File with committee amendments attached; 966 General File with committee amendments attached; 971 indefinitely postponed; 970 advance to General File. (See pages 1271-1274 of the Legislative Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 807 and find the same correctly engrossed.

March 30, 1982

LB 807

PRESIDENT: Read the motion.

CLERK: Mr. President, Senator Landis would move to return LB 807 to Select File for a specific amendment. I believe copies have been distributed to the membership.

PRESIDENT: Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature you will find on your desks a short amendment to LB 807. Frankly, in the Select File amendment that went on with respect to the safe harbor provision on initiatives and referendums, the referendums that are limited to the 30 day application after the passage of an ordinance we did not declare what kind of notice had to be given. We said notice had to be given but there was no provision in the rest of the bill to cover what kind of notice we were talking about. That notice is outlined on lines 7 through 11 of the amendment. The other language of the amendment makes it clear that the need to utilize or the choice to utilize the limited referendum approach, which is triggered by this notice is optional on the city. And, additionally the limited referendum right, the thirty-day right to petition an ordinance off the books runs at the date of notice of the action rather than the action itself. In small towns it is entirely possible that the notice which would be published pursuant to this provision could be as late as ten or fifteen days following the action by the board. If you applied the 30 day rule that would give only 15 days left for petitioners to use the right of limited referendum. We move then the date from the action of the board to the notice of the action of the board which is published as that which would trigger the 30 day limited referendum right. The language is brought to us by a bond council on behalf of the League of Municipalities. It is consistent with the act and amounts to a technical amendment. I move its adoption.

PRESIDENT: Senator Schmit, did you wish to speak to this? Senator DeCamp, Senator DeCamp, I don't believe you wished to speak either did you? Any further discussion then on the Landis motion to return? Senator Landis I guess that is it, so the motion before the House is the return of LB 807 for the specific Landis amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 36 ayes, 0 nays on the motion to return the bill, Mr. President.

March 30, 1982

LB 807, 428

PRESIDENT: Motion carries. LB 807 is returned. Senator Landis, do you wish to move the adoption . . .

SENATOR LANDIS: I move the adoption of the amendment.

PRESIDENT: Senator Landis moves to adopt the amendment to LB 807. Is there any further discussion? Senator Landis, is there anything further? Motion then is the adoption of the Landis amendment to LB 807. All those in favor vote aye opposed nay. Record the vote.

CLERK: 34 ayes, 0 nays Mr. President on the adoption of the Landis amendment.

PRESIDENT: Motion carries, the Landis amendment is adopted. Senator Landis do you want to just move . . . Senator Landis moves to advance LB 807 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. LB 807 is advanced to E & R for Engrossment. Next bill then will be LB 428 Mr. Clerk.

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

PRESIDENT: Read the motion.

CLERK: Senator Vard Johnson moves to return LB 428 to Select File for specific amendment. That amendment would be as following: (Read Johnson amendment).

PRESIDENT: Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: (mike not activated) . . . amendment is a fairly straight forward amendment. This is one of the few substantive amendments to actually come up this morning. What this amendment does is it says this, in every guardianship proceeding initiated on behalf or for an incapacitated person, if that person does not have an attorney to represent him, then the court shall appoint a lawyer to represent the incapacitated person. Now 428 has had a fairly lengthy history in this body. LB 428 began not in the 1981 session but in the 1980 session with another bill, a limited guardianship bill and this bill has been thrashed about by the Nebraska Bar Association by county judges and by persons that deal with retarded individuals. It has been worked through very, very carefully. When it came up for Final Reading a week or so ago, on the morning of Final Reading Senator Beutler offered an amendment to make some changes to 428. One of the changes to 428 was to remove the mandatory

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LB 761, 790, 817, 852, 869
875, 892, 751, 766, 807,
573, 633, 668, 739,

SENATOR CLARK: The motion carried. Yes, Senator Warner.

SENATOR WARNER: Well, I was wondering if it was too late to change a vote.

SENATOR CLARK: Yes, it is now. He has announced the vote.

SENATOR WARNER: I was just going to vote no for purposes of reconsideration.

SENATOR CLARK: You did vote no, I think.

SENATOR WARNER: I mean yes so I could move.

CLERK: Mr. President, while we are waiting your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 807 and find the same correctly engrossed.

Mr. President, the bills read on Final Reading yesterday are now ready for your signature.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LBs 573, 633, 668, 739, 751, 766, 790, 817, 852, 869, 875 and 892. Did I hear somebody raise the Call? The motion is to raise the Call. The Call is raised.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Mr. Clerk.

CLERK: Mr. President, I have a motion. Senator Wesely would move to reconsider the vote just taken on adoption of Senator Koch's amendment.

SENATOR NICHOL: Senator Wesely.

SENATOR WESELY: Thank you, Mr. President. I would like to yield my time to Senator Warner. He didn't get much of a chance to discuss the situation with that amendment. Although I support the concept, I understand there is an alternative perhaps we ought to take a look at, and so I am asking you to reconsider that vote and I will yield the rest of my time to Senator Warner, please.

SENATOR WARNER: Thank you, Senator Wesely. Mr. President and members of the Legislature, if the body wishes to increase

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LB 787, 591, 807, 909

juvenile code. Thank you. I move for the advancement of the bill.

SENATOR LAMB: The motion is to advance LB 787. Those in support say aye, those opposed no. The bill is advanced. LB 591.

CLERK: Mr. President, right before we get to that, Senator Hefner would like to print amendments to LB 807 in the Journal and your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 909 and find the same correctly engrossed. (See pages 1789-1791 of the Legislative Journal.)

Mr. President, LB 591, there are E & R on the bill, Mr. President.

SENATOR LAMB: Senator Kilgarin.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 591.

SENATOR LAMB: Those in favor of adopting the E & R amendments say aye, those opposed no. They are adopted.

CLERK: Mr. President, Senator Goodrich would move to amend the bill. Senator Goodrich would like to withdraw, Mr. President. Mr. President, the next amendment I have to the bill is offered by Senator Goodrich. You had a second amendment? Okay, Senator. That will be withdrawn, Mr. President. Mr. President, the next amendment I have is from Senator Chambers. It is on page 1363 of the Journal, Mr. President.

SENATOR LAMB: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I would like to ask the Clerk, is that the one exempting caskets and vaults from the sales tax?

CLERK: It exempts...

SENATOR CHAMBERS: If that is the one it is I would like to withdraw that one.

CLERK: Yes, okay.

SENATOR CHAMBERS: I would like to withdraw that one. I ask unanimous consent.

SENATOR LAMB: The amendment is withdrawn.

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LB 754, 807

CLERK: Senator Clark voting aye.

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

CLERK: (Record vote read. See page 1811, Legislative Journal.) The vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SENATOR CLARK: 754E is declared passed with the emergency clause. The next bill is LB 807.

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

SENATOR CLARK: Read the motion.

CLERK: First of all, Senator, I understand that you would like to withdraw that amendment we had printed in the Journal. We have to do that technically. Mr. President, Senator Hefner would move to return LB 807 to Select File for specific amendment and the amendment is essentially the one found on page 1789 of the Journal with one correction.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I move to return LB 807 to offer an amendment and, of course, this amendment that I am offering is a little bit different than was printed in the Journal. On page 4, line 25, we are removing the words "and in line 23 after the period insert 'A copy of such statement shall be handed to each prospective signer.'" We meant to leave this out when we had the amendment drawn yesterday but somehow it got in there. But this amendment that I am offering to LB 807 incorporates the two noncontroversial sections of LB 647 into LB 807 and deals with the initiative process. I appreciate very much Senator Landis' cooperation in agreeing not to object to my amendment. He is the introducer of LB 807. I also worked with my neighbor here, Senator Vard Johnson, in an attempt to reach a compromise, and as you recall, the controversial portions of LB 647 was the prohibition against circulating petitions by nonresidents of a county and I think Senator Vickers was opposing that section, too. We have removed this section. This portion is not included in my amendment in LB 807. My amendment to LB 807 merely does the following two things: It requires that the county clerk be provided an explanation of the petition, and I passed out some handouts and you will notice that we x-ed out "and that the same be given to a prospective signer". They will not have to give a prospective signer an explanation

of the petition. And number two, it prohibits the reimbursement of expenses to circulators. The above two amendments will assure that petition signers are aware of the contents of a petition and will eliminate an indirect method for paid circulators. I think we debated this fifteen minutes on March 10th and at that time I offered an amendment and it was approved by the body that the penalty section would be out of this. I think Senator Chambers had objected to this during the committee hearing and so we have taken that out. And so I would urge you to return this bill to Select File so that we can get this amendment on. LB 647 is a ways down and I am concerned that it will not get up this section and I would sure like to get these particular...these two sections added to 807.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Thanks. I think if Senator Hefner is going to do this he should ask to suspend the rules like Senator Johnson and Senator Labeledz did last night. This is not germane to this bill in my opinion. Senator Landis' bill deals with initiative and referendum provisions for political subdivisions. Senator Hefner's bill would go in and change existing statutes that apply to state level. Of course, Senator Landis' bill doesn't deal with any particular chapter because it is all new law so we really can't talk about whether it is...can't really argue the chapter issue, although because it deals with political subdivisions, I don't think it would go into the same chapter that the current state initiative provisions are contained in. But in any event, I don't think it is germane and I think if he wants to do this he should try to suspend the rules like everybody else has been doing the last few days and I would ask the Chair to rule on this germaneness issue if Senator Hefner is not willing to try to suspend the rules.

SENATOR CLARK: Senator Landis, this is your bill. Do you want to speak on the germaneness?

SENATOR LANDIS: Well, what I think is true is that this would meet the constitutional standard of one subject, the subject being initiative rules. Senator Hoagland is accurate in that the language that we are replacing is currently appearing in the municipal sections of the law and they appear generally in places other than the state initiative. So you wouldn't find those two...the articles that now cover municipal initiative and referendum are not the same articles that cover state initiative and referendum but the subject matter, as far as initiative, I think probably meets the constitutional standard of one subject.

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I would be amenable to voting to suspend the rules myself, personally, and would vote in favor of that motion in the event Senator Hefner wanted to try that. I think it is accurate to say that the municipal initiative sections appear in different articles than the state initiative and referendum. One reason, the Constitution outlines the existence of the state authority. The municipal authority is strictly a creation of the Legislature and they do appear in different sections of the statutes.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I believe it is germane to LB 807 and the reason that I feel this way, I believe it takes up about the same subject matter. I think we are dealing with the same subject and I am hopeful that the Chair will rule that it is germane.

SENATOR CLARK: In the first place to be consistent, it is somewhere in the same chapter but you are dealing with state, he is dealing with municipal, and I am going to rule it not germane because I think you probably have the 30 votes to suspend the rule anyway so I will rule it not germane. Senator Hefner.

SENATOR HEFNER: I move to challenge the Chair on this decision. I withdraw that motion, Mr. Chairman, and I would move to suspend the rule, what rule is that, Pat?

CLERK: Rule 7, Section 3(d) and Rule 1, Section 12.

SENATOR HEFNER: To suspend the rules and go ahead.

SENATOR CLARK: All right, the question before the House is the suspension of the rules to put this into the bill anyway whether it is germane or not. All those in favor will vote aye, all those opposed will vote nay and Senator Fowler would like to talk first.

SENATOR FOWLER: Mr. President, as suspension of the rules have been brought up, standard, informal standard and burden of proof on the person asking for the suspension has been the existence of an emergency for that legislation and who can forget that impressive performance last night as Vard Johnson talked about the dire straits of the City of Omaha as bingo was being pushed out of the way by strange foreign games from England and that an emergency was facing Omaha, and I just think that for the standard for today that the same thing should exist. And the question that I would ask that I think we should all ask before we

suspend the rules on this, studded snow tires might come up on another thing, something else may show up on another thing, suddenly we will be suspending lots of rules unless we decide in this body what the standard is, and it is nice to extend the courtesy but certainly all of us have bills that we would like to move ahead and that courtesy could get to be burdensome today. So I think that we ought to ask, is there an emergency right now? Are there dangerous or subversive petitions being circulated between now and the next election or is in fact this something that could wait until the next legislative session? And so I would hope that Senator Hefner in making his case would try and establish, I know he never could match the performance of Senator Johnson last night, that certainly could get an Academy Award for best dramatic interpretation of a crisis, but I think that Senator Hefner certainly should try and indicate not just that this bill won't come up but also that it is absolutely imperative to the State of Nebraska that it does come up this session and that it could not wait until the next cycle of elections and be acted on the next legislative session. So I would ask that Senator Hefner provide that argument.

SENATOR CLARK: Senator Fowler, anyone has the right to ask for suspension of the rules. Is there anyone else that wants to talk on suspension of the rule? Senator Marsh.

SENATOR MARSH: Simply to say that this is a bill that is on priority and it happens to be behind some of the others. Those of us who have bills ahead of his bill are not very happy with the time being eaten up asking to do this. I am one who cannot vote for it.

SENATOR CLARK: Senator Wesely, did you want to talk on the suspension of the rules?

SENATOR WESELY: Mr. President, members of the Legislature, I think Senator Fowler stated it very well that this did come up before in the form of LB 647 and we had quite a discussion. The discussion was what is the need, where is the documentation of a problem that would call for the changes, and I think that the reason that the bill didn't come up and get advanced at that time is we weren't sure that it was all that important and that the problem was all that serious. Then here today we have this effort to try and suspend the rules and bring it up and I think maybe there is some good concepts embodied but there wasn't much support for it as I recall in the discussion we had last time. So again, I think Senator Fowler was right, and if you are going to suspend the rules, let's only do

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it for something very important that has a basis of a need that is clear and not just something just because somebody wants to pass a certain piece of legislation that sounds good but we are not certain is needed. So I would reject the effort to suspend the rules and let's move on with some of the other legislation pending.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President, briefly just let me state that I know that Senator Hefner's proposal as currently written is not as damaging to the statewide initiative and referendum process as it originally was. It is not as objectionable as it used to be but still in my view it is objectionable. Even to the extent it has been scaled down, it is going to make it that much harder for people to exercise their constitutional right to put initiative proposals on the ballot or to attempt to repeal through the referendum procedure laws the Legislature has passed. So I know that if we get into discussing this thing on the merits, we are going to take up some time because I have some problems with what he is trying to do and I think that is going to mean that other bills that are further ahead of it on the calendar are probably not going to get heard. So I just want to let the body know that that I think we are going to have a scrap over this issue if we are going to try and deal with it today, and as others have indicated, since it is not truly of an emergency nature, I don't think we should punish those sponsors of other bills that are on the agenda today by eating up time on this one to try to leapfrog this one up over the others. So I would hope you would vote against suspending the rules because I don't think there is a genuine showing of need in this case.

SENATOR CLARK: All those in favor of suspending the rules will vote aye, opposed will vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on the suspension of the rules? Senator Hefner, I am going to call the vote.

SENATOR HEFNER: Mr. Chairman, I would ask for a Call of the House.

SENATOR CLARK: We are supposed to be under Call. We are on Final Reading. Do you want a roll call vote?

SENATOR HEFNER: Okay, why don't we check in and see if they are all here.

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SENATOR CLARK: We will all check in and then we will have a roll call vote. Will all Senators please check in? Senator Hefner, would you like to check in? Senator Sieck. Senator Nichol, would you check in please? We are all supposed to be in our seats. Senator Haberman, we are supposed to be in our seats please. Senator Dworak. All right, the Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1814, Legislative Journal.) 29 ayes...Senator Sieck changing from no to yes. 30 ayes, 15 nays, Mr. President.

SENATOR CLARK: Motion carried. Rules are suspended. Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I now move to return LB 807 to Select File for a specific amendment. I explained that amendment to you just a little while ago. If you have any questions, I would be real happy to answer them for you.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Thank you very much, Mr. Chairman and members of the Legislature. There were 30 people who chose to suspend the rules. I was not one of them. I am still not one who will vote to adopt this for this is not a fair way to play the game of being in the Legislature and I resent this being done when we are on Final Reading with three days remaining in this legislative session. I am sorry that there are not enough who feel as I do but I would remind the people of Nebraska that this is not the best way to have legislation and that there are some of us who do not bend simply because someone else wants it done.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am glad to see that some of my sanctimonious colleagues who were so upset when I used the rules are willing to use them in any kind of fashion to accomplish the very things they condemned all session. I am shocked that the conservatives would use this radical tactic. That having been said, I have got something to say about the amendment. Not all the conservatives, Senator Lamb, those who voted for this know who they are. I don't know whether you were one of them or not. I didn't keep tabs like that but here is what I want to ask Senator Hefner. Senator Hefner, would you yield to a question or two about your amendment? I want to talk specifically about that.

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SENATOR HEFNER: Certainly, Senator Chambers.

SENATOR CHAMBERS: Have you ever had campaign workers assist you in your campaigns?

SENATOR HEFNER: Yes, I have.

SENATOR CHAMBERS: Did you ever pay any of them?

SENATOR HEFNER: Not to my knowledge.

SENATOR CHAMBERS: Do you think it would be or should be illegal to pay campaign workers?

SENATOR HEFNER: Yes, I think it is illegal to pay them.

SENATOR CHAMBERS: Do you think it should be illegal to reimburse them for their expenses?

SENATOR HEFNER: I believe I would have to say "yes".

SENATOR CHAMBERS: Thank you.

SENATOR HEFNER: Senator Chambers, what kind of a grade did I get on my quiz the other night? Did I get a gold star?

SENATOR CHAMBERS: Senator Hefner, you don't want to know that but I will talk about that in private with you like teachers always do with their students who don't quite cut the mustard. But, members of the Legislature, when we are talking about these petitions, they are political in nature and I believe there are certain things that have to be done with reference to accountability of, you know, the Political Accountability Commission when you circulate these petitions dealing with various issues. So to try to indicate that the expenses of people who circulate petitions ought not be reimbursed I think is ridiculous. There is not that kind of purity in the political process in Nebraska or anywhere else. Purely and simply this is an amendment which is desired by the people who did not like the fact that a petition drive was launched to put the bottle bond issue on the ballot. That is all that it is. Again I hear the sanctimonious conservatives trotting around here talking about the state ought to have the power to do this, the state ought to do that, and you are scared to death of outside agitators. Now here come a bunch of outside agitators dictating to you as to how the law relative to initiatives ought to read in Nebraska. You were saying that people whose

expenses and salary are paid to come to Nebraska and lobby a bill are going to get you to hitch yourself to their wagon to be hit on the haunches by their whip and you trot in lockstep to deny to the citizens of Nebraska the very thing they are getting. Senator Hefner knows that the people who brought this amendment were paid to come here, not just expenses, they were given a salary. Now it seems stupid to me to establish a principle for your citizens which you are not going to require of those outsiders who come here and try to get you to restrict your citizens. Stupid is the wrong word. It is worse than that. Stupidity is based on lack of knowledge and understanding. This is not an issue where there is a lack of knowledge and understanding. There is a total and complete understanding and that is what makes it so pernicious, that is what makes it so wrong. Why should every citizen in this state who should want to circulate a petition or every group who may not have the means to personally do all these things be denied the opportunity to reimburse the expenses of people who are going to cooperate. If I have a child go to the store and do something for me, I give the child some money. I don't ask people to volunteer and do everything they do for me. I am sure that if Senator Hefner bought a political ad, he would pay money for that. We spend money for political activities. The only time we want to put the restriction is when it comes to the rights of the people themselves. Then we will hear all this hypocritical talk about my constituents this, my constituents that. There is no concern about constituents. They are a handy excuse and shield to hide cowardice behind. When we are politically afraid to take a position, we give that whinnying statement, "m-y-y-y constituents", and we don't care two cents worth about them. So one of the two rights, one of the two which is guaranteed by the Constitution of this state and is self-executing is to be restricted by this Legislature not to benefit the constituents but to benefit a well-heeled, well-financed business organization headquartered in Denver whose stated goal is to make it as difficult as possible for citizens to launch petition initiatives. I think it is reprehensible.

SENATOR CLARK: You have about twenty-five seconds left.

SENATOR CHAMBERS: I think it is wrong and I am shocked really that Senator Landis would let this thing be attached to his well-thought out, highly-refined bill. If the amendment is added, there is no way I will vote for the bill and I am sure that that won't make any difference because by the time one of these pernicious issues reaches this level the chips have been called in, debts are being

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paid, the votes have been assured but at least I will state my moral opposition by casting a no vote to it.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I had my light on to speak to the suspension but I didn't get that opportunity so I think it is important that we have a little better understanding at least of what Senator Hefner is attempting to do here. Senator Hefner, I would like...I don't quite understand a couple portions of your amendment. I wonder if you might be able to assist me by responding to a couple of questions. As I understand it, your amendment prevents an individual to be paid who is circulating a petition, is that correct?

SENATOR HEFNER: Would you repeat that question again?

SENATOR CULLAN: Your amendment prevents an individual from being compensated or being paid when they are circulating a petition, is that correct?

SENATOR HEFNER: That is correct.

SENATOR CULLAN: Would that mean that an individual who is on salary could not circulate a petition?

SENATOR HEFNER: This is probably true and he wouldn't receive reimbursement for his expenses.

SENATOR CULLAN: Would that mean that an individual, for example, for example, let's talk about multibank holding company bill. Let's assume for a second that the Governor had not vetoed the multibank holding company bill and the bankers decided that they wanted to do a statewide initiative. Then no member of a bank that wanted to work against multibank holding companies who is being paid could either receive compensation for his...couldn't receive his salary, couldn't work while he was being paid, and couldn't receive expenses in his effort. So he would have to do this off hours or he would have to do it with absolutely no compensation for his expenses.

SENATOR HEFNER: I believe this is correct, Senator Cullan. I would want to check into it a little bit further.

SENATOR CULLAN: Okay, I thank you very much, Mr. President and legislators, and I think some of you ought to listen to this. I know a lot of you in here oppose multibank holding companies very strongly and all of you know that there is

a very strong likelihood that there would have been a referendum to repeal that bill if it had been put into statute. So what Senator Hefner is saying here today is that if a banker or someone who worked for a bank wanted to go out and give a speech to the Lions Club somewhere couldn't do that; if he wanted to circulate a petition, if he wanted to get involved in this referendum process, couldn't do it. Now I don't think that is good public policy. I think if a lobbyist who is working against an issue, wants to get involved in a referendum, sobeit. What we are really doing by passing, in my opinion, this tight a restriction on the initiative and referendum process is making it impossible to repeal the acts of the Legislature and I guess I think we do a good job down here but I don't think we are always a hundred percent correct, and once in awhile we might even make a mistake, and maybe the people ought to have the chance to correct our mistakes, and so I think not concerning the fairness of this issue and priority and not considering the bottle bill and any of those things, I think just from a clear, logical perspective, we are placing very unreasonable restraints and restrictions on the initiative and referendum process. That is not good in a democratic process. It is not good when we have a Unicameral Legislature that rushes things, that has hundreds of bills and pressure and pressure to pass paddelfish bills and other things in the last couple of days of the session and move things along and move quickly. So I don't think that is good. I think that referendums are important. I think initiatives are important and I think it is very unwise of us, very, very unwise of us to restrict the initiative and referendum process anymore than it is already restricted. So I am going to vote against these amendments, and if they are adopted, I am going to have to vote against LB 807 which is a bill that I otherwise would support. So I would urge those of you who are concerned about LB 807, and more importantly those of you who are concerned about the democratic process to vote against these amendments, and if they are successful to vote against the bill.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President, colleagues, I just want to echo the sentiments that have been expressed by Senator Cullan and Senator Chambers and others. You know I think we are really applying a double standard here. I know in response to Senator Chambers questions, why Senator Hefner indicated either that he thought it was illegal or it ought to be illegal for campaigns to hire people or campaigns to reimburse people for their expenses. Now, of course, it is not illegal under current law to either

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hire people or reimburse people for their expenses. On April 12, of course, all the disclosure statements are due for everyone running for state office, Governor, Legislature, and other offices, and we are going to find out then how many people have hired staff on their campaigns or how many people are reimbursing expenses. Now I am not involved in Governor Thone's reelection campaign but I will be willing to wager that there are one or two hired people that are working for him and I will be willing to wager that there is some expenses being reimbursed. You know when the Congressman in Omaha, Hal Daub, ran for office two years ago, he had three or four people working that were salaried people. He gave bonuses to four or five other people after the campaign was over. A lot of people were getting reimbursement for expenses in political campaigns at the legislative race, Congressional race, gubernatorial race, and it ought to be the case. As long as those things are disclosed, there is nothing wrong with reimbursing people or paying people to work on campaigns. We have been doing it for a hundred years in Nebraska and for two hundred years in the United States. Now what Senator Hefner's amendment does is it applies a double standard. It says, well, we can reimburse campaign volunteers in our campaigns, but if somebody is circulating an initiative or referendum petition, why it is suddenly illegal to reimburse for expenses. Now it is already illegal in Nebraska law to pay people to circulate petitions. I think that is wrong. There is also a provision in Nebraska law, and I have an amendment up here to Senator Hefner's amendment to cure that, that requires that circulators be bonded if they are going to circulate petitions outside their county of residence. Now I happen to have worked in a statewide initiative campaign four years ago, and let me tell you that bonding requirement creates a serious impediment. I have had to deal with that. I have had to buy bonds and get people bonded to circulate petitions and it is an impediment to that great right that we have in Nebraska that we have had since 1912 for the people to write their own laws through the initiative process or to repeal legislative statutes through the referendum process, and Nebraska was the second state in the Union, back when the Populace ran this Legislature, to create a constitutional right to initiative by way of a constitutional amendment. We were the second state in the Union to have the right of initiative and currently there are only about 25 states that have that, and it is a unique right. It means that people of the State of Nebraska can write their own laws in extraordinary circumstances by writing them and gathering an adequate number of signatures and putting them on the ballot and voting on them and that is a very precious right. It is one of the most fundamental democratic rights

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we have and all this amendment is going to do is chip away in another small way at the ability to exercise that right freely. Now let me make one last comment. You know a lot of my friends in Omaha are saying, look, you ought to support this sort of an amendment because an awful lot more initiatives and referendums come from the right wing then they do from the political center or from the moderate area of politics in Nebraska, and if you look at the referenda over the last fifteen years when Governor Tiemann got his income and sales tax bill through, why that was repealed by the referendum process. And there have been a lot of other efforts by referendum and initiative, the lids that have been imposed on the school system in Omaha, that have come from the political right, and in some cases the political far right, many, many more proposals from the political right than from the political left or the political middle. So people are telling me up in Omaha, go ahead and make it tough, go ahead and make it difficult because it is not going to benefit people of our political viewpoint. And I say, well, that misses the point now.

SENATOR CLARK: You have one minute left.

SENATOR HOAGLAND: We have a right under the Nebraska laws to let the people themselves write the laws or to repeal erroneous decisions by the Legislature when the occasion demands and let's not interfere with the free exercise of that right which this amendment does. Thank you.

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

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 14 nays, Mr. President, to cease debate.

SENATOR CLARK: Debate has ceased. Senator Hefner, do you wish to close?

SENATOR HEFNER: Mr. President and members of the body, I will try and be brief. I didn't think that this would take this much time but the way Senator Chambers is shooting off his mouth this morning he must have brushed his teeth

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with gunpowder. These two amendments aren't that bad, Senator Chambers. It just does two things. It requires that the county clerk be provided an explanation of the petition and it prohibits the reimbursement of expenses to circulators. And I would like to have you all listen to this, currently we cannot have paid circulators and I am not changing that. The only thing that I am changing is that I am prohibiting the reimbursement of expenses to circulators. I think Senator Hoagland mentioned something about we do this, we pay the people we hire for elections and we also pay their expenses. This is quite a little different than elections. This is in circulating petitions and I realize that maybe to some of you you feel that I am making the petition process more difficult but I don't think I am. I think that I am making it more thorough and I think it would be better for everybody concerned. It runs to the advantage of the citizens from whom the signatures are sought and, of course, it requires that when you leave a petition at the court house, at the county clerk's office, that an explanation of this petition be with it and I think this is very good. This way the people know exactly what they are signing. And like I said before, we must keep in mind that the initiative and referendum process should not be taken lightly or in disregard of a very important process of changing the state laws or even amending the Constitution. So I would urge for you to support this motion.

SENATOR CLARK: The question before the House is the adoption of the Hefner amendment. All those in favor vote aye, opposed vote no.

CLERK: Senator Clark voting no.

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

SENATOR HEFNER: Mr. President, are we still under Call?

SENATOR CLARK: We are supposed to be under Call, yes. We are on Final Reading.

SENATOR HEFNER: I would like to have them check in again and then I would like to have a roll call vote.

SENATOR CLARK: All right, everyone will check in please. We should have 46. Will everyone please check in. Senator Wiitala, Senator Schmit, Senator Newell. Senator Schmit, will you record in please? The only one we are waiting for is Senator Newell. Senator Hefner, did

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LB 807, 942

you want to go ahead with the roll call? All right, the Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1815, Legislative Journal.) 21 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion lost. Next amendment. Next motion.

CLERK: Senator Hoagland, I assume...Senator Koch, do you want to offer yours now? Okay. I have nothing further on the bill, Mr. President.

SENATOR CLARK: All right, the Clerk will read the bill.

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

SENATOR CLARK: Are you going to read something in?

CLERK: I have a report of Registered Lobbyists for the week of April 1 through April 7.

And an Attorney General's opinion addressed to Senator Lamb, Mr. President.

(Read LB 807 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See pages 1817 and 1818, Legislative Journal.) 47 ayes, 0 nays, 1 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: LB 807 is declared passed. The Clerk will now read LB 942 with the emergency clause.

ASSISTANT CLERK: (Read LB 942 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

ASSISTANT CLERK: Senator Clark voting yes.

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LB 531, 212-212A, 520, 754
761, 807, 942, 970-970A

having been complied with, the question is, shall the bill pass? It takes 30 votes. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting no.

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

CLERK: (Record vote read. See page 1822, Legislative Journal.) 36 ayes, 11 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. We will now go to item #5.

CLERK: Mr. President, a few items to read in. The bills that were read on Final Reading this morning are now ready for your signature, Mr. President.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 531, 970A, 970, 942, 807, 754, and 761.

CLERK: Mr. President, I have an explanation of vote offered by Senator Higgins.

And Senator Cullan would like to print amendments to LB 212 and 212A. (See page 1823, Legislative Journal.)

PRESIDENT: Okay, anything else, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: We are ready then for as Senator Clark said agenda item #5, Select File, and I believe we start with LB 759, is that correct, Mr. Clerk? 520, is it? Okay, we will take up 520.

CLERK: Mr. President, LB 520 was considered yesterday by the Legislature. At that time the E & R amendments were adopted. Senator Howard Peterson then made a motion to indefinitely postpone the bill. That is presently before us, Mr. President.

PRESIDENT: The Chair recognizes Senator Peterson.

SENATOR HOWARD PETERSON: Mr. Chairman, last evening I handed out to this body a number of letters from a number

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LB 761, 754, 807, 970,
970A, 531, 480, 591,
629, 629A

CLERK: Mr. President, your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning (LBs 761, 754, 807, 970, 970A and 531).

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 480 and find the same correctly engrossed, 591 correctly engrossed, 629 and 629A all correctly engrossed.

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LB 602, 602A, 520, 759,
799, 799A, 868, 605,
755, 756, 807, 970, 970A

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by Senator Kremer.

SENATOR KREMER: Prayer offered.

PRESIDENT: Thank you, Senator Kremer. Roll call. While we're waiting for everyone to check in showing their presence, the Chair would like to announce that Senator Lamb has announced that on agenda item #6 there will be a fifteen minute limit on the motions today, fifteen minute limit on agenda #6. And Senator Lamb also wished me to announce that his plan calls for a recess from six to seven o'clock. Senator Sieck, would you do us the honor of allowing us to get started. If you would just push that little button why we can get started. Record the presence, Mr. Clerk.

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

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

CLERK: (Read Journal corrections as found on page 1844 of the Legislative Journal.)

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 868 and find the same correctly engrossed; 799, 799A correctly engrossed; 602, 602A correctly engrossed; and LB 520 and 759 all correctly engrossed. Those are signed by Senator Kilgarin as Chair.

Mr. President, I have a couple of letters from the Governor addressed to the Clerk. (Read messages from the Governor Re: LB 605, 755, 756, 807, 970 and 970A. See page 1847 of the Legislative Journal.)

Mr. President, I have a unanimous consent request from Senator Vickers to add his name to LR 275 as cointroducer.

PRESIDENT: Any objection? If not, so ordered.

CLERK: I have nothing further on the desk at this time, Mr. President.

PRESIDENT: The Sergeant at Arms would then clear the Chamber for Final Reading and see that all members are at their desks,