

that the Legislature inherently has the tools to do what they have to do within the general subject matter of handling or reducing appropriations, or whatever. And, therefore, this is clearly like any other thing that is proposed in the general realm of handling the problem within it. My counter to that is the Attorney General and the Governor have attempted to restrict it. I think improperly so, but by their standards, by their own standards, just like their own sales tax on services was outside the call on some technicality, I think this is in the same category. I would submit further that the amendment itself can't even accomplish what is intended that the only way to do that is by dealing directly with the appropriations aspect of the roads department budget because otherwise you have got a contradiction in law. You have got a duty imposed upon the Board of Equalization to pay for something and you have got a contradictory order here but you still have the appropriations made and so it is an unworkable thing anyway. And so it would probably not be germane either.

SENATOR BEUTLER: Senator DeCamp, I am going to rule that the amendment is appropriate under the call but I do that with due respect for your opinion and recognizing that the line is an unclear line. It would seem to me that the Legislature, if they choose to adopt this amendment, can then go to the Attorney General and we can get further clarification on the issue. But at this point in time I think it would be appropriate to debate it. So I rule that the amendment is within the call. Senator Warner, did you wish to speak to the amendment?

SENATOR WARNER: Mr. President and members of the Legislature, I rise to oppose the amendment because of its mechanics, that's all, so you understand. I am not arguing my perceived bias of roads. The way the variable works if you adopt this amendment, the one thing you will preclude which is the adjustment in the variable on a quarterly basis that reflects the price of gasoline as it changes. Now that is not what you are talking about wanting to do. Under the variable tax if you are talking about a shortfall, that is different, whether it is because of LB 2 being passed or declining consumption. Then in order to initiate the action of the Board of Equalization meeting and adjusting the rate, you have to have a shortfall of 10 percent. The variable tax is...the appropriation which affects the variable tax is \$133 million and you would have to have \$13.3 million