

SPEAKER MARVEL: If I can have your attention, there are a couple of items we would like to announce and then we will recess until about one-thirty. Okay, I will try once more. (gavel.) May I have your attention for a moment. I think this is an item that will be of interest to everybody. We had a caucus of the chairmen, chairpersons this morning. I would like to read a portion of that caucus. Senator Warner made a motion that Friday, January 16, 1981, be the cutoff date for bills going to the bill drafter for introduction within the ten day period. So if you are interested in bills getting to the bill drafter, Friday, January 19, 1981, is the cutoff date for bills going to the bill drafter for introduction within the ten day period, at noon on Friday and this motion will be put in the Journal for your information. (See page 167.)

The other thing, this afternoon we will pass out to you the calendar for the balance of this particular session of the Legislature. So we will pass this out this afternoon.

Now, do you have any other business, Mr. Clerk? Okay, go ahead.

CLERK: (Read LB 167-171. See pages 165-166 of the Legislative Journal.)

SPEAKER MARVEL: This afternoon, hopefully starting right after one-thirty, we will have an additional discussion on rules and hopefully before the end of the afternoon we will have made our decisions on rules for the rest of this year. So this will be coming up this afternoon. Senator Kahle, you had your light on. For what purpose do you rise?

SENATOR KAHLE: Mr. Speaker, I would just like to make an announcement. They have the slips on their lamps but the Government, Veterans and Military Committee will meet immediately after we adjourn this afternoon in our regular meeting room, 1113 I believe it is. Thank you.

SPEAKER MARVEL: Okay, and, Senator Kahle, as long as you are on your feet, do you want to move that we recess until one-thirty? Excuse me, Senator Nichol. Yes, sir.

SENATOR NICHOL: Mr. Chairman, I just wanted to announce that Judiciary will have a short meeting as soon as we adjourn in the Judiciary meeting room.

SPEAKER MARVEL: Okay, the Judiciary Committee will meet. The Government, Military Affairs will meet this afternoon. Okay, now do you want to recess us until one-thirty, please?

February 2, 1981

LB 165A, 167, 244, 542,

SENATOR KOCH: Mr. Speaker, members of the body, I move
The previous question.

SPEAKER MARVEL: There are no lights on, Senator Koch,
so with your permission we will call on Senator Burrows
to close.

SENATOR BURROWS: I move the advancement of the bill.
Thank you.

SPEAKER MARVEL: All those in favor of advancing LB 244
to E & R for review vote aye, opposed vote no. The motion
is the advancement of LB 244 to E & R for review. Record
the vote.

CLERK: 28 ayes, 7 nays on the motion to advance the bill,
Mr. President.

SPEAKER MARVEL: Okay, the motion is carried. The bill is
advanced. Are we ready for LB 92 now?

CLERK: May I read some things first, Mr. President?

SPEAKER MARVEL: Okay.

CLERK: Mr. President, Senator Warner offers a motion re-
garding A bills and consideration thereof. That will be
laid over. (See Page 392 of the Legislative Journal.)

Senator Schmit would like to have a meeting of the Ag and
Environment Committee tomorrow morning at 8:50 a.m. under-
neath the North balcony. That is tomorrow morning at 8:50
a.m.

Your committee on Revenue whose chairman is Senator Carsten
to whom is referred LB 167 instructs me to report the same
back to the Legislature with the recommendation if be ad-
vanced to General File with amendments, (signed) Senator
Carsten.

Mr. President, I have two Attorney General's opinions, the
first to Senator Warner regarding LB 999 from the 1980 legis-
lative session and one to Senator Vard Johnson regarding the
constitutionality of proposed legislation concerning real
estate practices. (See pages 392-397 of the Legislative
Journal.)

Mr. President, two new bills, LB 542 by Senator Schmit at
the request of the Governor. (Read. See page 397.) LB 165A
by Senator Lamb. (Read.)

February 9, 1981

LB 21, 67, 77, 80,
LB 104, 124, 143, 167, 234A,
LB 186, 188A, 206, 221, 236

SPEAKER MARVEL: The Chair is going to make a suggestion. We are going to be facing this kind of procedure from now on and the Chair would like to meet with Senator Chambers. The Chair would like to meet in the Speaker's office with Senator Chambers, Senator Beutler, Senator Kremer and Senator Goodrich immediately upon adjournment and see if we can settle this without taking all this extra time. Now what is before the House? Okay, the Clerk has some items to read in. I would like to meet with Senator Chambers, Beutler, Kremer and Goodrich as soon as we adjourn.

CLERK: Mr. President, your committee on Public Works gives notice of hearing in Room 1517. Your Committee on Education gives notice of public hearing in Room 1517.

Mr. President, a second notice from the committee on Education regarding scheduling of public hearings.

Mr. President, new bills. (Read LB 188A; LB 234 A. See page 478 of the Legislative Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Maresh regarding LB 518 from the 1977 legislative session.

Senator Burrows would like to have amendments printed in the Legislative Journal. (See page 479 regarding amendments to LB 167.)

I have notice of hearing from the Public Works Committee.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit to whom is referred LB 80 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 104 General File with amendments; 236 General File with amendments, (Signed) Senator Schmit. (See page 480 of the Journal.)

Your committee on Government, Military and Veterans Affairs whose chairman is Senator Kahle to whom is referred LB 221 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 21 General File with amendments; 186 General File with amendments, (Signed) Senator Kahle. (See page 481 of the Journal.)

Mr. President, your committee on Miscellaneous Subjects whose chairman is Senator Hefner to whom is referred LB 124 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 206 General File; 67 General File with amendments; 77 General File with amendments.

February 11, 1981

LB 167, 207, 207A

the advancement of 207 to E & R for Review, as amended. Senator Koch, do you have any other comments you want to make?

SENATOR KOCH: I move to advance as amended to E & R Initial. Thank you.

SPEAKER MARVEL: All those in favor of the advancement of the bill vote aye, opposed vote no. Have you all voted? Senator Koch. Record the vote.

CLERK: 25 ayes, 9 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now we have the A bill?

CLERK: Yes, sir.

SPEAKER MARVEL: The motion before the House is the advancement of LB 207A. This is the A bill. All those in favor vote aye, opposed vote no. Last time, have you all voted? Senator Koch. Record the vote. Record the vote.

CLERK: 27 ayes, 8 nays, Mr. President, on the motion to advance the A bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Okay, the next order of business is LB 167. The Clerk will read.

CLERK: Mr. President, LB 167 was offered by the Revenue Committee and signed by its members. (Read title). The bill was first read on January 14 of this year. It was referred to the Revenue Committee for public hearing. The bill was advanced to General File. Mr. President, there are committee amendments pending by the Revenue Committee. You will find the committee amendments in your bill books. They are cited as Request #2024.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I move we adopt the committee amendments and I will try to explain them to you a little bit. They are found in front of the bill. There are three parts to the committee amendments. The first part includes interest rate change on the special assessments, and if you will notice that this was quite a lengthy amendment. It is in the white

pages right before your bill. The second part of this provides that the uniform rate for all delinquent taxes be 15 percent instead of the 12 percent that is in the bill, and the third part of it clarifies the technical language in section 1. I suppose I should explain the bill just a little bit so you will understand the amendments, but LB 167 provides for a uniform rate of interest on all delinquent taxes. The rate would be set by the Legislature in one single section, and, of course, this bill changes various sections of the statute. Right now we have a 16 percent rate on property tax, on delinquent property tax, and, of course, this also changes the rate on delinquent taxes on the sales and use tax. I think at the present time that is 6 percent. And so I move the adoption of the committee amendments.

SPEAKER MARVEL: Senator Burrows, do you have an amendment to the committee amendment?

CLERK: Mr. President, Senator Burrows moves to amend the standing committee amendments. His amendment is found on page 479 of the Journal. (Read the Burrows amendment.) That amendment again, Mr. President, is on page 479 of the Journal.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman and members of the body, I move the amendment, the adoption of the amendment to the committee amendments. What this does is it removes the 16 and reverts back to 12 as the original bill was drafted, as a compromised interest rate. Currently, property taxes for one year only carried a 16 percent interest rate against them, and the bill consolidates interest on delinquent taxes and assessments which have ranged from 6 to 16 percent. I feel that the 12 percent figure is a much more reasonable figure, that originally drafted in the bill, than 16 and I feel certainly the 6 that was the interest charge on some areas of taxation was entirely too low with current interest rates. Now, one of the questions that was really not brought out, some people were accused of not paying their taxes because the lower interest rates were cheaper than what they could borrow the money for. Now this is true. But at 12 percent any subdivision can get the money for 12 percent or less to replace it if there is a period of time that they don't have that taxes. In fact, they may have a half to 2 percent profit even at the 12 percent level, and we have a lot of people that are in a position where they can't get the money to pay their taxes and we are hitting them with the same high interest rates if

we used the 16 as we would an individual that is balking on paying. The percentage of nonpayment of property taxes has not been that high that it is significant. And I want to bring your attention, interest was not just a penalty, it is an interest bill that those delinquent taxes have. There are many other ways people are pressured into paying their taxes. One is the fact they are published in the paper and many people don't want their name published in the paper. The homeowner's taxes in the municipality are generally paid to the savings and loan association that finances the home, so the interest is no part of a collection procedure under this circumstance. The savings and loan then has that money in effect as a trust, and they have to pay the taxes when it comes due. Interest is not going to affect the timeliness of the payment of homeowners' taxes where they are paying in part of their monthly payment scheme the property taxes to that savings and loan. Rural borrowers have a key and lenders have a key interest in property tax payments, and those borrowing from the Federal Land Bank or other lenders will jeopardize their borrowing abilities if they do not keep their property tax bill paid. I think if we look at this that going on 16 for probably what might appear to be good at a very brief period I hope of extremely high interest rates that we do not tie it into law to 16 percent interest rate. Twelve is a much more viable figure and I urge the adoption of this amendment to the committee amendment that would put the bill back to the way it was drafted at 12 percent rather than 16. Thank you.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Kahle. On the Burrows amendment to the committee amendments.

SENATOR KAHLE: Mr. President and members, I really am not so concerned about the 12 percent, but I think the 15 percent is a more realistic figure in today's market and last year when we went to 16 we thought a little bit later in the year that we were way too high. The way it turned out we are about right. I don't think anyone can guess what is going to happen. But I do know in my own county and I checked out some of these things that we collected considerable back taxes when that 16 percent went into effect. Our County Treasurer did send out letters to those that had delinquent taxes, many of which were letting them go simply because they had other money borrowed and it was much cheaper to let the taxes go and use that money for their operation than to pay the taxes. So I think we need a realistic figure. I don't

February 11, 1981

LB 167

know, I don't have a crystal ball to see what it is going to look like in one month, two months or six months from now, but we, in the committee, thought that the 15 percent was a realistic figure and would certainly make you think twice before letting your taxes go and using that fund for some other source because I think you can borrow the money for close to that amount now, perhaps a little bit more for a personal loan. So I think the...I oppose the amendment and feel that 15 percent is much more realistic at this time. Thank you.

SENATOR CLARK: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman and members of the Legislature, I would rise to oppose the Burrows amendment. It seems to me that we need to be realistic in the figure that we place in this particular location and as we talk about money being borrowed by subdivisions of government, I don't believe they ought to get in the financing business for people across the state. This is one way to avoid it.

SENATOR CLARK: Senator Beutler. The Burrows amendment to the committee amendments.

SENATOR BEUTLER: If I may, Mr. Speaker, I would like to address a couple of questions to whoever on the Revenue Committee is handling the bill.

SENATOR CLARK: Senator Hefner, do you yield?

SENATOR HEFNER: Yes.

SENATOR BEUTLER: Senator Hefner, with regard to the applicability of the provisions of the bill, is it applicable prospectively only to those that come delinquent after the date of the bill, or is it going to be applicable retroactively to all existing delinquencies?

SENATOR HEFNER: I think it will take effect after the bill passes.

SENATOR BEUTLER: It is your interpretation that it doesn't apply retroactively then?

SENATOR HEFNER: No.

SENATOR BEUTLER: Okay, is there any specific provision in the bill that would say that it does not apply retroactively?

SENATOR HEFNER: I don't recall that it does, no.

SENATOR BEUTLER: The other question I would have, Senator Hefner, with regard to the bill, it provides for delinquent payments of interest to the state on delinquencies in cases where the state has been overpaid in analogous situations. Does it apply for interest payments to the individual from the state where there has been an overpayment? In other words, does it work both ways? We are setting out a situation here where the state gets its money when the payment is late. But when there has been an overpayment, does the individual get his money back from the state with interest?

SENATOR HEFNER: Senator Beutler, I think that there are some refunds that would be...where the interest would be raised on some refunds, like at the present time there is 6 percent per annum on parimutuel wage refunds. This would go, if we adopt the Burrows amendment this would go to 12 percent. If you adopt the committee amendment, it would go to 15 percent. And I think it would also change on the sales and use tax refunds and also income tax overpayments. At the present time those are 6 percent.

SENATOR BEUTLER: (Microphone not on).....the bill provides for increased interest payment on refunds.

SENATOR HEFNER: Yes. Yes.

SENATOR BEUTLER: In all areas where you are requiring delinquency payments, does it work the opposite way or just in some?

SENATOR HEFNER: Well, it is hard for me to believe that a person would overpay his property taxes. Can you cite me an instance where he would overpay his property taxes?

SENATOR BEUTLER: Well, if there has been a valuation, for example, that is erroneous which he contests that that money might have been paid in and then on a subsequent decision that the valuation was too high he would get a refund coming.

SENATOR HEFNER: I imagine this bill would take care of that.

SENATOR BEUTLER: Okay, I wanted just to check to see if those areas were covered, and frankly, I am not convinced that they are adequately covered, and you

February 11, 1981

LB 167

might consider that in considering Senator Burrows' amendment. Thank you.

SENATOR CLARK: Senator Wagner. Speaking on the Burrows amendment to the amendments.

SENATOR WAGNER: Mr. Speaker, members, in the committee we had considerable discussion on this and personally in a way I probably feel like the 12 percent is more the figure we need but you get to the realistic thing and the political reality of what can we pass and so forth and we did move it back from 16 to 15. I think it is a fairly reasonable figure, and those in the committee basically supported it, and I support the 15 percent and would oppose Senator Burrows' amendment. Thank you.

SENATOR CLARK: Senator Hefner, do you wish to speak on this?

SENATOR HEFNER: Mr. President and members of the body, I would just like to talk briefly on why the committee set it at 15 percent instead of the 12 percent as the bill called for. We felt that the 12 percent was an unrealistic figure at this time and that it looks like the interest rates are going to stay above even the 15 percent, and therefore I rise to oppose the Burrows amendment because I think 12 percent is unrealistic at this time. If interest rates drop considerably next year, well, yes, then we may have to come back next year and amend this section. So, therefore, I would urge you to oppose the Burrows amendment.

SENATOR CLARK: Senator Newell. Is Senator Newell in the room? Here he comes running in.

SENATOR NEWELL: Mr. President and members, it is seldom that I rise in opposition to my good friend and colleague, Senator Burrows. In fact, our relationship has gone back a long ways and it is with great regret that I must oppose him on his motion. The 15 percent, as Senator Wagner indicated, is one that was well thought out by the committee. It does represent a compromise and a rational compromise at that. As you understand, what we have today is no uniformity in this whole question of delinquent interest rates, no uniformity whatsoever. For property tax we have 16 percent. For income and sales we have 6 percent. That creates many problems and the inequities there are so obvious that even I was able to grasp that. The 12 percent figure

may, in fact, be what would be a nice interest rate for those people that are hard pressed to pay, but it is not reasonable, it is not fair considering our present economic condition. I have never favored high interest rates as my politics are a little different than that, but the fact remains that we have high interest rates and 15 percent is a reasonable compromise. This bill is an important bill. The overall concept of uniformity is a significant and beneficial concept, and 15 percent is what the committee, after great deliberation, realized it must be in order to get this concept through. I oppose the 12 percent. It is arbitrarily low and while it would be nice, I think we can ill afford it at this time. Thank you.

SENATOR CLARK: Senator Burrows, do you wish to close?

SENATOR BURROWS: Yes, Mr. Chairman and members of the body, I don't think it was adequately discussed at all because this incorporates income tax penalty or interest and you don't get back 15 percent if you have overpaid in a disputed claim. It doesn't go both ways. It is retroactive. When we put on the 16 percent last year it was retroactive last year and used retroactively on property tax payments, and this is framed the same way, it is retroactive. No subdivision testified that it would cost them more than 12. The testimony centered generally from 9 to 11 1/2 percent that a subdivision would have to pay for interest if there was a delinquent tax payment. Twelve percent covers that, more than covers it. No subdivision testified that they could not get the money if a delinquency came in, if there was any problem whatsoever in getting the money coming in. We have a lot of things and there will be many other amendments on this bill come across that were not adequately discussed and the 12 percent does not solve them all. Assessments on paving assessments, the bill applies to them at the point not of delinquency. We are asking in the bill for 15 percent interest from due date not from delinquency. You are not talking about penalty there. You are talking about a basic interest charge where the subdivision has the option of borrowing the money at 12 percent or less, even under the current interest rates, because they get tax exempt money when they borrow it and they are not losing money. In fact, when they can borrow at 11 1/2 and they are getting 15, they are making 4 1/2 percent on that and they don't need to make that kind of profit. The word profiteering was introduced by the proponents of the bill, and there is one point I urge you to think about in this Legislature. When the

delinquent person comes in and pays the taxes and pays the 15 percent interest bill, the county treasurer out there is not going to tell him, we went up to the Legislature and lobbied a bill to get a 15 percent penalty on you. They are going to say, I'm sorry that we have to charge you 15 percent but the Legislature forces us by law to charge you 15 percent on that delinquent tax. Twelve is adequate to get the job done and we are the goats. Politically no one was in here, the taxpayer wasn't here watching this one when it came before the committee and the only lobbyist that is up here on a bill of this sort is the Senator, because the county official, the people that are collecting and spending the taxes, they want the higher charge. But the taxpayer is not going to like it, and if you count the numbers, the taxpayers, we are supposed to be representing them. Local government is to serve the taxpayer, not the taxpayer to serve local government. Twelve percent is adequate and I urge the body to adopt this amendment, put a 12 percent figure. We are raising some of these charges by 6 percent when we go to 12, and we don't need the 15. Thank you.

SENATOR CLARK: The motion before the House is the adoption of the Burrows amendment to the committee amendments. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 18 ayes, 16 nays, Mr. President, on adoption of Senator Burrows' amendment to the committee amendments.

SENATOR CLARK: The motion carried. The amendment is passed. The committee amendments, as amended, Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I move the adoption of the committee amendments.

SENATOR CLARK: The motion before the House is the adoption of the committee amendments. Is there any discussion? All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

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

February 11, 1981

LB 167

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the amended committee amendments.

SENATOR CLARK: The motion carried. The committee amendments are adopted. Senator Hefner, what do you want to do with the bill? We have one other amendment. One moment.

CLERK: Mr. President, Senator Warner moves to amend LB 167 by striking Section 13 in the original bill.

SENATOR WARNER: Mr. President and members of the Legislature, Section 13 of the original bill deals with the present green belt law which while it has not been particularly utilized does have a provision, if you are familiar with it, where land that qualifies is assessed at two different rates, one at its agricultural value, the other at its potential development value, and at the time that the land use changes under that law, there is a rollback feature where you pay the difference in the amount of taxes that you did pay and what you would have paid without the green belt provision, you then pay that tax at that time. Now as I understand the purpose of LB 167, it is to ensure the collection of taxes at the time they are due. There is no tax due whatsoever under the green belt law until that use has changed and to assess at 12 percent which is currently 6 by law, but to assess at 12 percent or 15 percent rather on taxes undue it seems to me is unreasonable and goes far beyond the scope of what was indicated with the purpose of this bill. There is other legislation introduced by Senator Newell that does increase this 6 percent to a higher figure but that has nothing to do with delinquency because it is not delinquent. It is not due so if it is unpaid, it is exactly in keeping with the law and it seems to me that the current 6 percent figure is a reasonable one to have it at, and I would move adoption of the amendment.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President and members of the Legislature, I rise to oppose the Warner amendment. Now I think we have here the first attempt to do away with uniformity and I expect that there will probably be a few more of these coming in, but Senator Warner has an argument that I think we have to deal with just for a moment. His argument is and the present interest rate is 12 percent which I think is a big mistake, we should have left it at 15, but that is another issue

again, we have a situation where we have given an opportunity for an agricultural user of land who uses it primarily for that purpose to have a tax break. This tax break will last for as long as he chooses to keep that use agricultural, and the idea here is to prevent speculation so the people will not speculate on this land and hold it for as long as they can until they get a good high price for developmental property. And so what we have done in that whole thing, we said, okay, we will take it and go back five years and assess you the back taxes on that that you would have paid if you sell it for development that you would have paid the difference between the agricultural use and the other price. And so Senator Warner's argument is that well, that is just a penalty and that is not a delinquent tax. The fact of the matter is that it is a delinquent tax and it is a delinquent tax for very simple reasons. We have agreed and we have indicated and our laws provide that that is a tax owed, that is a tax owed if you change the use. If you take the higher developmental price for that land, if you take it out of agricultural production, then you must pay that higher price, those higher taxes back five years. Those are taxes that are assessed to you because you have changed the use, those are taxes, those taxes are delinquent. And so you may argue to some extent that this is a unique situation. But then you can go back and look at the bill and you can find unique situations and unique situations and unique situations. Some of the most ingenious arguments I have ever heard was when this bill came before the committee and other groups were talking about how 6 percent was totally justifiable because of this and that and the other. I think it is wrong to take the uniformity out of the uniform delinquent interest rate bill. I think that Senator Warner's arguments are a little weak in this whole regard because, in fact, that is what you are going back and is getting those back taxes. They were delinquent. He had a break. He changed the use. He is no longer entitled to the break. Those are taxes owed. They are back taxes. I oppose the Warner amendment. I think that this is a big mistake and I think it is the wrong direction.

SENATOR CLARK: Senator Warner, do you wish to close? Senator Kremer wants to talk first, pardon me.

SENATOR KREMER: Mr. Chairman, I rise to speak in support of Senator Warner's amendment, and I would disagree with Senator Newell's statement that those were

February 11, 1981

LB 167

delinquent taxes, because they are not, they are not due until such time that the land use changes. I cannot see how Senator Newell can interpret that as being a delinquent tax. It was not due until you are assessed because of the change of the operation of the property. I support Senator Warner's amendment.

SENATOR CLARK: Senator Warner, do you wish to close now?

SENATOR WARNER: Mr. President, thank you. The two points and the one I guess Senator Newell and I have a fundamental difference in opinion as to what delinquent is, but in my opinion nothing is delinquent until it is due and this tax is not due until that use is changed, and to put the excessively high interest rate to encourage a payment for a tax that you don't owe makes no sense to me whatsoever. And, secondly, obviously if you put the interest rate up at 15 percent, it has two effects, one is it drives up probably...well, obviously it would drive up the purchase price for development in any event increasing the cost to people who did buy the land in the event the use was ever changed and, secondly, I would suspect that you can effectively stop the use of the whole green belt concept with this kind of a rate of interest accumulating over a period of five years. So I would urge the body to adopt the amendment.

SENATOR CLARK: The question before the House is the adoption of the Warner amendment. All those in favor vote aye. All those opposed vote nay. It takes 25 votes.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted? 27 of you haven't. Senator Warner. Senator Warner, what do you want to do?

SENATOR WARNER: Mr. President, I will ask for a Call of the House because obviously I have to put a kill motion on without this and that will take more time, so....and I am just saying that to decide it one way or the other.

SENATOR CLARK: Call of the House has been asked for. All those in favor vote aye. All those opposed vote nay. Record the vote.

CLERK: 16 ayes, 1 nay, Mr. President, to go under Call.

SENATOR CLARK: The House is under Call. All Senators will take their seats. All unauthorized personnel will

February 11, 1981

LB 167

leave the floor. Senator Warner, did you want a roll call vote? We will not start the roll call vote until all Senators are in their seats.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, all legislators are to be in their seats and record your presence, please. Record your presence, please. (Microphone not on)...record your presence, please. We need Senator Goodrich. Senator Koch. Senator Goodrich and Senator Cullan. Senator Warner.

SENATOR WARNER: Let's go, we've waited long enough. Take the vote, we have waited long enough.

SPEAKER MARVEL: Call the roll.

CLERK: (Read the roll call vote as found on pages 497 and 498 of the Legislative Journal.) 24 ayes, 14 nays, Mr. President, on adoption of Senator Warner's amendment.

SPEAKER MARVEL: The motion lost. The motion is lost.

CLERK: I have another motion.

SPEAKER MARVEL: Another motion on the Clerk's desk.

CLERK: Mr. President, Senator Warner moves to indefinitely postpone LB 167.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I do this with some hesitancy, but the bill sure as the world shouldn't be advanced in the shape it is now. But there is a number of other areas that...and I obviously should have had this all done with a whole bunch of amendments, but there is a number of areas, I am not going to reargue the green belt, but obviously there is a whole new concept there because there is absolutely nothing delinquent, nothing owed and to put that interest rate makes no sense but I notice other things such as inheritance and estate tax. Now anyone that has been involved with estates know they can become complicated and they can take time. Now there is a side issue with estate tax in that you cannot get an extension, and if you get in a position where you have to pay...you cannot make your report, you are forced into being delinquent or cannot be complete in your report and now we are going to stick you with a 15 percent interest rate, it is already 9, which is, well,

the current law is 9 on estates, and it makes no sense to me that when there is not even a procedure to legally request an extension that you are also going to put it up an excessive 15 percent rate. I have been told that there are provisions dealing with some of the revenue bonds for development areas that are included here which appear to be excessive at that rate of interest. I can appreciate the argument of the uniformity which seems to be the only one I have, but uniformity is only an applicable argument when you have a uniform condition, and here we are trying to apply uniformity to a number of ununiform situations and I think that all of those... that whole policy is in error and with the whole concept of the retroactive which I understand is still in there, it's retroactive on any tax that's unpaid at this time. I don't know how many phone calls some of you got on the bill we did last time, but I certainly had a number, and you add all those things together, and the bill is in no position to be advanced, and maybe indefinitely postponed is not the way to go but I don't know how else to make the point at this time.

SPEAKER MARVEL: Senator Schmit, do you wish to be recognized on the bill?

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise in support of Senator Warner and his motion to indefinitely postpone LB 167, basically for the reasons he has given, but also I want to point out one additional factor and that is that the Legislature, as he has indicated, attempts to enact legislation on a broad basis or a uniform basis, but the application of the law is always carried out upon an individual basis, one upon one, the government against the individual. It is a very unequal kind of a contest. I just want to point out one more thing. If you would go back and check some of the courthouses, you will find that when we enacted the 16 percent rate for delinquent taxes last year there was a sign prominently displayed in some of those treasurer's office that said, we must collect this 16 percent by direction of the Nebraska Legislature. I can point out another instance, you know, when the Legislature at the request of the Nebraska Bankers Association outlawed the counter checks. Virtually every business has a little sign there that says the counter checks have been outlawed by the action of the Nebraska Legislature. When the Legislature takes an action which the public usually agrees with, you will see the very opposite posted. This was done through the efforts of the Nebraska Bankers Association, or through the various

other lobbying groups, but when the monkey is placed on someone's back, they identify the Legislature, and we are the bad guys. If, as has been pointed out by Senator Warner, this should happen to occur, you can be very...I want you to be assured that it will be the action of the Nebraska Legislature which will be pointed out as being the bad guy, and the individual legislator, the one who vested this terrible wrong upon the individual taxpayer. I think the entire concept is suspect, but I certainly want to agree with Senator Warner that this action would be most erroneous and I think we should not carry it out. We should indefinitely postpone the bill.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I think it would be a big mistake to indefinitely postpone this bill. A lot of good work has been done on a good idea and we should just proceed with it and touch it up in the manner that I am going to suggest and get the job done. Just to give you an analogy, do you suppose that if the bankers were in here with a bill having to do with usury rates and that the market had moved up beyond the usury limit, do you suppose we would be here suggesting that that bill be indefinitely postponed? Not for a minute. Not for a minute. And yet what is being suggested to you today is that the government who represents the people do that very thing. The price of money has gone way up. The interest rate for delinquencies has to be raised or everyone is going to be using the government for a lender. Everyone is going to be using the government for cheap money. What we need to do is get a group of people together, advance the bill, get a group of people together, raise the interest rate back up slightly and make it perspective as opposed to retrospective, solve a couple of the problems of inconsistency that Senator Warner has mentioned, do those things, and we can get the job done this session. There is no use as far as I can see to letting all the good work that the Revenue Committee has done and the good idea that they have go to waste. We should proceed with this. It can be done. Thank you.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Speaker and members of the body, I would have to oppose the kill motion on this bill because presently we are lowering the 16 percent property collection to 12, increasing some of the other interest

charges against delinquent taxes from 6 to 12 and coming out with a straight figure. Now what Senator Warner referred to is correct. There are several problems with the bill yet. On the greenbelt part that Senator Warner brought up, that is different than a delinquent tax bill. We also have a paving assessment that goes in on due date, not delinquent date under the same interest provisions. So we have some things to clean up and I am sure the body will deal with this and make it a competent piece of legislation which will be much more equitable when we finish up with this bill. So I urge the body not to vote for the kill motion, to keep the bill alive and work on the bill and correct these inconsistencies that exist in the bill. The bill is needed for a more equitable interest charge on delinquent taxes. Thank you.

CLERK: Mr. President, Senator DeCamp, because of the priority status of the motion moves to lay over LB 167 until Tuesday, February 17, 1981.

SENATOR DeCAMP: Yes, I will make a motion, Mr. President, and I think Senator Haberman and Senator Johnson, there are some major amendments that have to be put in to straighten out some problems, and the bill is a major bill and I think Senator Warner, who wants to kill the bill, doesn't really want to kill it. He is trying to make a point. He is trying to say, let's get the thing settled before we move it too fast. All I am trying to do with the motion is say, fine, there are people from the bonding companies working on some amendments to make sure it works right. There are people from the Bar Association that found some problems, and the abstracters. I think that by next Tuesday you will have a group together on the bill and be able to advance it forward without too much difficulty. Now all I am suggesting then is rather than kill it and spend an hour here trying to get it killed or advanced and go nowhere, you simply wait until next week after you have got these pieces put together. So I move to delay it until Tuesday, bracket it until Tuesday.

SPEAKER MARVEL: Senator Wesely, do you wish to speak to the motion to lay over?

SENATOR WESELY: Mr. Speaker, members of the Legislature, I don't think perhaps the DeCamp motion is in order at this time since we already have a motion pending to kill the bill, but that is a question I would ask of the Clerk. But nevertheless it appears to me that this

would not be in order in any event because we haven't bracketed for two years in this body. I don't think it is a good idea to take bills and set them for a specific time and hold them until that time. I think rather than doing that, number one, we could just not vote to advance the bill and hold it on General File, leaving it up to the Speaker to bring it up again when the time is appropriate and these problems have been worked out, or, two, we could advance it to Select File and in the time that it takes before it comes up on Select File we could deal with some of the problems. Quite seriously, Senator DeCamp is right and I think Senator Warner and others who have spoken on this issue have been right in pointing out there are problems. I cannot support this bill with the 12 percent delinquent rate. That is absolutely ridiculous in the present money market situation, but at the same time there are other problems that Senator Warner has raised and I think clearly that we can resolve those issues and come to some sort of conclusion, but I don't think it is a good idea to start bracketing. For those freshmen in the Legislature this is an unusual thing to do. We have changed that practice and I think we shouldn't go back to it.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. Speaker, what is the motion before us at this time?

SPEAKER MARVEL: The motion is to lay over the bill until next Tuesday.

SENATOR HEFNER: Mr. President and members of the body, I see nothing wrong with laying the bill over. Senator Warner says he has problems with it. Senator DeCamp says that he isn't sure about some of the sections in it, and I think maybe we should take a little more time, and, therefore, I would agree, or I wouldn't oppose laying this bill over until next Tuesday. I would just like to say to the body that the Revenue Committee has worked long and hard on this bill. We held a hearing on it. It was a lengthy hearing and at this particular time nobody appeared against the section that Senator Warner is talking about, but if he has problems with it why I am certainly willing to work with him on it, and the same way with any other problems that we have. Therefore, I would urge you to support laying this bill over until next Tuesday.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Unicameral, I would rise to support Senator DeCamp, but I would like to make one statement while it is still fresh in everybody's mind. Senator Schmit got up and he said, there is going to be a sign in the county clerk's office, county assessor's office, your interest rates went up due to the Legislature. Evidently, Senator Schmit isn't afraid of having a sign put up, your driver's license went up from \$7 to \$10 due to the Legislature because he voted in favor of that. Thank you, Mr. President.

SPEAKER MARVEL: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. President and members of the body, I was the person that objected to the bracketing of this bill until next Tuesday, and the reason I objected was I had several reasons for so objecting. One of the reasons very simply is that this particular bill had a public hearing at which time people who felt they were being adversely affected by this bill could have appeared and the Revenue Committee would have taken their viewpoints into consideration and would have adopted appropriate language had such been necessary, but they did not appear. The Revenue Committee advanced this bill after careful consideration. This bill has been on the General File calendar now for over a week. It has been passed over day by day because our committee Chairman, Senator Carsten, has not been here. He has been ill. We finally get up to considering the bill. Suddenly people are finding some difficulties, a little here and a little there, and so the solution is to lay it over at least until next Tuesday to give us the weekend to fix it up. Now there have been other bills that have been advancing fairly smoothly and I have found some difficulties with them, and I thought, well, I could file a motion to bracket or to set over to a specific date, but I didn't want to do it. I didn't want to do it because this early in the game I think it is inappropriate to interfere with the orderly working of the legislative process, and I figure I can work all that much harder and come up with an appropriate amendment for Select File, or even, if necessary, to bring back a bill on Final Reading for an amendment. And I think that we make a mistake at this juncture if we lay the bill over. I think we should defeat Senator Warner's kill motion, go ahead and advance this bill and if, in fact, there are some areas, some deficiencies that individual members want to work on, it can be done and we can have it done by Select File. But it is wrong, in my opinion,

February 11, 1981

LB 167

at this time for us to start the bracketing process and it is for that reason that I oppose Senator DeCamp's motion.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President and members of the body, I think the idea of laying this bill over, and I know that Senator DeCamp is trying to wait for a cooler time, but the truth of the matter is that by laying it over we allow more time for people who do not want to be in this bill, who think uniformity is a great thing. We are all for uniformity. We are all for justice. But I don't think that justice ought to apply to me. Uniformity shouldn't apply to me. I have a special situation, and Senator DeCamp listed a number of people that have problems. The bondsmen have problems on SIDs and there is going to be a whole lot of problems with this bill, because, you know, the bottom line is that people have been using those delinquent taxes as poor investments. They have been making money in present economic conditions, the present interest rate, and so what we do by laying this bill over is we buy more time for more people to come in here and say, you know, this is a great bill if you will just excuse me. I don't think I ought to be in here because I have a special situation. You don't understand the economic realities of the day, I am having tough times. For that reason we should move this bill forward. We should not allow any exemption. We shouldn't certainly allow more people time to figure out how they can get out of what is supposed to be and what is an excellent idea and that is the uniform interest rate.

SPEAKER MARVEL: Well, we are going to try what we tried before and we are still waiting for one member to come back to solve a problem on increase in the speed limit, so I would like to solve this problem and ask at the moment that we temporarily recess here and that Senator Warner and Senator DeCamp, Senator Vard Johnson and Senator Schmit come to the office and let's see what we can get done. If we start bracketing, let me say this to you, if we start bracketing, then the whole process is going to explode, and I am trying to prevent this. So will Senator Warner, Senator DeCamp, Senator Vard Johnson and Senator Schmit please come to the Speaker's office and let's see if there is any way we can get this settled. Meanwhile, let's recess. And Senator Hefner, I am sorry. Senator Hefner, will you come too?

February 11, 1981

LB 20, 27, 29, 30, 37, 45,
82, 125, 130, 140, 150, 165A,
167.

RECESS

SPEAKER MARVEL: Come back to order, please. The Clerk has a couple of items to read in and then we will proceed back with the business as we had it prior to this recess.

CLERK: Mr. President your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 165 and find the same correctly engrossed....165A, excuse me; 20 correctly engrossed; 27 correctly engrossed; 29 correctly engrossed; 30 correctly engrossed; 37 correctly engrossed; 45 correctly engrossed; 82 correctly engrossed; 130 correctly; 140 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Judiciary whose Chairman is Senator Nichol to whom was referred LB 345 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (Signed) Senator Nichol. (See page 498 of the Legislative Journal.)

Your committee on Banking instructs me to report 125 back to the Legislature with the recommendation it be advanced to General File with amendments; LB 150 to General File with amendments. (Signed) Senator DeCamp, Chair. (See page 499 of the Legislative Journal.)

Mr. President, your committee on Revenue gives notice of exec session. (See page 499 of the Journal.)

SPEAKER MARVEL: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I ask unanimous consent to withdraw my motion to bracket.

SPEAKER MARVEL: Any objections? If not, so ordered. Senator Warner.

SENATOR WARNER: Mr. President, I ask unanimous consent to withdraw the kill motion at this point.

SPEAKER MARVEL: Any objections? So ordered. Now is there.....Senator Wesely. The Chair will move that the bill be passed over which will be either tomorrow or the first of the week. Does anybody object? Okay, if not, the bill is passed over. Underneath the south balcony a guest of Senator Marsh from Thailand. His first name is Sam. Do you want to raise your hand so we can wish you Good Morning? Underneath the south balcony.

February 11, 1981

LR 16
LB 167

Department of Roads hearing scheduled for tomorrow the time has been changed from 1:30 until 2:00.

Mr. President, Senator Beutler and Vickers would like to print amendments to LB 167 in the Journal. (See page 507 of the Legislative Journal.)

Finally, Mr. President, I have a resolution signed by several members, LR 16. (Read LR 16 as found on pages 508 and 509 of the Legislative Journal.) That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Is that it?

CLERK: Yes, sir.

SPEAKER MARVEL: Senator Kahle, do you want to adjourn us until tomorrow morning?

SENATOR KAHLE: Mr. Speaker and members of the body, I move that we adjourn until 9:00 tomorrow morning, Thursday, February the 12th.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. The motion is carried. We are adjourned until 9:00 tomorrow morning.

Edited by:


Marg A. Turner

February 12, 1981

LB 109, 167, 206A

SPEAKER MARVEL: Does the Clerk have some business to read in?

CLERK: Yes, sir. Mr. President, new bill, LB 206A by Senator Chambers. (Read title. See page 521 of the Journal.)

Mr. President, Senator Carsten would like to print amendments to LB 167 in the Journal. (See page 521.)

Mr. President, your committee on Banking gives notice of hearing for March 2 and 3.

Mr. President, Administrative Rules gives notice of hearing, (Signed) by Senator Johnson as Chair. That is all that I have, Mr. President.

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

SENATOR WAGNER: Can we go ahead and move the bill?

SPEAKER MARVEL: We have about three motions we are going to have to dis..... Pardon?

SENATOR KREMER: Mr. Chairman.

SPEAKER MARVEL: Senator Kremer.

SENATOR KREMER: I repeat my motion to reject the emergency clause. It is not needed now since the other amendment is not on.

SPEAKER MARVEL: Senator Wagner, do you wish to speak on the motion?

SENATOR WAGNER: No.

SPEAKER MARVEL: Senator Marsh, do you wish to speak on the motion? Senator Kremer's motion is to...okay, the motion before the House is the rejection of amendment #3 to LB 109 and amendment #3 is the emergency clause. Senator Kremer, do you want to make any other statements?

SENATOR KREMER: No closing.

SPEAKER MARVEL: All those in favor of rejection of the committee amendment 3 vote aye, opposed vote no. This removes the emergency clause. Have you all voted? The motion is the rejection of amendment #3, the emergency clause. Record.

CLERK: 26 ayes, 7 nays, Mr. President.

February 17, 1981

LB 221, 167

was advanced to General File. I have no amendments on the bill, Mr. President.

PRESIDENT: Senator Fitzgerald, are you handling this?

SENATOR FITZGERALD: Mr. President and members, it is getting late and this bill won't take too long. LB 221, current Nebraska law defines a Vietnam person who served on active duty other than for training purpose. This is the point I want to emphasize, "other than for training purposes for 30 days or more unless discharged for service incurred disability" in the Armed Forces of the United States between August 5, 1964, and May 7, 1975. LB 221 takes out the wording of "other than for training purposes for 30 days or more unless discharged for a service incurred disability". By this wording change the bill will define a Vietnam veteran in the same term as any other veteran from World War I, World War II, or the Korean War. This is what the bill does. It gives the Vietnam veteran the same privilege as another veteran in the United States has.

PRESIDENT: Any further discussion on LB 221? Senator Fitzgerald, I guess your opening is your closing and the question is the advance of LB 221 to E & R Initial. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 35 ayes, 0 nays, Mr. President, on the motion to advance the bill.

PRESIDENT: The motion carries and LB 221 is advanced to E & R Initial. I congratulate you all for sticking to it and getting the agenda completed for this day. Are there messages on the desk, Mr. Clerk?

CLERK: Mr. President, your Committee on Miscellaneous Subjects gives notice of public hearing for March 12. Senator Hoagland would like to print amendments to LB 167 in the Journal. (See page 553 of the Legislative Journal.) Again, Mr. President, Senator Maresh would like to have a meeting of the Business and Labor Committee underneath the north balcony upon adjournment.

PRESIDENT: The Chair recognizes Speaker Marvel.

SPEAKER MARVEL: The motion is to adjourn until nine o'clock tomorrow morning.

PRESIDENT: The motion is to adjourn until nine o'clock Wednesday morning. All those in favor signify by saying

February 19, 1981

LB 24, 34, 80, 104, 165,
167, 221, 236, 260

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Reverend Kalmer Knudson, St. Paul United Church of Christ here in Lincoln.

REVEREND KALMER KNUDSON: (Prayer offered.)

PRESIDENT: Roll call.

CLERK: Mr. President, Senator Kremer would like to be excused until he arrives.

PRESIDENT: Senator Landis, Senator Koch, Senator Wiitala, would you all show your presence so we can have a quorum. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will stand as correct as published. Any messages, reports and announcements.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 34 and recommend that same be placed on Select File with amendments; 260 Select File with amendments; 80 Select File; 104 Select File with amendments; 236 Select File with amendments; 221 Select File. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Banking, Commerce and Insurance gives notice of continuation of public hearing.

And finally, Mr. President, I have a report from the Nebraska Power Review Board. That will be on file in my office.

Mr. President, Senator Warner would like to print amendments to LB 167, 165 and LB 24, print amendments in the Legislative Journal.

PRESIDENT: We are ready then for Final Reading, agenda item #4. All legislators will be at their desks. All other personnel will leave the floor of the Legislature. The Sergeant at Arms will see to it that all others are off of the floor. The Legislature will be on Final Reading.

February 19, 1981

LR 19
LB 143, 20, 124, 167,
197, 313

SPEAKER MARVEL: Motion is carried. The bill is indefinitely postponed. What is the next? Okay, the Clerk has some items on the desk.

CLERK: Mr. President, your committee on Education whose Chairman is Senator Koch to whom was referred LB 313 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File.

Mr. President, I have a report from the Executive Board. It will be inserted in the Journal regarding selection of the ombudsman.

Mr. President, Senator Fowler would like to print amendments to LB 124; Senator Vickers, Beutler and Hoagland to LB 167.

Your committee on Public Health gives notice of hearings for March 12, Public Health for hearing on March 16 and your Constitutional Revision and Recreation Committee gives notice of hearing for February 27.

Mr. President, a communication from the Governor addressed to the Clerk...yes, sir.

SPEAKER MARVEL: I would caution the Legislature that after we finish what is on the Clerk's desk there are some amendments that go to 109. We will have to pass over that temporarily and then we go to Final Reading. So we will be on Final Reading in just a few moments. Go ahead, Mr. Clerk.

CLERK: Mr. President, a communication from the Governor. (Read. See page 580, Legislative Journal.)

Mr. President, a new resolution, LR 19 by Senator Cullan. (Read. See pages 580 and 581, Legislative Journal.) That will be referred to the Executive Board, Mr. President.

Mr. President, Senator Marsh asks unanimous consent to have her name added to LB 197 as cointroducer.

SPEAKER MARVEL: No objection, so ordered.

CLERK: Mr. President, finally, Senator Stoney offers explanation of vote.

SPEAKER MARVEL: The Legislature will be at ease for about three minutes and then we will go into Final Reading. The legislators will please take your seats so we can proceed. Okay, we are ready to proceed on Final Reading, item #6, and the first bill on Final Reading is LB 20. The Clerk will read.

March 23, 1981

LB 95, 167

Senator Kahle. (Read title.)

SPEAKER MARVEL: Would you please cooperate with us. We are starting on a rather ambitious program and we do need your cooperation. The noise is so great out there we can't hear what is going on. Would you please help by cutting down on the oratory, or on the discussion? Okay, Senator Kahle. Senator Kahle, it is the A bill now.

SENATOR KAHLE: Mr. Speaker, the A bill that would go along with this, and I said before I am sure it will be held up when it gets to Select File....or to Final Reading, calls for \$2,590,000 this year and a guess of about \$6 million by the end of the third year. And, of course, there is no use to fool yourself when we...if the state takes over this part of the cost, it's going to cost some money. So this is the A bill that to the best of knowledge of the fiscal staff is what it is going to take. So I move the A bill be advanced and hope you will support it too.

SPEAKER MARVEL: The motion is the advancement of 39A. All those in favor vote aye, opposed vote no. We are voting on the A bill. Record the vote.

CLERK: 27 ayes, 4 nays on the advancement of the A bill, Mr. President.

SPEAKER MARVEL: The Clerk will read LB 167.

CLERK: Mr. President, excuse me, if I may, I would like to read in a couple of items. Public Health and Welfare sets hearing for gubernatorial appointments. (See pages 1062 and 1063 of the Journal.) Public Health and Welfare reports LB 95 to General File with amendments. (See page 1062 of the Journal.) (Signed) Senator Cullan as Chair.

Mr. President, LB 167 was a bill introduced by the Revenue Committee and signed by its members. (Read title.) The bill was read on January 14, referred to the Revenue Committee. On February 11 of this year the Legislature considered LB 167 and at that time the committee amendments and an amendment offered by Senator Burrows to the committee amendments was adopted. I now have pending a series of amendments, Mr. President. The first is by Senator Wesely. Senator Wesely moves to amend LB 167 by striking the Burrows amendment and reinstating the 15 percent interest rate.

March 23, 1981

LB 167

SPEAKER MARVEL: Senator Carsten, do you wish to explain briefly LB 167?

SENATOR CARSTEN: I thought we had gone through the committee amendments and this is an amendment to the committee amendments, as I understand. Is that correct, Mr. President? It's an amendment to the committee amendments. Is that right?

CLERK: No, sir. We have got a separate....

SENATOR CARSTEN: Oh.

CLERK: I have a series of separate amendments. The committee amendments have been taken care of. We thought maybe you could just give a brief explanation.

SENATOR CARSTEN: Did I have an amendment up there?

CLERK: A little later on, Senator, yes, sir.

SENATOR CARSTEN: It's not up now?

CLERK: Not now, no.

SENATOR CARSTEN: Okay. Well, Mr. President, the committee amendments basically put all of the sections that relate to delinquent tax rates into one bill, and that is what it does, and it does deal with the special assessments as well as the other assessments, real estate and so forth. The committee amendments, as they are now amended by Senator Burrows' amendment, puts those delinquent rates at 12 percent, and I guess that's the subject that we really need to key in on right at the moment is whether we leave it at 12 or whether we change it.

SPEAKER MARVEL: Senator Wesely, you have an amendment to the bill.

SENATOR WESELY: Yes, Mr. Speaker and members of the Legislature, my amendment strikes the Burrows amendment which was placed on this bill earlier when it was discussed and raises the interest rate on these delinquent taxes to 15 percent. At the time that we attached the Burrows amendment, I don't think we were paying much attention to the issue on the floor. I would like to ask for your attention at this time because this is really important. We are talking about interest rates at this point, the prime rate which is up there close to

twenty percent in some cases. It has dropped from that figure, but we are talking about high interest rates in this country and yet we are providing a 12 percent for delinquent taxes, an interest rate that I think is outrageous for the citizens of this state and the taxpayers of this state. What we are doing is we are giving a break to those people that aren't paying their taxes at a 12 percent rate. I think we are encouraging delinquent payment of taxes at that interest rate, and I think that is counter to the public policy and what it should be in the State of Nebraska. And yet we adopted the Burrows amendment, put it on the bill and lowered that interest rate to 12 percent. Now, none of us like high interest rates. It's a reality and it is something we have to live with, but certainly none of us should feel that we need to provide a low interest rate to those who won't pay their taxes on time. I think that is a separate issue. We can talk about trying to keep interest rates down for people that are having a tough time buying a home, or whatever you can imagine. I think that is legitimate. But to provide for low interest rates for people that won't pay their taxes, I think is outrageous, and I certainly support this amendment which would raise it back to 15 percent, not an unreasonable figure, not an unreasonable figure at all. And let me tell you, quite frankly, I was just talking with Jack Mills of the Nebraska Association of County Officials, and if this amendment isn't passed, and if we don't raise that interest rate higher than 12 percent, they are going to move to kill the bill. That's right they are going to kill the bill because it is just wrong to even pass this legislation at a 12 percent figure. It is so wrong to provide that sort of a break to delinquent taxpayers. So I suggest very strongly raising that rate...perhaps 15 percent is not, you know, any...set in granite, if you need it at another percentage, fine, but 12 percent is far too low and I would certainly encourage your support for this amendment. Thank you.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman and members of the body, I think this is one good move we made for the taxpayers of the state when we moved it back to 12 on the real estate. I might remind you that 12 percent is doubling the interest fee on delinquent income taxes. They exist at 6 percent right now and going to 12 is doubling the interest collection on some of these others. We have a wide range and the 16 percent last year was slipped through on the floor to get at the property taxpayers of the state. Now the subdivisions, I think the issue

as presented to you as a big reward for the delinquent taxpayers is really sort of moot as far as the subdivisions go. The subdivisions have a varied interest in this because the State Auditor's office has taken interest payments on delinquent taxes outside the lid. So it is quite a source, and the difference between if there is a 4 percent difference in collection fee, or a 3 percent difference between 12 and 15, would amount to \$1.2 million if on state and local taxes we have approximately a 4 percent delinquency on a billion dollars, which is about what it amounts to when you take all property tax collections and the collections from the state. Now you put those together, that is \$40 million drawing an additional 3 percent and that is an additional 1.2 million they are looking for outside the lid, and that is the heart of the issue. Interest rates are not 20 percent prime today. They have moved down to 17 percent and are forecast to move on down. Now, this is the angle that's slightly over the 12, but the subdivisions could borrow at 12 and under when they issued warrants if they had a responsible warrant position. They could borrow at 12 and under when the interest rates and prime rates were at 20 percent. What they want is a cliffhanger over the taxpayer, and it has not proven to be the problem with large delinquency rates. They have never presented a case that the delinquency rates on property and other taxes had grown to the point that large or huge increases were needed. They got it for a source of revenue. I cannot believe that they really thought they needed it to get the taxes collected. In the first place, farmers that have property taxes have generally a lender they are responsible to who puts it at a very high criteria to have the taxes paid every year in front of that farm loan. The Federal Land Bank, your insurance companies, demand the payment of those taxes. In the urban areas, most of your homes are taxed...home taxes are paid by the savings and loans when the homebuyer makes his payment. The interest rates on delinquent taxes do not affect the payment of these because that money is in a trust and it would be a breach of the trust for the savings and loan not to pay that property tax when the money has come in from the homeowner. So you have a large base of people that are stable taxpayers, and the ones you have you really hurt are the small people that don't have the money today and can't go get it, or have to go get it at 18 or 19 percent, that have to put it off for a little while on their tax payment. They are the people that again from the state we can hike it to 15 on them, and I think as a state government we ought to represent the taxpayers first and the subdivisions second. There is no lobbying effort

March 23, 1981

LB 167

whatsoever to keep the lower interest rates around this legislature, because they are little people and they don't have a lobbyist here, but the subdivisions have the lobbying effort to raise them higher, and we are here to represent the taxpayer not just the subdivisions and give them more income outside the lid. The lid is the issue. I will have an amendment, if this is brought back up to 15, to put the interest under the lid and if the body will adopt that, it would nullify the real desires of the subdivisions to get the higher interest rates and that additional income. I urge you to stay and vote against the amendment, leave it at 12 where it is, because it is a good compromise figure with interest rates going down. Thank you.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the legislature, I want to review just a little history of this bill because I think it is real important at this point. We spent almost a full day on this bill now before, and we had this fight over percentage rates before, and it got so hostile, if you remember, that half a dozen of us walked up there to the front with Speaker Marvel, recessed the legislature, walked into his office, and agreed we would lay her over and see if we couldn't get everybody together where they weren't putting hatchets at each other's head and we were all looking at each other. And so we did. We met down in Senator Cal Carsten's office and we had Jack Mills there who Don has talked about. We had Jimmy Moylan representing other county officials, Senator Carsten, representative Senator Schmit... I don't know, a half a dozen Senators that were involved in it, and we slugged and hit and said nice things and naughty things, and we reached an agreement. And we walked out of that room with an understanding absolute, iron-clad. I didn't particularly love it. I agreed to live with it. And that agreement was 14 percent. We would change the Burrows amendment from 12 to 14, and the reason for that is existing law which we passed last year, and I think unwisely, but we passed it, we made 16 percent and we made it retroactive. Therefore, we decided to change it this year and so Bill Burrows' amendment got adopted. That moved it down to 12. Jack Mills, as Don Wesely corrected stated, said, well I am going to kill it if you are going to do that, as did some others, and so we finally had the meeting and settled on 14. And so I would ask, I am sure that that amendment that's been agreed upon is up there from Senator Carsten, I would ask Senator Wesely knowing this additional background, knowing this information, and I guarantee you

March 23, 1981

LB 167

it is accurate, would you now maybe agree to withdraw that amendment and support the 14 percent compromise that Senator Carsten is going to offer shortly which I think county officials and everybody else have agreed they will support?

SPEAKER MARVEL: Senator Wesely, do you yield to the question?

SENATOR WESELY: Sure. Senator DeCamp, not realizing that that meeting was taking place, I had placed that amendment up on the floor when it was first debated and so I guess I was concerned that something be done. Fourteen percent is fine and I would be more than willing to withdraw the amendment and go with the 14 percent. My concern was with raising it from 12 and I think that sounds like a reasonable compromise.

SENATOR DeCAMP: Okay, then I think you will find that Senator Carsten's amendment will be coming up shortly, and if you withdrew this one at this time, it would probably save another 45 minutes.

SENATOR WESELY: Okay, that's fine.

SPEAKER MARVEL: Senator Wesely, are you withdrawing your amendment?

SENATOR WESELY: Yes. I will move to withdraw my amendment.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, the next amendment I have is from Senators Beutler and Vickers, and it is found on page 507 of the Journal.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I think that Senator Vickers and myself could probably save the Legislature a little time also. A redrafted version of that amendment appears on page 579 of the Journal, an amendment we also have on file later in the order of amendments. But with the permission of the Legislature, I think we would like to switch and substitute the amendment on 579 for the amendment on 507, and discuss that first, and probably in all probability not even deal with the one on 507.

SPEAKER MARVEL: You are asking unanimous consent to

March 23, 1981

LB 167

withdraw your amendment to LB 167. Is that right, Senator Beutler?

SENATOR BEUTLER: I think that is acceptable to do it in that manner, yes. But we would like to substitute that amendment at this time also and discuss the amendment on page 579 of the Journal, which is essentially a form of this other amendment.

SPEAKER MARVEL: If there is no objection to the withdrawal of the amendment to LB 167, we will now proceed with the...it will be so ordered, and we will proceed with the next motion. Senator Beutler, we are going to take up your amendment, unless there are objections.

CLERK: Page 579 of the Journal.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President, this is an amendment to a different bill. Did I understand that correctly? No.

CLERK: It's just a different....they had two amendments, Senator. They have withdrawn one and are offering the second is all.

SENATOR CARSTEN: They were both to 167?

CLERK: Yes, sir.

SENATOR CARSTEN: Okay.

CLERK: This amendment is on page 579 of the Journal. 579.

SPEAKER MARVEL: Okay, Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, Senator Carsten, this amendment really goes along with I think raising the rate back up to 14 percent as you indicate would be the thoughtful thing for the Legislature to do. Basically, what this amendment says is that the delinquency rate that we're establishing with this bill shall apply on and after the effective date of this bill. In other words, the delinquency rate will not apply to delinquencies that have been in existence prior to the effective date of this bill, except to the extent that they remain in

March 23, 1981

LB 167

existence after the effective date of the bill. So, in other words, if there is an existing delinquency at this time, it will remain delinquent at whatever rate the Legislature had put into effect at the time that the tax was levied and on that particular delinquency if they should allow it to remain delinquent, the new rate that we are establishing with LB 167 would go into effect with regard to that delinquency on and after the effective date of this act. So what we are doing, in effect, if we are going to raise the delinquency rate back up to 14 percent which is a high rate, then we are saying, let's be fair to the people who already have delinquencies and apply the old rate to them insofar as that rate would be applicable up to the effective date of this act, and apply the new rate to them as of the effective date of the act. The one aspect of the bill that we discussed is the fact that the county officials and others will have to apply two delinquency rates to any one particular item if, in fact, it has been in existence prior to this act. The county officials are not excited about this, but they are willing to live with it so long as they can get the overall rate back up to 14 or 15 percent. So just in fairness to people who have existing delinquencies, we would ask that you adopt this amendment. Thank you.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I think the bill we have before us right now, or the amendment we have before us right now erases completely the work that the committee, the Legislature, has done up to this point. What we are saying essentially is that if you haven't paid your taxes, we are going to reward you with a 6 percent use of money. That's what we are saying. And now we are going to guarantee you that 6 percent, that reward, forever, and ever and ever. Now who is paying for this? The people that are paying for this are those poor not-so-smart, not-so-diligent people that happen to pay their taxes. They are the ones that are subsidizing the people that aren't paying their taxes. Now this is really setting an admirable bit of public policy. There is one axiom that holds true, money rises to its highest level, and if somebody goes delinquent on their taxes and invests that money at a guaranteed 10, 11, 12, 13 percent, that is where the money is going to go. Now I have heard a lot of great social arguments, and I am sure they are very sincere and very honest. Great arguments about this poor little person who is unable to pay his taxes. Well, this, in fact, is the

individual we are concerned about. The thing to do is pay his taxes for him. That is the way to give him relief. But, certainly, certainly the thing not to do is to encourage him not to pay his taxes. I was very surprised at Senator Burrows' argument that those people that escrow their interest money through a savings and loan, those taxes are paid, why discriminate against those people in favor of the person who doesn't escrow it, in favor of the person that has money to pay his taxes, but decides, why should I pay taxes if I can use public money at 6 percent when I can put it in a guaranteed CD at 10, 11, 12, 13 percent? What we are really doing is discriminating against those people that are diligent in payment of their taxes. Now the Beutler-Vickers amendment on top of everything else, adds a bureaucratic nightmare, an administrative nightmare to the county officials. Now they are dealing with two tax rates rather than one, which is an additional expense onto the general taxpaying public, and who is benefiting? Those deadbeats that aren't paying those taxes, whose gaining those wise money managers who say, hey, wait a minute, why should I pay taxes when I am only penalized 6 percent for not paying taxes and I can gain that up double by investing in a guaranteed investment? We have to be realistic with the times. We have to face exactly what we are facing. This is not the place to implement a social program. This is not the place. If, in fact, we are concerned about confiscation of property because of delinquent taxes, then let's approach and attack that very problem but not this way. This is going around the side. This is going around the side door. We are kidding ourselves. We are not putting money into the hands of the people that need it. All we are doing is creating a mechanism where smart money managers can enhance the value of their money by becoming delinquent in their taxes at the expense of the diligent, prudent taxpayer. So I urge you very strongly to reject this amendment, reject any future amendment to reduce that delinquent tax rate from at least 15 percent, at least 15 percent. Let's quit stomping on the people, the good citizens that are doing what they are supposed to be doing. Let's quit discriminating against those people. This is a bad amendment. It creates administrative problems. It creates additional bureaucracy. It penalizes the diligent, prudent taxpayer, and encourages number one, the deadbeat, and number two, the wise money manager who can manipulate money at the expense of the average tax-paying public.

SPEAKER MARVEL: Before we proceed with the discussion,

March 23, 1981

LB 167

the WIFE organization is serving coffee and cookies in the Senator's Lounge from two to four. And in the south balcony are a group of Women Involved in Farm Economics attending the WIFE Week in Nebraska and they are in the south balcony. Can we give them a hand. Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I would like to ask Senator Beutler a question, if I may, if he will yield.

SPEAKER MARVEL: Senator Beutler, will you yield? Senator Carsten has a question.

SENATOR BEUTLER: Yes, Senator Carsten.

SENATOR CARSTEN: Senator Beutler, the first question, are you not incurring, as Senator Dworak said, quite an increase in the workload on the local level in the collection of delinquent taxes by establishing two different rates?

SENATOR BEUTLER: I can only guess as to that, Senator Carsten. As I said, Jack Mills indicated that the county officials wouldn't be excited about it but they could live it. Basically, you are asking them to do two computations instead of one, yes.

SENATOR CARSTEN: Secondly, Senator Beutler, it would appear to me, and I don't mean to be real critical, but it looks to me in reading this amendment it is very vaguely drafted, and I would like to ask you in the second line of your amendment, and you say payments of regular taxes, what do you call regular taxes? That is, you know, I am not quite sure what you are talking about.

SENATOR BEUTLER: I think it was our intention, Senator Carsten, to cover all taxes that are covered by LB 167.

SENATOR CARSTEN: Well, it seems to me, Senator Beutler, that it is very poorly drafted, that it does need a lot of cleaning up, if we do adopt it, which I am not in support of. I think we had better set the rate where it was. The second thing that I am concerned about in the next to the last line, "and in the levying resolution" as to special assessment. What is the meaning of "in the levying resolution"?

SENATOR BEUTLER: Senator Carsten, I'm sorry, I thought you were done with me, I didn't realize you were asking another question.

SENATOR CARSTEN: In the next to the last line, Senator Beutler, "and in the levying resolution as to special assessment", what is the meaning of that verbage?

SENATOR BEUTLER: Senator Carsten, for example, if you have a paving district, at a certain point in time you have a hearing on special assessments and after that hearing then you actually pass a resolution levying the special assessments, and in that resolution you set a delinquency rate for those special assessments. So all we are saying is that at the time you set that delinquency rate in the resolution, then that's the rate that is going to apply with regard to those items that will be applicable up until the effective date of this act, at which time the new rate would go into effect.

SENATOR CARSTEN: Thank you, Senator Beutler. Mr. President and members of the Legislature, in view of the vagueness of the amendment and the increased workload that it is going to be causing on the local level, I certainly cannot support this. I see the wisdom of the introduction of it, but I cannot buy it and hope that you would turn it down and take what the amendment that I have coming up does and go with that. Thank you, Mr. President.

SPEAKER MARVEL: Before we continue the debate, in the north balcony are 136 youth, Nebraska Farm Bureau Federation Annual Youth Citizenship Seminar representing the Farm Bureau from 66 counties, conducted by the Farm Bureau Womens Committee. Do you want to hold up your hands so we can welcome you to the Unicameral? Okay. Senator Cope, you're next.

SENATOR COPE: Mr. President and members, I am going to oppose any amendment that would be probably less than 15 percent because of this reason. Very few people feel that it is patriotic to pay taxes of any kind. Now if people can borrow the money from the county, and that is what we are doing, at a lesser cost than they can borrow at the bank or savings and loan, or anywhere else, then you know where they are going to borrow it, in the county, that's the place. So if the county rate is lower than the going rate, people are going to take advantage of it, and it is perfectly legitimate. Now for the people that believe they are protecting the poor, I think it is the opposite. I think you are giving the opportunity for the so-called wealthy, or the people with some money, to make more money, and it is again legitimate, nothing wrong with it, and people are using it and will continue

March 23, 1981

LB 167

to use it. The county must have money. They must have the tax money paid. So I would like to get on and get a... I would like to leave it at 16. If we can't do that, why 15 is next best.

SPEAKER MARVEL: Senator Kahle. We have Senator Kahle, Senator Vickers, Senator Nichol, Senator Johnson, Senator Burrows, Senator Hoagland. I remind you that we will stay in session most of the afternoon. Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I want to talk to the Beutler amendment only at this time, and I think it would be a terrible mistake to let those off the hook that have deliberately or intentionally or unintentionally left their taxes unpaid. And I know in my own county I did a little research on it when we passed the 16 percent last year, or year before, and asked the County Treasurer what was happening, but, as she asked me, she said, do you think I should notify all those with delinquent taxes as of July 1st, or whenever it was, that their interest is going to be 16 percent? I said, well, I certainly think it would be mighty neighborly of you to do that. So that is exactly what was done in our county, and you would be surprised at the amount of tax money that came in. Now, some people say, well, you blackmailed them into paying their taxes. But these generally were not the poor people. They were people that had plenty of money, they just were using the county's money to run their businesses with and with a lot less interest than they were having to pay at the bank. So I would be very much opposed in splitting that out at 6 percent and 11 percent and then 15 or 16 percent, depending on what time the tax was levied. I think it would be a nightmare. Thank you.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Speaker and members, I believe there is a little bit of misunderstanding perhaps as to what we are discussing here with the amendment that Senator Beutler and myself and Senator Hoagland are offering. First of all, I think it needs to be understood that what we are talking about is a penalty, a penalty that we assess against people that for one reason or another have not paid their taxes. As Senator Cope indicated, the counties need the money, the various other taxing entities that rely on taxes. Obviously, that's true. But I think we are also failing to remember that they do have other mechanisms to collect those taxes. They are not going to collect them perhaps for a while. What we are talking about is a penalty that we assess for those people that haven't paid their taxes promptly. Eventually they

are going to get their money or they are going to get the property. We all know that. There is that threat. So what we are talking about is a penalty and I guess I am wondering since there is a lot of sentiment here to make those penalties retroactive, let's go back to whenever they started and I would remind you that with this amendment we are not changing the interest rate. If the interest rate....if you want to set the interest rate at....if this body decides to set it at 20 percent, we are not changing that. We are simply saying that if it was 8 percent, or 6 percent, or 12 percent, or whatever it was in the past, that we shouldn't be able to go back in the past and change that. Is this any different than quite often we change the penalties that we assess for various crimes in this state or various misdemeanors that are committed? We will have a bill through that changes it from a Class IV to a Class III or a Class V to a Class IV and so forth. Why don't we make those retroactive? They are penalties too. Why don't we tell somebody that we have already assessed a fine of a thousand dollars too for some crime that he committed five years ago, or three years ago, or two years ago, or last year, that the Legislature in its wisdom has passed a bill that raised that fine for that particular crime to \$10,000 so, therefore, you owe the state nine thousand more dollars. We don't do it that way. These people are not necessarily criminals. I just think it is fundamentally wrong that this Legislature go back in time with this sort of a penalty. If you don't want to look at it as a penalty and you want to look at it as a business, from a business point of view, and it's true there are people that perhaps don't pay their taxes for the simple reason that they can borrow the money cheaper somewhere else. That's one of the reasons we are trying to raise the interest rate for this bill. If that is true, then why didn't we make the interest rates when we raised the various interest rates for the loans that the banks could make last year, why didn't we make those retroactive? Why don't we make them go back to the day that the note was drawn up? Personally, I thank God we didn't, but I can't see where there would be any difference, if you want to look at it from a purely business point of view. One other thing, I think we need to recognize that occasionally there are people that don't get their taxes paid for the simple fact that maybe they forgot to get that particular parcel of land, taxes paid on it. There are people that own several different parcels of land. In that particular instance we are going to say that since you made a misjudgment, perhaps, we are going to assess you a penalty over and above what the penalty was at that point in time.

Now the point has been made here that it would cause an administrative nightmare. I find that rather hard to believe. I don't know of a county treasurer's office that doesn't have calculating equipment in it. It is not too difficult for me on a hand calculator to figure interest rates. I can figure an interest rate up to a certain date and add another interest rate onto that and go on, and I think they can too. I don't think it is an administrative nightmare at all...at least my banker doesn't have any problem doing it when the interest rates go up. I don't think they have any more sophisticated equipment than the county treasurers do.

SENATOR CLARK PRESIDING

SENATOR CLARK: You have thirty seconds.

SENATOR VICKERS: It just seems to me that what we are dealing with here is a fundamental right of this Legislature to assess a penalty retroactively, and that is exactly what we have been doing, and I think that is wrong, and I believe the taxpayers of this state think that is wrong. Thank you, Mr. President.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, just briefly. Senator Cope and Senator Dworak have set it out very clearly for you. This isn't a situation to hurt the poor. It is a situation to help those who know how to work the system. I don't approve of this kind of amendment because I really feel that the people who are not paying their taxes are not the poor. They are not the ones who are honest citizens. The ones who are attempting to profit by this are the people who know full well what the situation and interest is. They know how the banks operate if they borrow money to pay their taxes which they should do. They know that they would be stuck more. So they are actually, as Senator Cope said, borrowing from us other taxpayers who do pay our taxes. If we forget, certainly we have to pay the penalty. If you forget something else, you pay the penalty. Let's say you forget to go home at night. Your wife might have something to say to you about that. Simply forgetting is not an excuse. Furthermore, if you have so much property that you forget a single parcel, it may be that you need to scrutinize your business procedures a little bit closer. I really feel that if we, as legislators, change this rate of interest from year to year, which we may do from here on, and have an up and down situation, it may be well advantageous to

March 23, 1981

LB 167

take care and not pay our taxes and wait until the interest rate comes down and then pay off. I really think the amendment is bad.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I oppose the Beutler-Vickers amendment. I would think that Senator Beutler, himself, would oppose the amendment. He has been very good on this floor in talking about the effect of inflation on society and talking in opposition to legislation that tends to continue to reward those who bet on inflationary trends, and it strikes me that his amendment is an amendment which continues to reward those investors that want to bet on the come, so to speak. In other words, wouldn't it be better at this juncture if the interest rate on delinquent corporate taxes is 6 percent, not to pay the delinquent taxes knowing full well and good that the inflationary spiral that you and I are living in will cause interest rates in toto to increase dramatically, therefore, we can quite simply take the same dollars, invest the same dollars, get a significantly greater return on them, and that will continue to grow as inflation continues to push interest rates higher and higher and higher. But if, in fact, this Legislature says, look, all tax delinquencies bear an interest rate of 14 percent irrespective of when the tax became delinquent, we, in effect, are preventing the smart money people from betting on continued inflation as a way of life, from betting on deferring tax payments now knowing that interest rates will rise in the future and that their money will be less dear in the future. So I think that this amendment frankly rewards those who continue to bet on the inflationary spiral, and penalizes most ordinary folk who year in and year out meet their tax payments. Now I find it interesting that only with this particular bill have we really gotten the arguments about the retroactivity of an interest rate increase? I mean, after all, last year we increased the interest rate from 11 to 16 percent on real estate property taxes. And I don't recall during the course of the floor debate anybody being concerned about the retroactivity of that rate increase, but it was retroactive, and prior to that it went from 9 percent to 11 percent, and again I don't recall anybody being concerned about the retroactivity of the rate increase, but it was retroactive. Is it the issue this time is that we are also picking up special assessments as part of our rate increase...as part of our taxes? They are going to be subjected to a 14 percent tax...to a 14 percent

March 23, 1981

LB 167

rate of interest. Is that what it is? That a lot of the developers have consciously and deliberately not paid taxes knowing that when property ultimately is sold they can then pay their tax delinquencies say at a 6 percent rate of interest, and they don't want to have to pay 14 percent, like all the rest of the homeowners have to pay, which right now is 16 percent.

SENATOR CLARK: You have got one minute left, Senator Johnson.

SENATOR V. JOHNSON: It strikes me that it is good legislation in these inflationary times to make certain that any delinquency rates that we impose are fully retroactive and not prospective only. I would urge this body to reject the Beutler-Vickers amendment.

SENATOR CLARK: In the north balcony we have 37 students from Oakland Junior High School, Senator Goll's District. Bob Stading and Ed Anderson are the teachers. They are in the north balcony. Would you raise your hands so we can recognize you, please? Welcome to the Legislature. Senator Burrows is the next speaker.

SENATOR BURROWS: Mr. Speaker and members of the body, I would urge you to look at the amendment and read it rather carefully because I think very few understand what it says and I don't think anyone can clearly understand what it says. It references to regular taxes and what they are, I do not know. But it goes a little further and it says to continue at the rate and then speaks to Section 77-207 which is a section of law that placed the real estate rate at the usury rate which is 16 percent. Now if regular taxes include income taxes, delinquent income taxes will now go retroactively from 6 to 16, and what the court would interpret it with the further language "continue to be paid at", I cannot understand. It is ambiguous in its nature and what it attempts to do, obviously, is retroactively put the income tax at 16 percent up until the effective date of the act and then to whatever we set the rate in the act. I think it is really a rather hodgepodge and so ambiguous in its wording that it would be a real court test and a good fight out to interpret, whether these regular taxes include income taxes, I don't think we have a good definition of those by law, or whether they are a property tax, taxes only implied because of the fact that it goes down to the word "continue" to be paid at. I think the body ought to remember one thing on this in dealing so harshly with these interest payments, that when it comes down to

the county treasurer's office and the delinquent taxpayer comes in and you find out you zapped him with this, he is going to say, I'm sorry, I have got to give you this 16 percent, but the Legislature did it to you. I am really apologizing that I have to hit you with such a usurious bill or usurious interest rate, but the Legislature did it to you. And that is what they are going to tell them down at the county level. We are fools if we put it to them that way because when the county officials interpret it, they are not going to say, we were up there lobbying to get these higher interest rates. They are going to tell the taxpayers the Legislature did it to you. I urge you oppose this amendment and leave the bill at 12 percent. Thank you.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I would like to rise in support of this amendment. Now I want to say three things about it. First of all, the amendment has been very unfairly attacked on the grounds that it is ambiguous. It is not ambiguous. It is quite clear. I think it is clear in what it intends to do and it does what the sponsors of this amendment want it to do in terms of attempting to make some sense out of these two merged pieces of legislation. Now, let me remind the body that what this bill does is it contains over 50 sections applying, as it has now been amended by the Revenue Committee, applying to all kinds of taxes and all kinds of special assessments. It applies to delinquent income taxes, to delinquent estate taxes, to sales tax collection fees, all kinds of what are called regular taxes that have become delinquent in one respect or another. And it also deals with all kinds of different special assessments, assessments by utility districts, assessments for things like sewer main extensions, for sidewalk assessments, assessments for grading, all kinds of taxes that can be paid as the result of an assessment of every shape, way and form, as our Governor is fond of saying, are thrown into this particular bill. Now, with over 50 kinds of sections dealing with 50 different kinds of taxes in this bill, the equities with every section are going to be different. All right, when you are talking about the equities on delinquent income taxes, it is going to be different than delinquent estate taxes and it is going to be different than the special assessments on a sewer main extension. Now the problem with the bill as written with the current retroactivity application is it really has a meat axe approach. It takes all of these taxes all the way back and assesses them at the

March 23, 1981

LB 167

higher rate. Now some of these kinds of assessments have been due for eight or ten or twelve years, and when those assessments were made and when those debts were incurred, they were incurred at times of 6 and 7 and 8 percent money, not in today's years in terms of 12 and 14 and 16 percent money. So you can see if we follow this meat axe approach and apply it all the way back, in some of these areas and not all of them but in some of these over 50 areas of the statutes we are dealing with, it is going to have a very inequitable approach. And I don't think any of us fully understand what this bill is going to do. Now I spent over two hours yesterday afternoon thrashing through this thing, reading it section by section, and trying to understand the implications of retroactive and prospective application section by section by section, and, believe me, it is exceedingly difficult to do. Now, I think when we don't fully understand what we are doing, as I don't believe anybody in this Legislature does with respect to this legislation, we need to fall back on fundamental notions of fairness. What is the most fair thing to do in order to be safe, in order to be sure that we are not unduly hurting or punishing or penalizing people? And I think that the principle of fairness that Senator Vickers has articulated is the one that makes the most sense, and that is if you are going to raise the interest rate, have it be of prospective application only, because the problem with Senator Nichol's argument and Senator Cope's argument and Senator Carsten's argument is when you start applying unlimited retroactivity to all these sections across the board, you are going to be going all the way back to debts that are 8 and 10 and 12 years old and bringing them up to today's interest rate, and unless we fully understand that, which I submit we don't, I think it is a very unwise policy decision to make. And what we ought to do in this bill is we ought to raise the interest rate to 14 or 15 percent....

SENATOR CLARK: You have one minute.

SENATOR HOAGLAND: Thank you, Mr. President. We ought to raise it to 14 or 15 percent and then give it perspective application only as do....which is the same effect that virtually all of our new legislation has. It is the same effect that virtually all decisions handed down by the courts have, that don't apply to situations in the past, they apply to situations from that point forward, and I think that is the careful and the meritorious and the equitable thing to do in this case. Thank you.

SENATOR CLARK: Senator Marsh. Senator Marsh, did you want to talk?

March 23, 1981

LB 167

SENATOR MARSH: I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. The question before the House is ceasing debate. All those in favor vote aye, opposed no. Have you all voted?

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 5 nays, Mr. President, to cease debate.

SENATOR CLARK: Senator Beutler, do you wish to close?

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, let me go back and try to clarify and put in perspective for you exactly what is occurring right now. The bill as it is right now would make everything completely retroactive so that the new rate that goes into effect once this bill is passed will apply to all taxes whenever they are incurred. If you like that philosophy then you should vote against the amendment. But there are two other possibilities. One thing would be to say that for any taxes that become delinquent prior to the effective date of the act, that they would always and forever bear the delinquency rate that was applicable at the time that they were incurred or that they became delinquent. So if it was 6 percent, it would be 6 percent until it is paid, regardless of this law. But there is a compromise position. We can say that it will be 6 percent, it will be at the old rate up until the effective date of this law and at the new rate after the effective date of this law until it is paid. So with regard to something that is delinquent both before and after the act, you would apply two rates, the rate applicable before the effective date of the act and the new rate applicable with...that becomes applicable with the passage of the act. So it is a compromise position in that regard. A few days ago most of you voted to reduce that rate, to reduce the overall delinquency rate to 12 percent. At that time I ascertained a part of the reason that you did that is because you had some hesitancy with applying this new high rate to all taxes. And for that reason this amendment is in a second sense a compromise amendment. It is going to be necessary for us to raise that delinquency rate back up to 14 or 15 percent. That amendment is going to pass and this amendment that we are offering you today right now would have the effect of mitigating the effect of that new high 14 or 15 percent interest rate. So it is a compromise in that sense also. The point

has been made that we are giving a break to those who... or that this amendment would have the effect of encouraging delinquent taxes, but I don't think it is going to have that effect at all, in fact, I might even argue to you and I hope you will pay attention to this argument, that if you don't pass this amendment, you might well be encouraging delinquent taxes in this sense. Let's say we pass the bill and let's say the delinquency rate then becomes 14 or 15 percent, my tax is levied and assessed...the delinquency rate is 14 or 15 percent. Well, that is a high interest rate. Should I pay at that rate, or should I leave the bill...should I leave the taxes delinquent and hope that at some point in time in the future in five or six years the Legislature will react interest rates again and lower the delinquency rate, and if they do that and if it is retroactive like we have always been doing it, then instead of paying my delinquency rate of 14 or 15 percent, I will pay it at 6 or 7, or whatever the rate is down the road when the Legislature changes the law again. So, in effect, what I am saying to you is that the bill...that if you reject the amendment, you may well be very strongly encouraging delinquent taxes. It works both ways. Finally, one last argument. They say that it is fair to apply this new 14 or 15 percent rate to all the old outstanding delinquencies. Well, let me ask you this. How did we determine that 14 or 15 percent was fair? I take it we had some reference to existing interest rates and to the price of money, and we said, we have to make it something close to that. Well, let's talk about something that was delinquent six years ago. Is it fair to apply a rate that relates to today's interest rates to something that was outstanding when the interest rates were much lower? It seems to me that it is fairer to say that the old delinquency rate, the rate we established earlier, based on some existing circumstances with regard to interest rates, that that is a fair rate for that period of time and that the fair rate for now and for hereafter and for the near future is the rate we are establishing in 167, and that again is what this amendment does.

SPEAKER MARVEL: You have 30 seconds.

SENATOR BEUTLER: It simply addresses the problem of outstanding delinquencies and says that the old rate on that delinquency applies up until the effective date of the act and if it is outstanding after the effective date of the act, then the new rate will apply for that period of time subsequent to the effective date of this act. I think the amendment is clear and I think it is reasonable,

March 23, 1981

LB 167

and I would ask for your support. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Beutler amendment to LB 167. All those in favor of the adoption of the bill vote aye, opposed vote no. Have you all voted? Have you all voted? One more time, have you all voted? Senator Beutler.

SENATOR BEUTLER: How many people are excused?

SPEAKER MARVEL: Six people excused. Record the vote.

CLERK: 18 ayes, 23 nays on adoption of the Beutler motion.

SPEAKER MARVEL: The motion is lost. Do we have other amendments?

CLERK: Mr. President, Senator Carsten moves to amend the bill and the amendment is on page 521 of the Legislative Journal.

SPEAKER MARVEL: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, this is the amendment that Senator DeCamp spoke to a few minutes ago and it does amend the Burrows amendment that took it back to 12 and brings it up to 14. We did have quite a lengthy session, quite a give and take session in my office relative to this. We had various representatives that sat in on it, and it was generally agreed that it was not wholeheartedly in favor of but was acceptable, and it is in that interest talking about compromise that I do offer this, strike the 12 and insert 14 percent for delinquent taxes. I move for the adoption of this amendment to the committee amendments.

SPEAKER MARVEL: Senator Schmit, do you wish to speak to the Carsten amendment?

SENATOR SCHMIT: Yes, I do, Mr. President. First of all, I have to say this, I can't really understand why we rejected the Beutler amendment. I think it is obvious that all of us are hoping that interest rates will decline. If and when that is true, then, of course, as Senator Beutler has explained to you, it would be in the interest of the taxpayer not to pay his taxes because in 1983 or 4 President Reagan has promised us we are going to be back to 7 percent money and therefore there is no point in paying interest at the rate of 12 or 14 percent. I

think that we have a...without something like the Beutler amendment we are going to have a real hodgepodge for county treasurers and everyone else. If you think you have got trouble now, wait until you get this on the books, because they are not really going to have the direction as to how to figure that interest. There is one more thing I want to bring up. I am going to offer another amendment for this bill as soon as I can get it up here. Some of you have been around here long enough to remember when I added a bill to the statutes about '74 or '75 that said that delinquent child support would collect interest at the rate of 9 percent. I just checked with the County Clerk in Lancaster County and.... I mean the Clerk of the Court in Lancaster County, and the Clerk of the Court in Douglas County. I have been informed that less than \$5000 has been collected under that bill since it was enacted, that in Douglas County which has anywhere between \$70 and \$100 million of uncollected child support, God only knows, they have collected less than \$2000 of interest. I think the point I want to make here is this, it seems awfully strange that we can be so righteous and so profound and so intelligent and we demand that the taxpayer pay the county or the city the going rate of interest, but no one in this body, except myself, has ever give a damn whether the women that have that child support coming first of all collect the child support, or secondly, collect any interest on it. I really can't understand the double standard. You expect the county, and I think you are right, the county is expected and should collect those rates of interest somewhat comparable to the cost of the money, but we have totally ignored the law as it pertains to the collection of interest on child support. I think we have established a double standard here. I want to say one more thing in regard to this rate of interest. There is a danger in a 14 percent rate. I believe that when we establish that rate we imply that interest rates are going to remain that high at least for another year. I hope that is not true. I wish there was some way that we could tie the rate of interest for the delinquent taxes to the cost of the money, and I think at some time if interest rates remain volatile we are going to have to do that because we are going to have to find some way to encourage the payment of taxes on a regular basis without necessarily penalizing unjustly the individual when the cost of money declines. I will not support this rate unless we adopt something...an amendment such as Senator Beutler has asked for, because without the Beutler amendment you have an ambiguous wording in the law which is not going to be satisfactory. I would suggest that this might be a good

March 23, 1981

LB 167

time, Senator DeCamp, for you to get together and put in there some language that would take care of the problem because I believe it is right that the delinquent taxes should always draw the interest at the rate which was established by the Legislature for the period of time, but I do not think you can go back now and lower that 16 percent rate to 14 percent and get away with it.

SPEAKER MARVEL: You have one minute.

SENATOR SCHMIT: Therefore, I am going to oppose the Carsten amendment until we can get something done about that language.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, I would oppose the Carsten amendment because presently we are 12 in the bill and the 12 is just as high as 15 was here about a month or a month and a half ago. We had 20 percent prime. It's moved down to 17 and the actual drop in interest rates nationally that has taken place in the progress of this bill has equaled the difference we are talking about between 12 and 15, or 12 and 14. Fourteen is supposedly a compromise figure. And I remind you that the subdivisions could at the highest peak borrow for 12 or less on warrants if they had a good sound warrant issue. Nine and a half over the last six...twelve months. Nine, nine and a half to eleven and a half were generally the amounts testified as to the costs of warrants, so if a little slippage developed and the subdivision had to borrow some money, they still had a profit at 12. They did not justify their case for higher rates. I think most of you got a letter from the City of Blair. Now they made agreements to some of the developers on specific interest rates that they could set on their assessments and taxes until they sold it on the development. Now it puts that city in trouble when you raise the interest rates or anything above what they were originally going at and we were talking about 9 and 11 previously on the property tax. We are talking about a change from 6 on income tax delinquencies to 12. I think it is totally unfair to have gone and hit in like we did a year ago at a 16 percent retroactive situation, and 12 at least gives us a moderate rate of interest in relationship to what is happening today and with national interest rates forecasted to come down. I don't see how we can overlook what the President has declared as far as the future of interest rates that they are going to be coming down when we are passing a bill that is involving interest rate

collections for the future year. We are locking up in law higher rates. I think if you look at the taxpayers' side and not at the collector...now originally we had an assumption here in the state and in government that the subdivisions and governmental entities had to get along with the taxpayers. If it comes to a protest, we have handicapped the taxpayers, and there is some reason to think that the subdivisions should keep a good rapport with the taxpayers and have the taxpayers willing to make their payments. I might remind you that at no point has the Federal Land Bank ever gotten to 12 percent interest in its interest charges. So you are not talking about people going out and borrowing or using that money necessarily at what are nationally considered the highest interest rates in the nation, when you talk the 17...20 percent deal. We are locking in law collection procedure which was not made to profiteer on the taxpayers but merely keep things going while they paid their taxes. I urge the body to defeat this amendment. Thank you.

SPEAKER MARVEL: In the north balcony from Senator Kremer's District are fifty-six 9th Grade students from Aurora Junior High School. Bruce Ramsour and Jamie Auch, are the teachers, in the north balcony. Will you raise your hands so we can see where you are? Okay. We are speaking to Senator Carsten's amendment to the bill. The Chair recognizes Senator Kahle.

SENATOR KAHLE: Mr. Speaker, I think we have about worn this poor sucker out, but I would like to again reiterate that the counties are not in the lending business, or subdivisions of government, the cities. They are in the tax collecting business. That makes all the difference in the world. If you want to make a lending agency out of them, as someone said, well, they can go and borrow the money somewhere if the taxpayers don't pay it. That's a lending agency, not a government entity collecting taxes. I think that the Government Committee's amendment, Senator Carsten's amendment, whoever it is is fair. I think 14 percent fits today's problem. I don't know where it is going to change to. I wish I did. I think I could make some money if I knew. But I think 14 percent is a real across the board figure. You can't borrow money for 14 percent today, and I doubt if you will be in the near future, but I hope maybe you can. I would certainly be pleased if you could. I think the 14 percent is a compromise, some want 16, some want 15, and Senator Burrows wants 12. Fourteen is two above, and 14 is two below what the most of you want, so I hope that we can get this bill moved on at 14 percent. Thank you.

March 23, 1981

LB 167

SPEAKER MARVEL: Senator Hefner. Yes, do you want to speak now? The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Shall debate cease? Record.

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. Senator Carsten, do you want to close on your amendment?

SENATOR CARSTEN: Only just briefly, Mr. President and members of the Legislature. One of the things that has not been said on this floor this morning that I think there is some misunderstanding on, and that is on special assessments. These special assessments are paid by installments, and I think it is generally assumed that the entire assessment or installment is delinquent upon the first due date. Now that is not true. It is only on the installment that is due at a given time that that delinquency occurs. So we are not talking about the total assessment on a special assessment but only upon those payments. Again, I say this is an amendment that, in my opinion, is acceptable and one that will work. We are bringing it down along with the general obligations that are expected now. The rates are continuing to drop. We are told that they will continue. We are not hurting anyone, in fact, we may be helping those that seemed of the opinion that we are going to be hurting. I think the amendment is good and sound and I would certainly urge your support for the adoption. Thank you, Mr. President.

SPEAKER MARVEL: The motion is the adoption of the Carsten amendment to LB 167. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 33 ayes, 2 nays on adoption of Senator Carsten's amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The Carsten amendment is adopted.

CLERK: Mr. President, Senator Hoagland now moves to amend the bill and his amendment is on page 553 of the Journal.

SENATOR HOAGLAND: Mr. Speaker and colleagues, as I indicated earlier in support of the previous amendment which unfortunately did not pass, this bill goes into over 50 different sections of the Nebraska code. Now I

commend the Revenue Committee in its quest for uniformity. We have seen a lot of bills, Senator Wagner's bill, other bills to try and make things uniform in the statutes of the State of Nebraska. But the problem with that quest for uniformity is that we can create a great number of problems for ourselves and a great deal of hardship particularly in some individual situations. Now let me tell you what my amendment does. This deals with sanitary improvement districts which are in existence principally around Omaha and Lincoln and a couple of other cities along the Platte River. Now, believe me, if retroactive application at this new interest rate that Senator Carsten's amendment just put into the bill were to place in the sanitary improvement districts, the results in some situations could be truly catastrophic, and it would be a very serious consequence to do that. Now, all of you know about the tough economic times we have been having in the real estate market. We have had two severe periods of difficult economic times, one in the mid-seventies and one in the last eighteen to twenty-four months. Now, the way these sanitary improvement districts operate is that they will plat and develop an area, they will put in the sewer and the electricity and the paving and so forth, but the way the cash flow situation works is they won't get paid from the lot owners for those various items, for the sewers and the electricity and the paving, until people actually come in and purchase the lots. So the sanitary improvement districts have to carry that debt and they have to carry that debt for six or eight or ten years. Now, when those districts were first set up, they were financed on the assumption that the interest rate in some case was going to be in the six to eight to ten percent range, and if we impose this interest rate retroactive in some cases all the way back to 1972, we are going to be doing several things that are going to have very serious consequences. Now the first thing we are going to do is we are going to be increasing the cost of the lots to new people that want to come in and buy those lots, and it is going to further depress the real estate market because fewer people are going to be able to have the finances to buy the lots and to subsequently put houses on those lots. Now, it really makes sense, I think, from an equitable point of view to have the old interest rate carry through to the old debt and to have only prospective application for these kinds of interest rates on SIDs so that the new rate will then cover only the new debt. If we put retroactive application back to '74 or '72 in some instances why nobody is going to benefit from that. It is not going to speed the sales of the lots. The new lot owners are going to

March 23, 1981

LB 167

have to pick it up, nobody else, because the price of the lots is going to go up, and in a couple of isolated cases we could threaten bankruptcy in these areas. Now, if some of these areas do go bankrupt, why it is going to mean that the existing lot owners then, people out there that have come into the SIDs, have purchased lots, have built homes, are going to have to pick up the difference, and it is going to wind up being very, very expensive. Now, as I indicated earlier, I think what the Revenue Committee is doing is very commendable. They are trying to make uniform the interest rates through over 50 separate provisions in the Nebraska code. I was hopeful because of the meat axe approach of that that we would have it prospective only with respect to all of those so we could truly understand what we were doing. Now that amendment didn't carry, and in view of that amendment not carrying, I think it is particularly important to go into this one area, this amendment of mine only amends one particular section and makes sure that we have only prospective application there because, believe me, on the equities it would be very serious if we do it otherwise. Thank you.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I have a question of Senator Hoagland, if he will yield.

SPEAKER MARVEL: Senator Hoagland, do you yield?

SENATOR HOAGLAND: Yes, I will, Senator Dworak.

SENATOR DWORAK: In the situation of sanitary improvement districts and delinquent assessments, who pays the delinquent assessment and whom receives the delinquent assessment?

SENATOR HOAGLAND: Now, right now, Senator Dworak, the debt for those assessments is simply being carried. Nobody has the funds and the debt is not being paid off because the way sanitary improvement districts are set up financially from the onset is they don't have the cash to pay those assessments off to pay for the sewer and the paving until individual lot owners come and purchase the lots. All right, so then does that answer your question? So if this retroactive amendment is not attached, why the price of the lots is going to go up and fewer of them.....

SENATOR DWORAK: Now you haven't answered my question. Who pays the delinquent assessment?

March 23, 1981

LB 167

SENATOR HOAGLAND: The new lot owners pay them as they purchase the lots. They pay the delinquent assessments that have been accumulated on that lot.

SENATOR DWORAK: What about the existing lot owners?

SENATOR HOAGLAND: The existing lot owners have already paid off the special assessments for their particular lot. When they purchased their land, they paid it off.

SENATOR DWORAK: And who receives it?

SENATOR HOAGLAND: Well, it goes back in to pay off the revenue bonds that were originally taken out to purchase the paving and so forth. The financiers receive it.

SENATOR DWORAK: The financiers are recipients of the delinquent assessments and those people that have paid for the assessment are charged the same rate that those people who have not paid, right?

SENATOR HOAGLAND: I..I'm...

SENATOR DWORAK: If I bought a lot in a sanitary improvement district, one of the first lot buyers, you are telling me I have paid a delinquent assessment. That's what you said.

SENATOR HOAGLAND: Well, yes, virtually all assessments do become delinquent, technically, I mean delinquency, you know, is kind of loosely used in its context because they are not really delinquent, because the way the whole financial structure is set up, these special assessments are not paid off until somebody purchases the lot. So people that have already purchased their lots have paid off those assessments, that's right. But by applying this retroactively we are just going to hike the price way up on future lot sales and it is going to slow down the lot sales and put the real estate market even into more trouble than it is in right now.

SENATOR DWORAK: But somebody is paying for it. The delinquent assessment hasn't changed whether it is 6 percent or 12 percent, right? I mean we still have a delinquent assessment.

SENATOR HOAGLAND: That's right.

SENATOR DWORAK: It's a matter of who is paying for that....

SPEAKER MARVEL: I'm sorry but we can't carry on a dialogue.

March 23, 1981

LB 167

If there is a question you need to pose, pose it and get an answer. We have spent all morning and we haven't even gotten through two different items.

SENATOR DWORAK: That's what I am trying to do, Mr. Speaker.

SPEAKER MARVEL: Okay, do you want Senator Hoagland to answer a question, Senator Dworak?

SENATOR DWORAK: I think he has answered it now. Thank you.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President, I would like to ask Senator Hoagland a question, if I may.

SPEAKER MARVEL: Senator Hoagland, do you yield?

SENATOR HOAGLAND: Happy to yield, Mr. Speaker.

SENATOR CARSTEN: Senator Hoagland, is this not the same or very similar amendment as Senator Beutler's that we just turned down a while ago?

SENATOR HOAGLAND: Well here is how it is different, Senator Carsten. The amendment that I cosponsored with Senators Beutler and Vickers applied to all 55 sections of this bill. This amendment only applies to one section, one special situation.

SENATOR CARSTEN: That's fine, Senator Hoagland. I think here again we are addressing a subject matter with a little exemption here, a little exemption there, just like we tax our....attack our tax structure with exemptions all the way through, and if you open the door on one, you are sure going to open it again further down the road. I would oppose the amendment even though I know it is well intended, but I just believe that's part of the operation of business and those people that develop these areas know that full well when they go into it. And I just cannot see the real sound logic of exempting a little here and a little there. I oppose the amendment, Mr. President.

SPEAKER MARVEL: Senator DeCamp. The question has been called for. Do I see five hands? Okay, the question is, shall debate cease? All those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? Record the vote.

March 23, 1981

LB 167

CLERK: 25 ayes, 6 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. The Chair recognizes Senator Hoagland to close on his motion.

SENATOR HOAGLAND: Let me, Mr. Speaker, just make one remark and then I would like to yield to Senator Labedz to finish my closing for me. You know, as we talk about these amendments this morning I think it is becoming clear that these issues are very, very complicated and it is very difficult for us to understand what retroactive means and what prospective means. But let me just say that in most cases, in my opinion, it is fair to have only prospective application, only application for the future. In this particular case it is particularly important, this one case out of over fifty that this bill deals with it is particularly important to have only prospective application and I urge you to support it. And with that, Mr. Speaker, I will yield to Senator Labedz.

SPEAKER MARVEL: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. Speaker, and thank you, Senator Hoagland. I support Senator Hoagland's amendment and I am sorry that I wasn't here on time yesterday to be able to put my name on his amendment because I think it is good and urge the support of the members of the Legislature. The old special assessments that are used to pay old bonds which were issued at old lower rates than today's, those rates were to the old rates on special assessments. New higher interest costs to SIDs will be reflected in prospective application of this bill. Increased interest rates on specials will not speed their payment, instead only lot sales will speed their payment. Increasing the rates on old specials will increase lot prices and, therefore, hurt a lot of the sales. The resolution levying special assessments specified the percentage they would draw if delinquent. It is unfair and I believe very unfair now to change what was due then, 3, 4, 5 or 10 years ago. The lot prices, the projections and so forth all were based on the percentage specified in the levying resolution. If the new increased rates are applied retroactively way back to the time of the levying, it would no doubt tremendously cost a lot to the homebuyers. It may result in foreclosure of specials and would be disastrous to the SIDs which may collect only a small percentage of the principal amount of the specials at a foreclosure sale. I, therefore, support Senator Hoagland's amendment and urge

March 23, 1981

LB 167

the members of the Legislature to make this one very simple change and I am sure...Senator Carsten mentioned the fact that there were amendments here and amendments there, but this is very important to those that three, four, five, six, ten years ago, and I don't think that we should be now including them in the increase in interest rates. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Hoagland amendment as explained and Senator Labeledz was closing on that motion. All those in favor of the Hoagland amendment vote aye, opposed vote no. Have you all voted? Have you all voted? Have you all voted? I am going to call for the vote. Senator Hoagland.

SENATOR HOAGLAND: I would like a Call of the House, Mr. Speaker.

SPEAKER MARVEL: I'm sorry, I didn't hear.

SENATOR HOAGLAND: Excuse me. I would like a roll call vote.

SPEAKER MARVEL: Okay, first of all we have a Call of the House. All those in favor of that motion vote aye, opposed vote no. Shall the House go under Call? The noon schedule is set up so that we recess at noon and reconvene at 1:30. Record.

CLERK: 21 ayes, 3 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please....I'm sorry, all legislators please return to their seats, record your presence. Senator Fenger will you record your presence please. Senator Burrows. Senator Warner, Senator Kremer. Senator Kremer is excused. Senator Schmit, Senator Rumery, Senator Sieck, Senator Landis, Senator Newell, Senator Chambers. Senator Newell, will you record your presence, please? All legislators are to be in their seats. The House is under Call. Senator Hoagland, everybody is here except Senator Chambers. Do you want to proceed with the roll call vote?

SENATOR HOAGLAND: Let's proceed.

SPEAKER MARVEL: Okay, call the roll.

CLERK: (Read the roll call vote as found on page 1064 of the Legislative Journal.) 18 ayes, 24 nays, Mr. President.

SPEAKER MARVEL: The motion lost. Any other items you

March 23, 1981

LB 167

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Will those of you who have not checked in, please do so so we can get started? Okay, record.

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

SPEAKER MARVEL: Do you have something to read in before we start?

CLERK: No, sir, I do not.

SPEAKER MARVEL: Okay, we are ready for LB 167.

CLERK: Mr. President, when we left LB 167 this morning, I have an amendment from Senator Warner found on page 567 of the Journal that I understand he wishes to withdraw.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, the amendment that is printed in the Journal I wish to be withdrawn and replace it with another amendment which does the identical same thing but there was a couple of wording changes that apparently only because of bill drafting purposes that felt to be plainer. The amendment does four things. You may want to not take them up all at the same time. The first amendment affects personal property tax. There is no change but it was felt in reviewing this section that it was not perfectly clear that a delinquent date for payment of personal property tax, that the penalty begin from the date of delinquency, although I understand that is in all cases exactly how it is done now as long as before it seemed appropriate to clarify that that is the way it should be if it isn't the way they are doing it. The second amendment would strike the entire section that deals with the greenbelt law and the interest rate but there is other legislation, LB 412, it is out on General File, that deals with not only interest rate but some other things that ought to be attended to, and it would be appropriate, it would seem to me, to handle it all in that one bill and I think you recall Senator Newell was interested in that bill, and as I recall, he generally agrees that we could properly consider that whole change all in one bill separate from this one. The other two changes deals with inheritance tax and estate tax and the change is only to make both of them consistent. Under existing law the penalty runs from the date of delinquency for payment which is twelve

months after death. The way the other section is written the penalty runs from the date of death even if it is one day late and this would make the date of delinquency in which interest is paid the same for both which would be from the date the tax was due. The last one is maybe more controversial or at least some question on. The section that is amended in this case refers to where the state has made a refund, an erroneous refund, to the taxpayer, the amount returned...the refunded amount greater than they should. Under the bill as it is drafted the taxpayer when it was discovered that the state had made a mistake will be charged a rate of interest the same as for a delinquent tax, wherever that percentage ends up. My amendment would strike that change and leave the law as it is now, that if there was an erroneous refund which was at the blame of the state, the rate of interest would only be six percent to the taxpayer for the period of time which he held the refund before the mistake was discovered and the position it seems to me that since the tax was paid timely by the taxpayer that it makes no sense because the mistake was made by the state that the taxpayer has to pay a much higher rate of interest. The current level of six percent is reasonable because today, at least, any investment you might be able to make with those funds for an indefinite period of time or for no minimum amount runs from five and a half to six and a quarter percent, so to charge six percent under those circumstances when the state refunded too much seems to me to be reasonable and it is unreasonable to charge the taxpayer a rate of twelve, fourteen, fifteen percent when it was no error on the taxpayer's part. So I would move adoption of the amendment. I am very willing to separate any portion of those amendments if someone wants to vote on some section individually.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, I would support Senator Warner's amendment. I have no problems with it. We have gone over it and I think that he does clarify with the amendment and particularly the wording that was needed to be corrected. I support the amendment.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I was wondering if we could put this amendment in four different phases or four different areas. I can support two and I will have to oppose the other two. Senator Warner, would you be in favor of splitting that amendment?

March 23, 1981

LB 167

SENATOR WARNER: I have no objection, Senator Hefner.

SENATOR HEFNER: On what page is that?

SENATOR WARNER: What do you want to amend out? What do you want to vote separate?

SENATOR HEFNER: I don't think we need the first and second parts of the amendment. Why do we need this amendment on delinquent property taxes when we spell it out fairly clearly in the bill?

SENATOR WARNER: No. Maybe I didn't speak plainly. The first amendment, there is five parts to this actually of changes. The first amendment which is...they are all in the Journal is not changed from what I am offering. It merely clarifies that personal property tax, that the time from which the penalty would start is the date at which the tax became delinquent or due, or delinquent, rather. Correction, the time it became delinquent, the date. That is the way it is done now but I understand that the wording is such that someone could say, "Well, it is not perfectly clear when the date for delinquency interest should start is the date that it became delinquent." So they could charge an earlier date. That one there is nothing to argue about. If you don't want to do it, it don't make any difference to me. I think it might avoid a question raised in the future. The second amendment strikes the section dealing with the greenbelt law which is in LB 412 and could be handled there. The third and fourth amendment both deal with estate and inheritance tax. As the bill is now drafted under one of them the penalty if you are late in the date the tax is due, twelve months after death, if under one of them you are one day late, you pay one day's interest, only from the date that the tax was due. Under the other one, the way the law is written, the delinquency goes back to the date of death. It is twelve months and one day of interest. Both taxes are due, it is identical same time. In one case the money goes to the state, the other to the county, and it makes no sense to me to have two different methods of calculating the delinquency interest, once being the date when the tax was due, the other a year ahead of that, the date at which the person was deceased. The last amendment deals with the amount of interest the taxpayer is charged if the state erroneously makes a mistake and refunds to the taxpayer too much. Under the bill as it is, if the state refunded you too much, you would be subject to pay the twelve or fourteen percent interest because the state made that mistake from the time until it was discovered. Current law you pay only at a six percent

rate on money erroneously refunded by the state to the taxpayer and the rationale for that change is that that can be in any dollar amount, be relatively small, and it seems to me that it is unreasonable for the state to expect the taxpayer to pay a higher rate of interest where the state made the mistake than what the taxpayer could earn if that money was invested. And the most you can get is six and a quarter percent on an investment where the money is immediately available and which there is no minimum balance in which to invest. Under no circumstances can I see where it is defensible to say that the state paid you back \$50 more than they should have, that you then, because the state made a mistake, that you should be paying fourteen percent interest until it is straightened out. The taxpayer was timely, did everything correct. The state made a mistake and I don't think it is right that the state charges the taxpayer that level of interest when it was the state's mistake.

SENATOR HEFNER: Okay, thank you, Senator Warner, for enlightening me. In other words, this amendment has five parts. On what page of the Journal is this?

CLERK: Senator, if you reference Journal page 567, that is essentially Senator Warner's amendment with one or two changes. Okay.

SENATOR HEFNER: Okay, I will withdraw my questioning then on splitting this amendment.

SPEAKER MARVEL: Senator Newell, do you wish to be recognized?

SENATOR NEWELL: Yes, I do. Senator Warner, I would like to do what Senator Hefner did only I would like to ask you to split them and maybe kind of help us clarify this a little more. Jerry, I wonder if you would be willing, since this bill is on General File at this time, and I have agreed to the greenbelt, you know, I have agreed with you to take this out and discuss that on my bill as it comes up. Basically, you have two more amendments, is that correct or is there three amendments? More...beyond the greenbelt?

SENATOR WARNER: Three other subjects.

SENATOR NEWELL: Okay, three other subjects. Jerry, I wonder, would you be willing...well, let me put it this way, I would appreciate greatly if we could separate this, vote on the greenbelt now, and then the other two or three subject matters, that we could basically pull some people together and discuss the impact and the ramifications of them, because

March 23, 1981

LB 167

frankly we haven't discussed this either in the committee, I have heard you talk about it in private. I almost think I understand it but everytime I think I understand it I don't and I think that there is others who have got to be feeling the same way I have since I have worked real hard at trying to understand it. And do you think we could maybe separate those and offer those on Select File?

SENATOR WARNER: No, I would rather take them up now, up or down, one at a time.

SENATOR NEWELL: Well, I would like to separate them... (Interruption).

SENATOR WARNER: This is a very simple amendment, Senator Newell. I understood you agreed to consider the greenbelt in a separate bill...

SENATOR NEWELL: On the greenbelt.

SENATOR WARNER: ...which I agreed to do.

SENATOR NEWELL: Right.

SENATOR WARNER: These other changes are, you know, the first one I don't care whether you do or not. It doesn't change a thing. The bill drafters, those I have talked to, I think Revenue staff does not agree..disagree that it would clarify when personal property tax becomes delinquent and from what date the tax is to be paid. The one on inheritance tax, you know, there is no one in here that could make me believe that it is proper to have the estate tax one way....

SENATOR NEWELL: I think you are right, Jerry.

SENATOR WARNER: ...and the inheritance tax figured a different, they are both due the same day. The third one, the last one, we can deal with here and, philosophically, we can handle it separately and it is whether you think the taxpayer should pay a fourteen percent interest rate for a mistake made by the state government, not of his own making. I don't think they should. If you think they should, we can resolve that issue, up or down, and let it go.

SENATOR NEWELL: If it is all right, let's divide it, under the greenbelt first; the technical amendment let me check on; the inheritance thing, I need to analyze, that is one I have a problem with because I don't really understand it totally. I am not saying I disagree with it or agree with it. I just

March 23, 1981

LB 167

don't understand it. And the last one I think I do have a problem with and I think we are going to (interruption).

SENATOR WARNER: (Interruption) anything you didn't understand, Senator Newell.

SENATOR NEWELL: Well, I mean it wouldn't be the first time I did that but it is not...this is an important (interruption).

SENATOR WARNER: (Interruption) I wouldn't want to be the cause of it.

SENATOR NEWELL: Thank you, Senator. If we could separate that, I would like to make an official request to separate the greenbelt provision.

SENATOR WARNER: Do it separately...they are numbered that way.

CLERK: Senator, can you identify for me which ones are the greenbelt?

SENATOR WARNER: It would be section 2 of the amendment. It says "Strike original Section 13".

CLERK: So....

SENATOR WARNER: And with that should be number 6 on page 41 because that is down in the repeal section. It just merely spells out Section 13 which is 77-1348.

CLERK: So, the greenbelt amendment that we are referring to would be "Strike original section 13. On page 41, line 3, strike ..."?

SENATOR WARNER: Yes.

CLERK: Okay, thank you.

SENATOR WARNER: And I assume, seven, renumbering the sections could go, too, because there would be no need for that.

SPEAKER MARVEL: Okay, the motion that we are speaking to at the moment and this is an amendment to LB 167. Item #2 is to strike original section 13, and on page 41, line 3, strike 77-1348. Senator Warner, do you have any additional comments on those two?

SENATOR WARNER: I will explain again, Section 13 of the original bill is what we refer to as the greenbelt law which

applies only to those areas where individual taxpayer has by application is being assessed at the agricultural value rather than market value under existing law, and under existing law when that property changes use, that is when it becomes used for something other than agricultural, that at that point it can have a deferred tax assessed going back five years on the property and it is at a rate of six percent interest. There is no delinquency involved because the tax was not due until that time. My argument is that it shall remain at six percent because to increase it has only one practical effect, that is to raise the price of the property that someone is going to pay when it is developed and I appreciate there are those, if it is commercial property, may see where that is no problem. However, if it is residential property and a vast amount of property would be residential, if you increase that interest rate to the level as proposed in the bill now, all you are doing is increasing the price of the lots to the eventual homeowner. There is logic to having some level of interest to be paid for that deferred tax for the reason that there is some cost incurred by local government when development takes place but that rate should not be so high that it exceeds what is justified for that additional expense to local government nor should it be so high that you, in effect, have a substantial increase in the price of the property that is going to be born by the eventual residential lot purchaser. So with that, I would move that that portion of the amendment be adopted, to strike section 13 from the act, which as I indicated, has the same or similar arguments to LB 412 where not only the interest rate but other matters can be discussed.

SPEAKER MARVEL: Okay, the motion before the House is the adoption of the Warner amendments which are designated as amendments to LB 167 and include #2, strike original section 13, and #6, on page 41, line 3, strike 77-1348. Senator Newell.

SENATOR NEWELL: Yes, Mr. President, just to clarify this, Senator Warner was debating this, we have agreed, Senator Warner and I, that we would discuss this in another bill, the greenbelt law that is my bill. It is coming up later so I am in total agreement with Senator Warner.

SPEAKER MARVEL: Okay, all those in favor of the Warner amendment as explained vote aye, opposed vote no. Record the vote.

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of the first Warner amendment.

March 23, 1981

LB 167

SPEAKER MARVEL: Okay, the motion is adopted. The motion is carried and the amendment is adopted. Now we take...

CLERK: Mr. President, if I may, Senator, are we going to take the balance of the amendment then? No.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, the way they are numbered on the sheet, it would be #1, 3, and 4. #1, again, is only clarifying language. #3 and 4 will make the time, the date from which a delinquency is charged, interest is charged, on inheritance tax and estate tax the same, and in both then it would be from the date due. As I mentioned before, one of them now is from the date of death, the other is from the date due which is a one year difference. It seems to me that they ought to be the same. In every other case for uniformity, the interest starts from the time that the tax was due. This will make them both the same, the date the tax was due, one year after the death of the individual. I believe Senator Newell indicated he didn't object to this one. It is the last one he wants to discuss more.

SPEAKER MARVEL: The motion is on amendments to LB 167. The first part of that amendment is on page 15, line 14, after "theron" insert "from the date of delinquency". The second part of the amendment, that is #3, right?

CLERK: Yes, sir.

SPEAKER MARVEL: On page 24, line 26, after date "the same became payable"; in line 5 after "collected" insert "on any unpaid taxes due"; and strike line 27 and show as stricken. And #4 is on page 25 strike beginning with "are" in line 1 through "thereon" in line 3 and show as stricken. Those in favor of the amendments as explained by Senator Warner...Senator Warner, do you have any other comments before we proceed? All those in favor of the second set of Warner amendments vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of that amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Senator Warner.

SENATOR WARNER: Mr. President, the last amendment, which is #5, relates to whether an erroneous refund was made by the state to the individual taxpayer, those who would argue against the bill would take the position that even though

the taxpayer paid on a timely fashion and the state made a mistake and refunded too much, that the mere fact that the state refunded more than they should, in effect the taxpayer has then become delinquent in his tax, though it was at no fault of his own. My position is that it is unjust to penalize the taxpayer at a fourteen percent rate of interest when the state made the mistake and that it is reasonable to retain the present rate of interest which is at six percent which is comparable to what that individual taxpayer could earn on that refund that was erroneously made should he invest it in some kind of investment that was completely liquid, that is that they could get back the money at any time and was not...because they wouldn't know when the state would determine when a mistake had been made. Philosophically if you think the taxpayer should be paying the higher percent of interest because the state had made a mistake, then you would vote against the amendment, but if you think it is fairer that only the amount of interest the taxpayer could have earned in an investment where the funds were readily available because of the state's mistake, you will retain the six percent that the current law has and which my amendment reinstates.

SPEAKER MARVEL: Senator Newell, do you wish to speak to this third amendment?

SENATOR NEWELL: Yes, Mr. President, members of the body, I am going to rise to speak on this issue. I am not sure whether I am going to support it or oppose it. Senator Warner, do you have any idea how often this might occur? I mean, one of my concerns is that we may be doing something that is more paperwork and more bookwork than it is, in fact, effectively helping someone out.

SENATOR WARNER: It only refers to income tax refunds, Senator Newell, and the amendment will not create a larger number or a lesser number than we have now. The only thing in question is what rate of interest should the taxpayer be charged because the state refunded too much money.

SENATOR NEWELL: Yes, but basically what we are doing is setting up a new class, the specific class that says in some cases we are going to have some people who deserve...who, because they didn't make the mistake only pay six percent, and other cases, they are going to pay twelve percent as a delinquent tax because it was not their mistake but instead... I mean it was their mistake itself instead of the state's mistake, right? So we are really going to set up a two-tiered system on the rebate.

March 23, 1981

LB 167

SENATOR WARNER: It would be two, yes, two separate rates of interest. If you are underpaid intentionally, you pay the larger rate of interest. If you are underpaid by virtue of the fact that the state refunded too much, you pay a lesser rate and my position is that you shouldn't be penalized for the mistake the state made. You ought to be penalized at a higher rate if it is your mistake.

SENATOR NEWELL: Okay, just for legislative intent, Senator Warner, is it your desire here if I was to suggest that I paid...if I paid too much, that basically I miscalculated and yet even then I paid too much, would that thereby be my mistake or the state's mistake in terms of paying me too much back?

SENATOR WARNER: To my knowledge, this only refers to a refund that the state has made. If you overpaid intentionally, well, this doesn't affect that situation one way or the other from what the law currently is. There is...you may have a reference because I am aware of an amendment that was floating around that anyone who had overpaid any tax, several at least, that they would be paid a rate of interest commensurate with whatever the penalty is. This does not deal with that set of amendments, if you have seen or heard of them. This is different.

SENATOR NEWELL: Well, I have heard of them. Okay, Senator Warner, for the time, I am going to support your amendment, again, mostly because I am not sure what it does, but if it does what I think it does, I think it will be okay. If it doesn't do that, I may want to take it off.

SENATOR WARNER: I can only say your faith is well placed.

SPEAKER MARVEL: Senator Higgins. The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Do you wish to cease debate? Record.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator Warner to close. Senator Warner waives closing. All those in favor of the third Warner amendment as discussed vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of the Warner amendment.

SPEAKER MARVEL: The motion is carried. The amendment is

March 23, 1981

LB 167

adopted. Now, the Clerk informs me there are two other amendments.

CLERK: Mr. President, Senator Burrows moves to amend the bill.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, this amendment would simply do what I feel the Legislature intended when it originally wrote the lid bill. It would provide that the interest, this penalty interest on unpaid taxes, would be counted the same as property taxes or other taxes involved toward the lid. Now the staff in the Revenue Committee felt that it would be interpreted that way already, that it would be counted toward the lid as the taxes themselves because they are paid the same and assessed to the person and paid the same as taxes. The amendment would insist that those revenues coming from interest rates on the unpaid taxes be counted under the lid. I think from the standpoint of the Legislature when it imposed the lid that it never intended a separation, but when I called the Auditor's Office, or my staff called the Auditor's Office, we found that they had distinguished and did not count this toward the lid. I think if the proponents of the higher rates of interest on unpaid property taxes are really true and consistent they will not mind this amendment. If the issue has been that of collection of taxes, I think this is merely a clarification of the statute and does away with what I feel was an arbitrary interpretation by the State Auditor's Office, that it will do what the Legislature originally intended, that those taxes paid and interest monies paid directly as taxes will all be counted under the lid. I thank you.

SPEAKER MARVEL: Any further discussion on the Burrows amendment? If not, all those in favor vote aye, opposed vote no. Have you all voted? We are voting on the Burrows amendment to LB 167 as we slowly move down the highway...slower and slower. Have you all voted? Have you all voted? Senator Burrows.

SENATOR BURROWS: I would like a Call of the House and a roll call vote.

SPEAKER MARVEL: Slower and slower. Shall the House go under Call? All those in favor vote aye, opposed vote no. Record.

CLERK: 11 ayes, 0 nays to go under Call, Mr. President.

March 23, 1981

LB 167, 216, 322

SPEAKER MARVEL: The House once more is under Call. All legislators please take your seats, record your presence, encourage those who are not to be on the floor to move. We are under Call. If you have not recorded your presence, would you please do so? Senator Wiitala. Senator Fowler, is he excused? Senator Lamb, Senator Maresh, Senator Kahle, Senator Hefner, Senator Sieck, Senator DeCamp, Senator Hoagland, Senator Chambers, Senator Clark. Senator Clark, Senator Dworak, Senator Kahle, Senator Lamb, Senator Maresh.

CLERK: Mr. President, while we are waiting, I have a report from the Agriculture and Environment Committee regarding gubernatorial appointments; and LB 216 is reported to General File with amendments; and LB 322 to General File with amendments. (Signed) Senator Schmit.

SPEAKER MARVEL: Senator Clark, Senator Lamb, Senator Kahle. Will all legislators please return to your seats, since we have had a Call of the House, as per your instruction. We are seeking Senator Clark now. If anybody can find him, please let us know. Are you ready for a roll call vote then? Senator Burrows, do you want a roll call vote now?

SENATOR BURROWS: How many are missing now?

SPEAKER MARVEL: Everybody who is not here is excused. There are eight missing or there are eight excused.

SENATOR BURROWS: Go ahead, let's get it over with then.

SPEAKER MARVEL: Call the roll. All legislators are to be in their chair and we cannot continue with any call until everybody is seated. That is your rules, not ours. Call the roll.

CLERK: (Roll call vote taken: See Pages 1069 and 1070, Legislative Journal.) 10 ayes, 28 nays, Mr. President.

SPEAKER MARVEL: Motion lost. Do you have another item?

CLERK: Mr. President, Senator Schmit moves to amend the bill.

SENATOR SCHMIT: Mr. President.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I will explain the amendment. It is very brief and very simple. It is in line with what I was speaking to this morning. As

March 23, 1981

LB 167

I pointed out this morning, in 1975 I amended a statute on child support that provided that interest be paid on delinquent child support payments. At that time the act called for nine percent on delinquent child support payments. At this time I am going to amend, I am proposing to amend the statute so that the interest rate will be concurrent with the rates of interest charged the taxpayer who doesn't pay his delinquent taxes. That is all the amendment does, Mr. President, and I move for its adoption and I will be glad to answer any questions.

SPEAKER MARVEL: Senator Vickers, your light is on.

SENATOR VICKERS: Mr. Speaker and members, I wonder if Senator Schmit would respond to a question please.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Yes, I will, Senator.

SENATOR VICKERS: I hesitate to do this with your voice in the condition it is, Senator Schmit, to have you talk any more than is necessary but I am curious as to whether or not this amendment would apply retroactively to those people that have fallen behind in their child support payments, if the increase in the interest that you are asking for here with this amendment would in fact go back to those people who perhaps hadn't paid their child support payments even back in 1975 that you were referring to?

SENATOR SCHMIT: As I see the amendment, Senator Vickers, anyone who has not paid his child support and is not current would be delinquent and the fourteen percent would be assessed retroactive.

SENATOR VICKERS: Okay, thank you very much, Senator Schmit. I rise to support Senator Schmit in this amendment. I think that is important that if we are talking about penalties on people that have not paid their taxes and are going to assess that penalty and assess it retroactively as this body has decided to do, we should, as a matter of public policy, include that interest to those people that have not paid their child support payments in defiance perhaps of court orders or various other things, and it also should be retroactive, if, in fact, taxes and the interest on taxes that are delinquent should be retroactive. So I do support Senator Schmit's amendment and urge the body to also support it.

SPEAKER MARVEL: The motion is the adoption of the Schmit

March 23, 1981

LB 167

amendment to 167. Senator Vard Johnson, your light went on.

SENATOR V. JOHNSON: Mr. Speaker, I have a couple of questions of Senator Schmit, if he would yield.

SPEAKER MARVEL: Senator Schmit.

SENATOR V. JOHNSON: My questions are really very simple, Senator Schmit. I quick like checked our statutes. A legal judgment right now will bear interest at the rate of twelve percent per annum. Under your bill, child support will bear interest at the rate of fourteen percent per annum because that is the amount that LB 167 calls for. Do you have any reason to distinguish the child support delinquent payment from any other judgment that is delinquent?

SENATOR SCHMIT: Senator, I think that it is obvious to many of us on this floor that we recognize the inability of a subdivision of government to operate unless there is some incentive to require the individual to pay those taxes that are due to them. I feel that there is definitely an incentive factor involved here and I think that from my point of view I think that it is justified.

SENATOR V. JOHNSON: The real question I have though is this, Senator Schmit. Assuming that this body decided that child support judgments alone would bear a delinquency rate of fourteen percent per annum, would you want all judgments to bear a delinquency rate of fourteen percent per annum?

SENATOR SCHMIT: I could be talked into that, Senator Johnson, I suppose if the body chose to go that way.

SENATOR V. JOHNSON: All right. Now let me ask one final question, do you think there is any rational basis that we can for distinguishing the unpaid child support lien from, say, the unpaid alimony lien or any other decretal award in terms of allowing one rate of interest for one unpaid judgment and a different rate of interest for child support judgments?

SENATOR SCHMIT: Just to be very honest with you, Senator Johnson, it has been very difficult for me to get anyone interested in the collection of any kind of those judgments and I am going to sort of try to whip one dog at a time. If I get that one in line, I will work on the other ones.

SENATOR V. JOHNSON: Well, I don't have any opposition to

March 23, 1981

LB 167

Senator Schmit's amendment. In fact, I see no reason why child support judgments ought not to bear the same kind of interest rate that unpaid taxes bear but I do have some concern that we distinguish that one type, that one type of decretal allowance from all the other decretal allowances and I think maybe the better part of discretion, let me ask Senator Schmit one more question, would you be willing to hold this amendment for Select File at which time we could put an entire amendment on to deal with judgments?

SENATOR SCHMIT: Yes, I would do that.

SENATOR V. JOHNSON: That would be fine. I would be more than happy to help Senator Schmit with an amendment to affect all judgments.

SENATOR SCHMIT: Thank you.

SPEAKER MARVEL: Senator Carsten. Senator Schmit, did you want the floor?

SENATOR SCHMIT: Yes, to hold the amendment, Mr. President.

SPEAKER MARVEL: Excuse me.

SENATOR SCHMIT: I would just ask that the amendment be withdrawn at this time and I will work with Senator Johnson and we will put an amendment on Select File.

SPEAKER MARVEL: Okay, there is still one item on the Clerk's desk.

CLERK: Mr. President, Senator Newell now moves to amend the bill. No, you don't. I am sorry.

SPEAKER MARVEL: The motion is to advance 167 to E & R for Review. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President.

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

SENATOR CARSTEN: Mr. President, I appreciate you saving the time so I didn't have to close. Thank you, sir.

SPEAKER MARVEL: Sorry. While we are getting the next bill

March 25, 1981

LR 46
LB 39, 39A, 50, 72, 73,
104, 167, 171, 194, 197,
197A, 252, 425, 475, 500

SPEAKER MARVEL PRESIDING

SENATOR BEYER: (Prayer offered.)

SPEAKER MARVEL: I have a note here that indicates that today is the 35th birthday of Senator Howard Peterson and this occurred on the weekend, March 22, and there will be rolls served in his honor and we wish Senator Peterson the best for the year to come. Have you all recorded your presence? Record.

CLERK: A quorum present, Mr. President.

SPEAKER MARVEL: Do you have items under #3?

CLERK: Mr. President, your committee on Public Works whose Chairman is Senator Kremer reports LB 252 to General File with amendments. (Signed) Senator Kremer.

Your committee on Enrollment and Review respectfully reports that they have examined and reviewed LB 39 and recommend that same be placed on Select File with amendments; 39A Select File; 167 Select File with amendments; 197 Select File with amendments; 197A Select File. All signed by Senator Kilgarin as Chair.

Your committee on Enrollment and Review respectfully reports we have carefully examined LB 72 and find the same correctly reengrossed. (Signed) Senator Kilgarin.

Senator Wagner would like to be excused for the day.

And, Mr. President, LB 73, 194, 50, 171, 194, 425, 475, and 500 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 73, LB 104, LB 50, LB 171, LB 194, LB 425, LB 475, LB 500. Item #4, resolution.

CLERK: LR 46 is offered by (read LR 46.)

SPEAKER MARVEL: Senator Lamb, this is your resolution.

SENATOR LAMB: Mr. Chairman and members of the Legislature, this is a resolution which honors Senator Nichol's mother who recently passed away. The fine lady has been a long time credit to the State of Nebraska. I urge the adoption of this resolution.

March 30, 1981

LB 39, 167

amendments to LB 39.

PRESIDENT: Motion is to adopt the E & R amendments on LB 39. Any discussion? All those in favor of adopting the E & R amendments on LB 39 signify by saying aye, opposed nay. The E & R amendments on LB 39 are adopted.

CLERK: Mr. President, I now have a motion from Senator Warner to indefinitely postpone the bill. Pursuant to our rules, that will lay the bill over.

PRESIDENT: All right. It will now lay over, a motion to indefinitely postpone. The next bill then is LB 39A. Why not just...I would think that since there is a kill motion on 39, just let it ride with 39 would be my suggestion, we just let it remain on Select File. Is there any objection to doing that? I am just going to do that until Senator Marvel gets here and says otherwise. We will go on then to LB 167.

CLERK: Mr. President, there are E & R amendments to LB 167.

PRESIDENT: The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 167.

PRESIDENT: Motion to adopt the E & R amendments to LB 167. Any discussion? If not, all those in favor of adopting the E & R amendments on LB 167 signify by saying aye, opposed nay. The E & R amendments on 167 are adopted.

CLERK: Mr. President, I now have an amendment from Senator Schmit.

PRESIDENT: Senator Carsten. Senator Carsten, did you have a question?

SENATOR CARSTEN: Mr. President, members of the Legislature, could I ask the Clerk, isn't there...if there is another amendment besides Senator Schmit's?

CLERK: No, sir, not at this time.

SENATOR CARSTEN: I have been made aware that Senator Hoagland has amendment to 167 and inasmuch as Senator Schmit and Senator Hoagland, neither one are here, Mr. President, I wonder if we might request the Speaker to at least pass over this one until they arrive, if that is possible.

March 30, 1981

LB 167, 197, 197A, 291,
311

PRESIDENT: Since Senator Schmit is not here, Senator Hoagland is not here, the consensus is we will just pass over 167. The next bill will be 197.

CLERK: Mr. President, there are E & R amendments to LB 197.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Kilgarin, do you want to...

SENATOR KILGARIN: I move the E & R amendments to LB 197.

SPEAKER MARVEL: The motion is the adoption of the E & R amendments to LB 197. All those in favor of that motion say aye, opposed no. Motion is carried. The E & R amendments are adopted.

CLERK: I have nothing further on the bill, Senator.

SPEAKER MARVEL: Do you want to move the advancement of the bill?

SENATOR KILGARIN: I move that LB 197 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. Now we have got the A bill. So moved.

SENATOR KILGARIN: So moved.

SPEAKER MARVEL: The motion is the adoption of 197A. All those in favor of the motion to advance the bill vote aye, opposed no. Motion is carried. The bill is advanced. LB 291. Do you want to move the advancement of the bill?

SENATOR KILGARIN: I move LB 291 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. The bill is advanced. 311.

CLERK: Yes, sir. Nothing on the bill, Senator.

SENATOR KILGARIN: I move LB 311 be advanced to E & R for engrossment.

SPEAKER MARVEL: Motion is to advance the bill to E & R for engrossment. All in favor of that motion say aye, opposed no. Motion is carried. The bill is advanced.

March 31, 1981

of mine, who chide me constantly wondering what kind of a record are we trying to set. The only record we are trying to set is fairness and I would suggest to you that we have with 245, we have had substantial amount of debate and I would also try to get your cooperation to debate this bill until noon and then we will come back and start on General File priority bills. If we can not do this, ladies and gentlemen, what it amounts to is that this Legislature is simply going to go downhill and there will be many of you whose priorities will not be touched. Okay what is the next item on LB 245, Mr. Clerk?

CLERK: Mr. President, if I may read some matters in before that. Very quickly, Senator Schmit, Johnson would like to print amendments to LB 167; Senator Wesely to LB 44. (See pages 1211-1211 of the Journal.)

Your committee on Public Health and Welfare reports LB 378 to General File; 499 General File with amendments; 270 General File with amendments; 212 with amendments; 404 General File with amendments; 522 General File with amendments, all signed, Senator Cullan. (See pages 1212-1218 of the Journal.)

Mr. President, the next amendment I have is from Senator DeCamp and that amendment is found on page 1145 of the Journal.

SENATOR DeCAMP: Mr. President, members of the Legislature, it appeared to me and several others that the real stumbling block on resolving the issue of the vets school and which way we go had to do with the issue of federal funds and whether we were just going to have an indefinite forever date on this and so the purpose of this amendment was to, so to speak, "fish or cut bait," make a decision one way or another on whether we were going to have the vets school and of course that decision was contingent as has been stated many times on what happens at the federal level. So the purpose of this amendment was and is to force that issue. The second purpose of the amendment was to say, if we do not get the federal funds, then we want to use this money for another purpose, some other agricultural purpose. And so I had the money funneled off into the Beef Science Building as of a certain date so that we would not have to fight that issue again. However, it is my understanding that Senator Schmit, Kahle, Lamb, those interested in the vets school have now resolved, so to speak, the issue of the "fish or cut bait" issue which is the principal stumbling block in this thing and they have a separate amendment with a separate date. It is a little more delayed. I am perfectly willing to go along with that since, as I say, that is the big

April 1, 1981

LB 298, 40, 167, 208,
384, 483, 253

and support things for somebody else but don't mess in my little bird nest. So I'd just like to include us all in it if we are going to go. I don't like to see somebody excluded just because they are working on it. I can work on something between now and next year, too.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record.

CLERK: 25 ayes, 12 nays, Mr. President, on the motion to advance the bill.

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

CLERK: Mr. President, if I may while we are waiting, Education reports LB 208 to General File with amendments.

Senator Labeledz would like to print amendments to LB 483; Senators Goodrich and Newell and DeCamp and Koch to LB 40; Senator Vickers to LB 384; and Senators Hoagland and Warner to LB 167.

SPEAKER MARVEL: The next business is LB 253.

CLERK: Mr. President, LB 253, (Read title). It was read on January 16, referred to Ag and Environment. On March 24 the committee amendments were adopted. At that time the bill failed to advance. There was also an amendment from Senators DeCamp, Hoagland and Wesely which was adopted at that time. Mr. President, Senator DeCamp has amendments found on page 1162 that I understand he wishes to withdraw. You want to withdraw those on 1162, is that right, Senator?

SENATOR DeCAMP: Yes, the longer page ones is the ones I want.

CLERK: Okay, and then, Mr. President, I have an amendment from Senator DeCamp that is on page 1177 of the Journal.

SPEAKER MARVEL: We are now on the DeCamp amendment, page 11, what?

CLERK: 1177.

SPEAKER MARVEL: 1177.

SENATOR DeCAMP: Mr. President, members of the Legislature, you may remember...this is the litter bill. You may remember Senator Fowler and Wesely and Vickers and Chambers and,

April 2, 1981

LB 167

RECESS

SPEAKER MARVEL: Record your presence, please. If we could get about four more people checking in, we would be ready to start. Okay, record.

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

SPEAKER MARVEL: Do you have any other items to discuss? The first order on Select File is LB 167. Senator Carsten, do you have some committee amendments to 167?

CLERK: Mr. President, the E & R amendments were adopted by the membership on March 30 of this year. I now have pending an amendment from Senator Schmit. Mr. President, Senator Schmit moves to amend the bill and the amendments are on page 1211 of the Journal.

SPEAKER MARVEL: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: The amendment which I am offering is an amendment which Senator Vard Johnson and I have agreed upon relative to the collection of interest on child support and other deficiency judgements and I move the adoption of the amendment.

SPEAKER MARVEL: The motion before the House is the adoption of the Schmit amendment to LB 167 as found in the Journal on page 1211. All those in favor of adoption of the amendment vote aye, opposed vote no. This is the first Schmit amendment to LB 167. Have you all voted? Record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Schmit and Vard Johnson's amendment.

SPEAKER MARVEL: The motion is carried. The first amendment is adopted. Now, do you have another amendment?

CLERK: Yes, Mr. President, Senators Hoagland and Warner move to amend the bill. The amendment is on page 1263 of the Journal.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I have talked to a number of you about this amendment already. Let me just explain briefly what it does and what it is intended to do. As most of you know, SIDs are independent political subdivisions. Now this amendment gives a discretion to the SID board which as I indicated, is an independent political subdivision to set the interest rate on delinquent installments but that

rate must be at least 2% more than the rate established by a district on nondelinquent installments. Also the rate that the board establishes cannot be more than the rate specified in Section 1 of LB 167 which is currently at the 14% rate. Now this approach is in keeping with other sections of the bill which give discretion to other governing bodies to set the interest rate on specials before delinquency. This particular approach preserves the uniformity of the bill and it also gives the power to the district board to declare the entire interest rate at the highest level and retroactive all the way back to the delinquent assessments as far back as they could go back. Now, with the passage of this amendment, if the board thinks that the interest rate on delinquent specials previously established by them as adequate, it can leave them where they are. However, if the board thinks it should be raised they can raise it all the way up to the rate in Section 1. Now we think that this is a reasonable approach because it gives the board the discretion within these limited guidelines to do what it thinks is appropriate and what is in the best interest of the SID. I would urge the adoption of the amendment and I would be pleased to attempt to answer any question any of you may have.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President and members of the body, I rise to oppose the proposal that Senator Hoagland brings before us for the second time. This amendment basically does not preserve very much uniformity and, in fact, creates a special situation for SIDs. Now I don't know if anybody really understands SIDs which makes it very easy to create special arrangements for them but basically I would like to just talk a little bit about SIDs and their benefits and some of the costs associated with them and I know many members of the body are familiar with Omaha's half cent city sales tax. We probably heard that issue for the last three years and heard a lot about it this year and I don't know that anybody knows why Omaha keeps coming back other than we need money but you know one of the problems as we have talked about before is the fact that Omaha has a declining property tax base. Our property tax base grows at approximately 2.6% a year which is well below the inflation rate that we all experience. Other political subdivisions generally do much better than that, usually 7 or 8% at least. Property tax is not the best indicator of inflation and does not always keep up with the tax rate but because of this Omaha continually finds itself in a problem and the SIDs are one of the major reasons for this because we have subsidized SIDs. We give them special interest rates. We allow them to bond. We allow them to do all

kinds of things which create debt which makes it harder to annex and harder to bring them back into Omaha's tax base. Now this is the problem that continues and continues and continues. Omaha has a number of other problems also but this is one of the primary problems. We have made the SIDs so attractive that they are far more attractive than living in the city and that trend has got to stop. Now last year we had a special arrangement for SIDs and the reason we did was because I had introduced a bill, the LR 169 Committee in urban growth had introduced a bill to try to bring the interest rates up and we had negotiated that and had got the industry to accept 12% and then when the bill came along they wanted to use LB 933 to increase that tax for everyone else, I had already made an agreement on the 12% thing and so, therefore, we made that special exemption so the SIDs remained at 12% when everybody else went to 16%. Now frankly the situation is simply this, that there is no justification for any special break for SIDs, that SIDs have been subsidized enough and there is enough advantages right now for those kinds of instruments, that we don't need to continue to do that. The costs ought to be paid up front for any kind of development or any kind of assessments. Those costs ought to be attributed to the right people and that they ought to, in fact, pay the appropriate interest rate and to pull out SIDs in this case and to continue to provide them with the exception instead of the rule in a uniform bill, I think, is not only the height of hypocrisy but is, in fact, wrong. And if you are at all concerned about the tax base for the City of Omaha, which I wonder sometimes if we are, then we cannot afford to make this kind of an exemption. We can not afford to continue this kind of special arrangement for this growth mechanism. The costs ought to be shown up front. They ought to be properly distributed and I think that that is very important, that the long term interest of Omaha and the SIDs which should and most agree will become part of the City of Omaha, should be protected. Omaha has a lot of problems. The SIDs are one of the major reasons why we do and I don't think they should be given this special arrangement and special treatment.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I would like to ask Senator Hoagland a question if I may.

SPEAKER MARVEL: Senator Hoagland, do you yield?

SENATOR HOAGLAND: Yes, I will, Senator.

SENATOR CARSTEN: Senator Hoagland, could you tell me what the difference between your amendment that you have here now and the one that we had before, is there a difference between them or are they identical?

SENATOR HOAGLAND: No, they are quite different in approach, Senator Carsten.

SENATOR CARSTEN: Okay, can you explain just briefly what the difference is?

SENATOR HOAGLAND: Sure. The difference in approach in this particular amendment is that it gives discretion to the board rather than the Legislature directing the SIDs that one particular interest rate or another will be in effect. This amendment gives the board of the political subdivision the discretion to leave the delinquent rate either at 2% above the nondelinquent rate, they can set it there all the way up to the amount provided in Section 1, then that board can make the decision based on what is best for the district. Does that answer your question?

SENATOR CARSTEN: Well, then as I understand the amendment you could very well have three different rates. Is that correct?

SENATOR HOAGLAND: Yes, it depends on what the board decides to do.

SENATOR CARSTEN: And at what time the...at what point the initial commitment was made. Is that correct?

SENATOR HOAGLAND: Yes, that is right.

SENATOR CARSTEN: Okay, so we are talking about what? Eight, ten, twelve or fourteen? Is that what we are talking about?

SENATOR HOAGLAND: Yes, if you are talking about the nondelinquent rate, Senator Carsten, you are talking about anywhere from 9% to 14% for a debt established prior to July of 1980. For a debt established after July of 1980 it would be 12, 13 or 14%.

SENATOR CARSTEN: Okay, but then it would be anything that is established after the effective date of this act, would then be at the rate if the board so desires. Is that correct?

SENATOR HOAGLAND: Whatever the board in its wisdom chooses, right.

SENATOR CARSTEN: Okay, thank you.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I rise to support the amendment proposed by Senator Hoagland and Senator Warner. I would remind you that SIDs are not as evil as Senator Newell leads us to believe. The problems Omaha has today you can't totally blame on the SIDs because I think some of that is internal and it is political. Let me give you an example. About ten years ago Omaha saw fit to annex Millard and Millard was not an SID. Millard was a city that had been there for years and years and years but when they did that, in their anxiety to get land and federal tax dollars because we put out like bounty hunts, dollars on heads of people, they assumed a considerable debt which was not cost beneficial. Right now they won't touch the Regency either because the Regency has a considerable debt. I had LB 30 in here and it was a good SID. The city was going to get 18 million dollars in new evaluation but yet they wouldn't let those people build a facility which they need badly. So since we are the author of SIDs, Sanitary Improvement Districts, I think that we should give them some latitude on how they govern themselves because until they are annexed they do have a board of trustees which was elected by the residents thereof and they act as that government and the immediate government over SIDs is really the county government and that is the people who have the most direct influence on them as jurisdiction is concerned. And I can't believe we want to punish SIDs because of some debt they have had before which would be retroactive. What we are saying here is that any debts July 1, then you would meet the intent of this legislation but prior to that time the board has some flexibility in terms of how they are going to get that interest on a delinquent tax rate, but once again SIDs are our creatures and we are really the determination as far as making decisions how we are going to govern the SID and they are like ESUs and a number of other agencies I can think of, community colleges. This body has direct oversight over them and I see nothing wrong with this amendment. I think it is appropriate and I ask for the adoption of it.

SPEAKER MARVEL: Senator Labedz. Are you ready to speak? We are still on 167.

SENATOR LABEDZ: Thank you, Mr. Speaker, I would like to rise in support of Senator Hoagland's amendment. I spoke on this originally on the LB 167, I approve of the whole bill but I do believe that this amendment should be attached to LB 167 for many reasons, but mostly giving this limited discretion to the district will allow it to decide the

April 2, 1981

LB 167

validity of the many reasons that have been advanced against raising the delinquency rate of all SIDs retroactively across the board which argues that, number one, would discourage the lot sales and I mentioned this before in development because of higher prices and it would further depress an already depressed real estate housing industry upon which thousands of jobs in this state depend. It would also increase the foreclosures which are often disastrous to the district and I believe it would severely hurt the homeowner who already lives in the district and I urge the amendment be adopted by this body. Thank you.

SPEAKER MARVEL: Senator Warner, we are speaking to LB 167.

SENATOR WARNER: Mr. President, members of the Legislature, I just rise to support Senator Hoagland's efforts because of a number of reasons but to simply put it this way that within my legislative district I have two or three SIDs. I am no fan of that concept but they do exist and I know that at least one is in significant difficulty and it is my belief that without the amendment by Senator Hoagland that we are merely going to complicate the problem for that SID and much of the harm is going to fall. I am afraid on people who already residents of that area and their problems are tough enough now. I would hope the body would accept Senator Hoagland's amendment because I think the situation is unique and it deserves to be treated separately.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, a question of Senator Hoagland.

SPEAKER MARVEL: Senator Hoagland, do you yield?

SENATOR HOAGLAND: Yes, Senator Cope.

SENATOR COPE: Senator Hoagland, let's just make it real simple. I own a house within the city limits or I own a home in an SID and I have delinquent taxes. Now tell me the difference.

SENATOR HOAGLAND: Well, Senator Cope, we are talking about the kind of special assessments that are levied against lots before they are sold.

SENATOR COPE: I know, but I want to know...

SENATOR HOAGLAND: In order to pay for the paving and pay for sewer. Now the way the SIDs are structured financially is it is never planned that those special assessments are

April 2, 1981

LB 167

going to be paid off until the lots are actually sold and because of the...(interruption).

SENATOR COPE: And now within the city limits they are paid generally in most towns, that is, I shouldn't say they are paid. They are paid on an installment basis.

SENATOR HOAGLAND: That is right and they are spread out over ten years. Now the SIDs are not within city limits, see, they are outside city limits...

SENATOR COPE: I know.

SENATOR HOAGLAND: ...and have their own political subdivision out there.

SENATOR COPE: But I...the difference, that is what I am trying to ascertain is the difference between the two. Now there isn't much difference in the way that they are handled then. They are both paid in the future.

SENATOR HOAGLAND: That is right.

SENATOR COPE: Alright.

SENATOR HOAGLAND: They are both paid in the future...

SENATOR COPE: Then shouldn't they be paid off at the same percentage of delinquent taxes.

SENATOR HOAGLAND: Yes, what this provides is that when they are paid off over the ten years of installments, they are paid off at 2% above the percentage for nondelinquent taxes in the levying resolution so that we won't make those delinquent taxes retroactive. See this is a retroactivity problem we had ten days ago, Senator Cope. If this bill passes as written why this higher 14% rate is going to be applied retroactively all the way back to some lots that have been on the market since '72, '73, '74.

SENATOR COPE: That would be the same within the city limits also.

SENATOR HOAGLAND: Well, I can't speak for the city limits one. The section we are amending here just deals with the SID situation. SIDs are separate political subdivisions.

SENATOR COPE: Yes, I know.

SENATOR HOAGLAND: And we are giving that separate political subdivision the discretion to determine what is best for it

April 2, 1981

LB 167

in terms of whether it wants these higher interest rates or not.

SENATOR COPE: In other words, what you are saying, it really is a city within a city.

SENATOR HOAGLAND: That is right with its own governing board. It is an officially established political subdivision set up by the statutes of Nebraska that way and what this amendment is intended to do is give the governing board of that subdivision the discretion not to have this retroactive application if they think it is going to injure the subdivision generally. It is going to be bad for the subdivision.

SENATOR COPE: But if it were a city within a...that is a city, so to speak, then it should conform with the same regulations that other cities. I mean, I am asking that question.

SENATOR HOAGLAND: Yes, I think...we are not changing in this amendment. We are only dealing with the SIDs.

SENATOR COPE: Yes, I know, but what I am trying to think as a legislator trying to get the comparison.

SENATOR HOAGLAND: Right. Senator Cope, maybe this will help you. There are other parts in...you know this proposal here the Revenue Committee has made goes into fifty-five different sections of the code.

SENATOR COPE: Yes.

SENATOR HOAGLAND: Now, some of the other sections also give discretion to political subdivisions to set the interest rate on nondelinquent assessments. Alright, so in that sense, this amendment fits into the approach the bill is taking generally. Some sections give the political subdivisions some discretion others do not. All we are asking is that with respect to SIDs we give the board the discretion with respect to delinquent taxes in this case.

SENATOR COPE: Of course...well...thank you.

SENATOR HOAGLAND: Sure.

SPEAKER MARVEL: Senator Vard Johnson, do you want to speak to...?

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I rise in opposition to the Hoagland-Warner amendment. My

opposition is based on equity. I can't in good conscience pass legislation that says simply that all special assessments levied in a city, that means grading assessments, sewer assessments, street assessments, alley assessments, sidewalk assessments, intersection assessments, and the like shall bear a rate of interest of 14% which is retroactive, but at the same time, allow those folk who can afford not to live in the corporate limits of a city but instead live in a sanitary improvement district, an SID, to pay a much lower rate of interest and not only that, but to have the rate of interest to be nonretroactive. Now the function of LB 167 is to establish a uniform rate of interest on tax delinquencies and on special assessment delinquencies and that is what the bill has been doing up until now, but soon we come along with an amendment that is essentially designed to further the cause of suburban development and growth and to treat the people that build outside the city differently from those that build in the city and differently from the way lots in the city are treated and the way abutting lot owners are assessed in the city and it is grossly unfair in my opinion to provide for such a differential. As I look at the amendment I think frankly the amendment may well make the SID assessment and interest, the situation even better today than it is right now. By that I mean very simply it may actually make for a more favorable rate of interest to the SIDs and to the properties therein if the amendment carries now, than the existing state of law notwithstanding LB 167 and if there is one thing that I as an Omaha senator need to address it is responsible suburban development and growth. And I will do everything within my power to make certain that we within the city don't in one way or another enhance suburban growth and development. I would much rather see the energies of all of us, financeers, carpenters, contractors, homebuilders, lot developers and the like channeled to improving the thousands of vacant lots within our city than in continuing the suburban sprawl and the taking of agricultural land and one of the things this amendment does is it sure as the devil doesn't put any disincentives in the way for the furtherance of suburban growth and sprawl. In fact, it continues a favorable policy that has existed in the law now for many years. So it strikes me that this body, if it intends to do anything about the taking of agricultural land which is one of the most important commodities in this state, and if it tends to do anything about some of the unchecked suburban growth in Omaha which is certainly a significant urban problem for our area, should repudiate the amendment.

SPEAKER MARVEL: Senator Wiitala.

SENATOR WIITALA: Mr. Speaker, members of the body, I would like to speak to this issue in support of Senator Hoagland's

amendment. In District 31 I have the largest number of SIDs. Many of the SIDs in my district are suffering economic hardship because of the recent extended economic recession. The present penalty for not paying assessments is 7% and once you become delinquent it is 9% and making a retroactive increase of 5% raising it all the way to 14% is going to put such additional hardships on those SIDs that many of them will not find themselves able to get out of their economic plight. Basically what happens is the 14% retroactive delinquency fee will be passed on to the cost of the lot, passed on to the prospective homeowner that buys it. With the increasing costs that we are already encountering most of those properties will not move. I ask you to support this amendment and in doing so supporting an already depressed industries. SIDs are not as bad as some of the members have tried to portray them as being. They are an island almost to themselves. They have to suffer through many years of paying off their indebtedness and bondedness and what happens when they do so the city annexes them and adds to the tax valuation of the city. In the very long run they are an asset to the city, not a deficit. Thank you.

SPEAKER MARVEL: Senator Vickers. The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Record.

CLERK: 26 ayes, 3 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator Hoagland to close on his motion.

SENATOR HOAGLAND: I will just close briefly on Senator Warner's and my motion, Mr. Speaker, if I might. Let me indicate again what this particular amendment does. It gives discretion to the board of the SID to set the interest rate on delinquent installments but that discretion is severely limited. The rate must be at least 2% more than the rate established by the district which was 7% before July of 1980 and 10% after July of 1980 on nondelinquent installments. Also the discretion is limited inasmuch as the rate cannot be more than the rate specified in Section 1 of the act. Now again this approach is in keeping with other sections of the bill which give discretion to other governing bodies to set interest rates on specials before delinquency to that extent is consistent with the uniformity. Now let me just make a couple of brief comments in response to some of the arguments made on the other side. This amendment does not further the cause of subdivision development and growth. It does not enhance urban growth and development. I think we all know that the real estate industry statewide in the early '70s and in the late '70s has been through two severe

recessions and if these 14% interest rates are applied retroactively in some cases back to '73 and '74 it is going to put serious financial pressure on these districts. It is going to threaten their coming down and if they come down the existing residents that have already gotten in, already built their homes, already made their investments are the ones who are going to be holding the bag. That is what is going to happen. By the same token the increased rate is not going to benefit anybody because the increased interest goes into the subdivision itself, into the SID itself. If they want to leave it at the lower rate, let's let them do that and that is what this amendment would do and I would urge its adoption. Thank you, Mr. Speaker.

SPEAKER MARVEL: The motion is the adoption of the Hoagland-Warner amendment to LB 167. All in favor of adopting that amendment vote aye, opposed vote no. Have you all voted? Have you all voted? Record the vote.

CLERK: 25 ayes, 10 nays, Mr. President, on the motion to adopt the Hoagland-Warner amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Now what do we need?

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

SPEAKER MARVEL: The motion is to advance 167 as amended to E & R for engrossment. Senator Carsten, do you wish to explain the bill?

SENATOR CARSTEN: Very briefly, Mr. President and members of the Legislature, it is an attempt to make uniformity out of the delinquent tax rate interest rate for the State of Nebraska. We now have made one slight exception to that but that is the general philosophy of the bill and I would move that it be advanced.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, it is with great reluctance I rise to oppose 167, a bill that I used to think was not only a good bill but one that this body could be proud of once it was passed. There has been a few exemptions to that, this whole process. We have allowed for some amending but basically we have kept the uniformity question fairly clean and I was very proud of that until the mistake that we just made. Now one of the difficulties we have here is we have one little section of law, nobody understands what is going on. It is only SIDs. It only affects Omaha and half the Omaha folks, they are for it, you know, and so why not make this little exemption?

Why not destroy this whole concept of uniformity? Why not provide for a break for one industry who is really very intent upon getting this exemption? Who knows that it is right and just if they can gather the votes to do so, to be exempted from this "uniform bill?" It is not a uniform bill any more. There is some good parts to this bill and there is some bad parts to this bill but I guess if we can so easily easily decide to protect one industry above all the private individuals that there are, to have to pay the increased tax, then I have to agree with my good friend Bill Burrows. Billy Burrows says, "You know, the rich guys always get taken care of and the average guy, they have to pay the taxes and the delinquent taxes, etc., etc., and so why don't we just bring this down. Why accept the 14%, almost uniform provisions for everybody else except for maybe homebuilders?" Why not accept that? Well, I think that he has a point that if we are going to provide for special exemptions for one industry who there is a great deal of sympathy for, the homebuilding industry is having a tough time, there is no question about that, but the City of Omaha is having a tough time too and there is no question about that. Senator DeCamp can vote for push along, prod along the sales tax and at the same time basically destroy the tax base down the road by encouraging and providing additional breaks for SIDs. Not a lot of inconsistency there. Basically you are just taking care of an industry and you are taking care of a city and isn't it Omaha's responsibility, isn't it those people who live inside the city's responsibility to pay for those SIDs? Isn't it our responsibility to provide them with additional breaks that even our own citizens do not get? Isn't it important that we take care of these people when we do not take care of anybody who has special assessments in North Platte or Columbus or Grand Island or any place else? Isn't it important, since it only affects primarily, one industry primarily in Douglas County? Isn't it important to make these kinds of exemptions? Well, Johnny can be inconsistent but I am not going to be because, in fact, I have to live in that city. Johnny sees some political benefits to carrying the sales tax and some political benefits to voting for this exemption but I have to live in that city with all of its problems and its continually weakening tax base. I have to live there and I am probably going to live there a lot longer than some of those people that have moved to the SIDs because I can't afford to make that kind of capital investment right now. I will pay it in the long run.

SPEAKER MARVEL: You have one minute.

SENATOR NEWELL: So, with that, I would urge this body, since

April 2, 1981

LB 167, 384

we have been able to make this exemption to continue this exemption and to say that we really do not want a uniform bill since it is no longer uniform, that we really do not want this kind of inconsistency, that frankly, if we can not be honest, let's not play the game. Thank you.

SPEAKER MARVEL: Senator Carsten, do you want to close?

SENATOR CARSTEN: No closing, Mr. President. I think everybody knows what the score is. Let's move the bill.

SPEAKER MARVEL: The motion is to advance LB 167 to E & R for engrossment. All in favor of that motion vote aye, opposed vote no. Record the vote, no, I'm sorry. I am still operating from yesterday. Have you all voted? Record.

CLERK: 26 ayes, 6 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next item, 384.

CLERK: Mr. President, there are E & R amendments to LB 384.

SPEAKER MARVEL: Senator Kilgarin, do you want to move the E & R amendments to LB 384?

SENATOR KILGARIN: Yes, sir. I move the E & R amendments to LB 384.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The E & R amendments are adopted.

CLERK: Mr. President, I now have a series of motions. The first is offered by Senator Warner. Senator Warner moves to amend LB 384 on page 3, striking lines 6 through the word "financing" on line 12; strike the word "such" in line 12. That is offered by Senator Warner.

SPEAKER MARVEL: It is an amendment to 384. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, there are a series of six or seven amendments up on the bill, all of which Senator Schmit and the people involved think can be worked out without a long afternoon of debate on them. So with the permission of the body I would ask unanimous consent that LB 384 be passed over today.

SPEAKER MARVEL: Hearing no objection, so ordered. What is the next item?

April 6, 1981

LR 50
LB 40, 22A, 158A, 317A,
298, 253, 253A, 271,
132, 466, 174, 351, 125,
167

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by
Senator Rumery.

SENATOR RUMERY: Offered prayer.

SPEAKER MARVEL: Roll call. Please record your presence.
While we are in the process of the roll call may I indicate
to you that today is Senator Kahle's birthday. We wish you
all the best. Record.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Do you have anything under three?

CLERK: Mr. President, your committee on E & R respectfully
reports that we have carefully examined and reviewed LB 40
and recommend the same be placed on Select File. 22A, 158A,
317A, 298, 253, 253A. . . .

SPEAKER MARVEL: Just a minute...(Gavel) okay.

CLERK:271, 132, 466 all placed on Select File, (signed)
Senator Kilgarin, Chair.

Mr. President, LB 174, 351, 446, 125 and LR 50 are ready
for your signature.

SPEAKER MARVEL: While the Legislature is in session and
capable of transaction business, I am about to sign and
do sign LB 174, 351, 446, 125, and LR 50.

CLERK: Mr. President, I have two communications from the
Governor. (See page 1290-91 of the Legislative Journal).

Mr. President, Senator Newell moves to return LB 167 to
Select File for a specific amendment. That will be printed
in the Journal.

Your Enrolling Clerk respectfully reports that she has on
this day presented to the Governor for his approval the
following bill.

Mr. President, I have a report from the Department of
Administrative Services from the State Building Division.

April 6, 1981

LB 59, 167, 168, 168A,
329, 333, 483, 241

engrossed; 167, 168 and 168A, 329, 333 and 483 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 241 was introduced by Senator Don Wesely and Senator Haberman. (Read title). The bill was first read on January 16. It was referred to Urban Affairs for public hearing. The bill was advanced to General File. There are committee amendments pending by the Urban Affairs Committee, Mr. President.

SENATOR KAHLE: Senator Landis, will you give us the committee amendments?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, LB 241 is the sign bill. It is the death struggle between the City of Lincoln and various members of the outdoor advertising industry. It is the Roy Mehmken Memorial Scholarship Fund bill and this bill came through the Urban Affairs Committee. The committee heard the bill and took proponents and opponents which you will find listed in the committee statement. At the conclusion of the hearing, the committee made some alterations, struck some language from the bill, striking lines 10 through 12 on page 2 and indicated a formula to describe what full economic value was and that language appears in the committee amendment, in the first ten lines of the committee amendment. The addition of the words "a legally erected" sign was for the purpose of clarification and, lastly, there is with the striking of some language that appears on page 3 and on page 4, by striking some of the new language the committee intends to create in effect a grandfathering mechanism so that signs which are now unconfirming uses may continue to be unconfirming uses or at the city's discretion, if they wish to force the taking down of a nonconforming sign that is presently legally erected that they will pay either relocation costs or the value of the formula that appears in the committee amendments. So those are the three things that the committee amendment does. It indicates clearly the formula of repayment. It adds the qualifier "a legally erected" sign, and, thirdly, by striking some of the language in the bill, it creates in effect the option of the city to keep these signs which they declare to be nonconforming uses as nonconforming uses until such time, well, in the normal course of events they would fall down or need repair, and as all of those of you who are familiar with zoning, that means that at that time you may not replace a nonconforming use but, in fact, you will have to take the sign down. That is what the committee amendments do and I would urge the adoption by the body. Let me say this, I understand there is some controversy on

April 9, 1981

LB 59, 167

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. This has the emergency clause. Have you all voted? Record the vote.

CLERK: 47 ayes, 0 nays, 2 excused and not voting. Vote appears on page 1371 of the Legislative Journal.

SPEAKER MARVEL: Motion is carried with the emergency clause attached. Clerk will read on Final Reading LB 167.

CLERK: Mr. President, I have a motion on the desk. Senator Newell moves to return LB 167 for a specific amendment.

SPEAKER MARVEL: Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, is this a motion to bring it back to strike the enacting clause? I want to lay that over and try to run the amendment first. Could you read the amendment.

CLERK: Mr. President the amendment is: (Read Newell amendment as it appears on page 1371 of the Journal).

SENATOR NEWELL: Mr. President, members of the body, I... after the Hoagland amendment was adopted last week, I went back to the City of Omaha and I said what is the cost, what is the fiscal impact of this going to be and we basically looked at the bill and the City of Omaha estimated that there was going to be a significant cost and that cost would be generally GO'd or put into bonds and delay the...which would delay the annexation and/or the city would have to take over that annexation when it did annex SID's. The issue here is really one of the tax base and the tax base that we talked about numerous times, relationship to LB 40 and others, Omaha is losing its tax base because basically the SID mechanism and because of the fact that we can not annex these SID's until for quite awhile until their debt is paid down or nearly paid off. So basically what this amendment does is simply this. The Hoagland amendment actually, actually turns the bill around and makes it in fact a tremendous benefit that the SID's not heretofore had. Basically the 12% delinquent interest rate, not 16% Senator Burrows but the 12% delinquent interest rate that the SID's pay was negotiated last year by the SID or the home builders and myself. The bill that this was what was used to raise to 16% was this bill but we held the SID's to 12% for delinquent

interest rates. That was an increase to twelve. This amendment by Senator Hoagland basically strikes the 12% delinquent interest rate and says that it can float. It floats with the board, the SID board and so forth and basically it is an interest rate of between nine and twelve and that is the situation. Basically it allows these SID's to receive a benefit that they weren't even getting last year. It goes just the opposite way every other interest rate in the state has gone and for that reason I think that we have a situation where we need to encourage not only the paying off of these delinquent assessments, right, special assessments and that is why that I am asking that this amendment be adopted. Basically what we are going to do is strike this whole section, leave the SID's with the 12% delinquent interest rate, take the whole section out so that we do in fact pass a uniform bill today, as opposed to something else, we are leaving this totally out of the bill and not allowing the SID's and the home builders who never came to this legislature with a bill, never complained about the problem, never asked for a public hearing, never attended the public hearing, never said that there was a great problem, we are basically going to say okay if you didn't think it was a great problem we will just leave the whole thing alone, we will leave it just the way it is today. Instead of actually reducing the interest rate for delinquent special assessments on SID's. It is with that reason I stand and ask this body to strike these sections so that this bill in fact will be a uniform interest rate bill. I think that it is only right and fair and I would urge your assistance in doing so.

SPEAKER MARVEL: Before we continue, when our honored guest arrives there will be an escort committee of five. Senator Hoagland will lead that committee and four other legislators Senator Kremer, Senator Warner, Senator Clark and Senator Carsten will be the rest of the group. Now I'm not certain when he will be here but you can be prepared then to escort him. Senator Newell we need to suspend the discussion for the next few minutes. Senator Hoagland will you take charge of the group at the back of the room. Senator Kremer, Senator Warner, Senator Clark, Senator Carsten, Senator Hoagland. When Senator Muskie arrives will you please escort him down here.....up here. The Legislature will be at ease for a few moments. Not to much at ease but a little bit. Mr. Sergeant at Arms.

SERGEANT AT ARMS: Mr. President, we are pleased to welcome a very distinguished guest this morning, former United States

April 9, 1981

LB 167

Secretary of State, the Honorable Edmund Muskie, escorted by your committee.

SPEAKER MARVEL: Bring the honored guest to the podium.

SENATOR HOAGLAND: Mr. Speaker.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Thank you Mr. Speaker. Colleagues and friends, we are delighted to have with us this morning the honorable Edmund Muskie of Maine who has consented to address our Unicameral Legislature at our invitation. Senator Muskie served in the United States Senate from 1958 until 1979. Before giving up his seat to become Secretary of State he became, after over twenty years in the United States Senate as familiar with that institution as Senators Marvel, Warner, Kremer, Clark and Carsten are with our institution. Although he has run for the vice presidency and the presidency and has served as the United States Secretary of State and Governor of Maine. I'm sure he views himself as a legislator at heart and will have appropriate observations about our business here. I'm sure that you have heard that President Kennedy used to say that Washington, D.C. was a town of northern charm and southern efficiency. Senator Muskie of course was an exception to that rule. He brought with him and brings with him today back woods Maine's efficiency and charm. Senator Muskie.

April 9, 1981

LB 167

when the Polish crisis continued on a week to week basis and one can never be sure when the Russians will decide that the cost of intervention will be less than the cost of permitting further liberalization of the Polish system. And one never knows when the Russians facing the ferment and turmoil in Iran will not take advantage in some fashion of that turmoil to move closer to the Persian Gulf and our oil pipeline. So in this period when our doubts about the Russians are so intense, our concern about their behavior is so high, to appear to be relaxing our policy toward them is a serious question for us to address whether with respect to the grain embargo or any other policy that impacts upon them. And I make this analysis truly in an objective fashion. My state is not involved in it one way or another and I am not in politics any more so I am not interested in the votes and I don't plan to run for President. So it is a perfectly objective analysis, an analysis that we constantly reviewed through the months of my term as Secretary of State and one that we finally reviewed before we left office. This was our finding at that point. Having said that, I think I should come to the end of this discourse. I don't know whether you would be interested in a question period of sorts. I do it at my own legislature. I have formed the habit of addressing our legislature which is a larger audience, I might say, one hundred and eighty-four, once a year and they always like to get involved in questions. If you would like that I would like it, but if not, let me thank you once again for the honor you pay me in inviting me, for the interest you show in my public service by that invitation and may I wish you luck in your work in the future. Thank you very much.

SPEAKER MARVEL: Will the committee please escort Mr. Muskie to the back of the room. Mr. Muskie we appreciate your coming and we hope you come again. And, when you talk about this being a smaller group, you filled the balconies pretty well I think.

MR. MUSKIE: H1!

SPEAKER MARVEL: The business before the House is under Item number 4, Final Reading, LB 167. The return of LB 167. Senator Newell. Do you want to refresh us just for a moment Senator Newell and then we will go to some of the other speakers.

SENATOR NEWELL: Mr. President, members of the body, I'm standing today to offer an amendment, the amendment basically strikes the Hoagland amendment and takes the whole question, doesn't just strike the Hoagland amendment

and leaves the bill in tact but it takes the whole question and removes it from LB 167. This was not my original intent. My original intent was in fact to strike the Hoagland amendment and leave the delinquency rate for special assessments for SID's at 14% which is what the bill presently says. The reason I did not do that was because the City Council of Omaha, finding itself engaged in an election on Tuesday, did not take up the question of opposition to LB 167 and the Hoagland amendment and basically because of that we have not had the good offices of the lobbyists for the city, we would not have the good offices of the League of Municipalities, would not have the good offices of the county and other people who would be involved on the other side of this issue. Because of that basic inactivity and the fact that this bill came up very quickly I think that this issue should be pulled out of the bill. Leave the present situation as it is, basically it does not change anything from what the Hoagland amendment does except for the question of additional retroactivity for the SID's allowing them to reduce by 2% from what they presently have to pay for delinquent cost. I mean frankly it was low before, the Hoagland amendment makes it even lower by 3% and frankly that is exactly what we are trying to do here, that is what I am asking you to do here. I think that this amendment would make a clean bill out of 167. The home builders did not come in complaining about this problem, never attended a public hearing, never had legislation introduced, if Senator Hoagland was so concerned he could have brought this issue to the Legislature, if it was bad the way it is presently, he did not, they did not. For that reason I think we ought to strike this and have a public hearing on it. I think once the Legislature fully understands this issue they will in fact withdraw this special break that SID's get presently and bring them up to the full interest rate. Put that off to another time. Thank you very much.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I have several things to say in response to Senator Newell's eleventh hour attempt to change this particular bill on Final Reading. Now I have talked to many of you about this personally over the last several weeks and we have been through this road the third time now and the legislature has made its decision. I don't think it makes sense to open it up.

Now, let me correct a couple of things for the record. Senator Newell has his own impression of the economics of this matter as it effects SID's in Omaha. He has his own view of the efficacy and the public contributions that SID's have made. Now Senator Newell and I disagree sharply on both the economics how this would in fact be applied by the SID's the effect it would have on the SID's and secondly in terms of whether or not SID's are important and contributing political subdivisions in our urban areas. I happen to maintain they are. They are one of the best and most efficient ways of bringing about orderly suburban development and indeed the most efficient way that we have. Now let me address specifically some of the arguments that Senator Newell makes. Now he indicates that we came out here on the floor and without going through the public hearing process and so forth ask for a fundamental change in the law. Now let me correct the record. Last year LB 933 was amended on the floor by Senator Newell to turn in to transform that very simple bill into an interest increase bill for taxes and assessments. Now there was not a hearing on this SID issue last year when this decision was made on the floor. It was made on the floor the very last minute, we came in with an amendment to try and correct and rectify to the extent that we could, the floor changes that were made then. Now, the problem addressed by the amendment that Senator Warner and I presented and this Legislature adopted a week or two ago was debated on the floor on several occasions. We have considered the subject matter and the will of the body has been expressed. Now in terms of . . . getting back to this public hearing business again, there was not a public hearing on this issue this year before the Revenue Committee either. Because LB 167, as introduced, did not deal with SID's, it did not deal with special assessments. The committee placed SID's into the bill as a committee amendment which did not have a separate public hearing. The committee placed this whole special assessment issue into the bill without a public hearing on the floor. So the net effect of it is when LB 933 came up last year and the interest increase was put on on the floor and when 167 came up this year and the special assessments and SID's were put into that bill there never was a public hearing on the effect that retroactive interest application has on these independent political subdivisions up in Omaha. So for Senator Newell to stand out here and say we are making a new law on the floor of the legislature without a public hearing is simply incorrect. There was not a public hearing on the issue last year and there was not a public hearing on the issue this year. Now in the mean time the Sanitary Improvement Districts have been reacting very defensively. Last year

at the eleventh hour when they found out what was going on Senator George and I sponsored an amendment to mitigate the effect of the bill then. All right, because we really didn't have a chance to understand the effects of the bill or what the ramifications were, we were not able to get the whole job done on the floor of the Legislature last year and the SID's then filed a suit. A couple of SID's in Omaha filed a suit in district court challenging the authority of the Legislature and the ability of the Legislature to apply these tax interest increases retroactively back to 74, 73 in some cases, which would have a terribly punitive effect on SID's, which as I indicated earlier, are already suffering problems due to the recession in the early 70's and now a double whammy a recession in the late 70's. Now we have also over the last couple of weeks checked with the local officials involved, the Nebraska Association of County Officials, with the City of Omaha, with the League of Nebraska Municipalities, with the City of Lincoln and none of those officials really care one way or another about this, they are basically staying out of this. They understand and they sympathize with our point of view. They realize the disastrous effects retroactivity... retroactive application can have on the SID's and they basically are taking a neutral position.

SENATOR CLARK: You have about thirty seconds left.

SENATOR HOAGLAND: All right, thank you Mr. Clark. Now, in Senator Newell's remarks he inferred that there were people in the City of Omaha who were basically in favor of his amendment. Now I would like him to state who, I would like him to state what the financial ramifications are, I would like him to state exactly how the treasury of the City of Omaha is going to suffer by these independent political subdivisions who are not part of the City of Omaha being treated in this particular fashion and because it is my belief. . . .

SENATOR CLARK: Sorry sir, your time is up.

SENATOR HOAGLAND: Thank you.

SENATOR CLARK: Before I call on the next speaker I would like to introduce 71 students from Auburn, Nebraska, Senator Remmers district. Sally Harris is the teacher. They are in the north balcony. Will you hold your hands up please. We have 16 students from York, Nebraska, St. Joseph's, Senator Sieck's district. Miss JoAnne George and Sister Lorraine are the teachers. Where are you? Maybe they have

April 9, 1981

LB 167

gone, I don't know. There are 6 students from Sacred Heart in Omaha, they are in the north balcony. They are from Senator Chamber's district. Where are you located? Senator Fowler and Senator Warner's district has 48 students from Arnold School in Lincoln. Mr. Komenski and Mrs. England are the teachers. They are in the south balcony. Will you raise your hands please. Welcome to the Legislature, all of you. The next speaker is Senator vickers.

SENATOR VICKERS: Mr. President, members, I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. The question before the House is to cease debate. All those in favor vote aye, all opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Okay, record.

CLERK: 26 ayes, 0 nays to cease debate Mr. President.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Newell, do you want to close on your motion?

SENATOR NEWELL: I do Mr. President. Mr. President and members of the body, I think that Senator Hoagland and I have a totally different understanding of what is going on. Generally Senator Hoagland does a very thorough job of research and understanding. I think this time he's been a little remiss in terms of totally understanding either the issue or...and representing what happened on the floor of the Legislature and what happened basically in the committee process etc. He has also basically misrepresented the League of Municipalities position on this issue. He has misrepresented the City of Omaha's position on this issue. So, I would like to explain very briefly, trying to deal with Senator Hoagland's remarks, a little bit of those inaccuracies so that we can try to get a better understanding of what has gone on and what should go on. Basically, I was a chairman of a committee, the LR 169 study that looked at urban growth and in that committee hearing the City of Omaha recommended the SID's interest rates be increased. Not only for special assessments

but also for delinquent special assessments. There was a public hearing Senator Hoagland on that issue last year. In the course of that that whole study was negotiated and I and others worked out an agreement, worked out an agreement Senator Hoagland with the Home Builders Association who were opposed, frankly, came to the hearing and were opposed to the increase that we recommended. Now the bill was advanced to the floor with that sort of an agreement and then others, not I, offered the 16% increase in the.... Senator Hoagland, are you listening? Offered the 16% increase on the floor of the Legislature to increase the delinquent rates because in fact the interest rate situation had changed dramatically. Then the home builders came in and said, Senator Newell, you basically made an agreement with us just to go to 12%. Don't you think that you have a responsibility to live up to that agreement? I said, boy you have got a point there. I think that I will do that. So, I offered the amendment Senator Hoagland, although you did offer amendments also. I offered the amendment to leave that section alone. The 12% that we had agreed to previously. Now the situation is simply this. The SID's were not unhappy with that. They were unhappy with the retroactivity question for special assessments but not delinquent special assessments. They were not unhappy with that. They agreed to the 12% Senator Hoagland. Now this year what has happened is, they never came to the public hearing and said they were opposed to the increase. Basically what has happened is simply on the floor of the Legislature twice you attempted to bring this down to allow for the retroactivity not only as the counties presently provide, not only for special assessments but now try to increase the delinquent special assessments or reduce the delinquent special assessments by 2%. Now frankly that is not only a violation of the agreement of last year but that is a violation and a reversal of our entire policy of trying to bring the interest rates where they in fact belong. So what is happening here with this amendment is that we are going backwards instead of forwards. We are going backwards in terms of the interest rate that these SID's. . . . we are asking the city to further subsidize these SID's. Now what happens is simply this. The City of Omaha, the administration, tried to speak to the City Council this Tuesday and were unable to get enough city council members to deal with this issue. The League of Municipalities only agreed with the Home Builders and the people that you are representing Senator Hoagland only agreed not to oppose your amendment because they didn't think that they could. . . . be successful and they felt that the other parts of the bill would be what they wanted. So frankly Senator Hoagland, not only have you misrepresented

April 9, 1981

LB 167

this whole issue but I don't think that you thoroughly understand the whole issue. I'm asking at this point in time, very simply, to leave things as they presently are. Leave the agreement that the Home Builders made with me last year when I agreed not to. . .when I agreed to take out the 16% provision, take out and leave it at 12%. I'm asking to leave that stand and just strike this whole section. If the Home Builders want to come in and reduce it I would encourage them to do that.

SPEAKER MARVEL: You have thirty seconds.

SENATOR NEWELL: I don't think that this Legislature would in fact reduce them if they fully understood the issue. I think by that time next year when we challenge the Home Builders to do that that they will in fact not have the support that the cities will oppose it that the county officials will also be in agreement with the opposition to that sort of proposal. So with that I ask this body to bring this back, to just take it out all together, take this whole section out of this uniform interest bill and leave this an honest uniform interest bill and not raise it for some, make it uniform for some and actually reduce what we actually have for others. I would urge the body to accept this amendment.

SPEAKER MARVEL: The motion is to bring the bill back for a specific amendment. All those in favor of bringing the bill back vote aye, opposed vote no. Have you all voted? The motion is to bring the bill back. It takes 25 votes. Have you all voted? Have you all voted? Senator Newell.

SENATOR NEWELL: Mr. President, it looks pretty close but there are a lot of folks not voting, twenty not voting. It might be good since the next issue up is going to be a very important one also if we brought the folks in since basically we are still on Final Reading. I would ask that we have a Call of the House.

SPEAKER MARVEL: We are still on Final Reading which means that everybody is supposed to be in their seats. But we can have them record their presence. Do you want to record your presence. Please record your presence. Have you all recorded your presence? While we are waiting I'll introduce some guests. Underneath the north balcony Randy Rasby, Vocational Agriculture Instructor of Madrid, Nebraska and the brother of Dan Rasby one of the Pages. This is...are you underneath the balcony? Will you hold up your hand.

April 9, 1981

LB 167

From Senator Chronister's district 80 students from Schuyler, Nebraska, Mrs. Nodiar is the teacher. They should be in the south balcony. Where are you located? Will you hold up your hands. Mr. Sergeant at Arms, Senator Goodrich, Senator Hoagland, Senator Schmit, Senator Remmers. Senator Wagner, do you have a comment that you would like to make while we are waiting for two legislators?

SENATOR WAGNER: Mr. Speaker and members, this kind of breaks my heart to do this, but Senator Johnson, Lowell Johnson has a sore throat this morning and can not make this announcement and he is going to yield to me to do this task. The announcement is that North Bend popcorn, and that is not North Loup either, North Bend popcorn is under both sides of the balcony here, so Senator Johnson has popped that. I think he said he got up at 5:00 a.m. to do this for us. I think we ought to thank him for it.

SPEAKER MARVEL: Technically we are still on Final Reading. The Chair would appreciate it if you would remain in your seat, otherwise we are going to go through this routine once more. We are still missing Senator Goodrich and Senator Remmers. Will all legislators please return to your seats. The motion before the House Mr. Clerk is.

CLERK: The motion Mr. President is to return LB 167 to Select File for a specific amendment. That is offered by Senator Newell.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Could we have a roll call vote on this.

SPEAKER MARVEL: Okay, call the roll.

CLERK: Roll call vote. 19 ayes, 20 nays, 1 excused and not voting, 8 present and not voting, 1 absent and not voting. Vote appears on page 1373 of the Legislative Journal.

SPEAKER MARVEL: Motion lost. Do you have another motion?

CLERK: Mr. President, Senator Newell has a motion to return LB 167 to Select File for a specific amendment. That amendment being to strike the enacting clause.

SPEAKER MARVEL: Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, it is

with great disappointment that I offer this amendment. This bill has a lot of redeeming features but it is no longer a uniform interest rate, delinquent interest rate bill. The uniformity is no longer in this bill, in fact we couldn't even pull out the section, just previously that would allowed it to at least have some semblance of being uniform for those things that were still in it. Basically the Home Builders have come before this Legislature and with very convincing lobbyists, obviously had to be convincing, convinced this Legislature to once again do it to the City of Omaha. Now, I think that this is a grave mistake and I with great reluctance feel that I should offer this amendment. But I think in the interest of this body and in the interest of time I'm going to withdraw the amendment and urge my colleagues to oppose LB 167 because time is short and votes take a long time. I would urge you to vote against 167 on Final Reading because it is in fact another vehicle for the special interest groups who have without going through the process, without having a public hearing, without legitimately bringing to this Legislature for public, for full public debate and disclosure basically have amended on Select File a bill that in fact further adds cost to the citizens of the largest city of this state, primarily. Thank you.

SPEAKER MARVEL: Now before we go to the next item of business, after a great deal of research I can finally read this and from my home town, Columbus, Nebraska, the joint legislative district of Loran Schmit and Don Dworak underneath the south balcony, my mother and father, Jean and Wilber Johnson, this is signed Vard Johnson. Will the Johnson's stand up so we can welcome them. Okay, all legislators return to your seats. Unauthorized personnel leave the floor we are ready to read on Final Reading LB 167.

CLERK: Mr. President, Senator Newell asks unanimous consent to lay over LB 167.

SPEAKER MARVEL: There has been an objection, do you want to make a motion?

CLERK: Senator Newell moves to lay over LB 167, Mr. President.

SPEAKER MARVEL: Senator Johnson.

SENATOR V. JOHNSON: I would like to speak for just a moment in support of Senator Newell's motion to lay the

bill over. I understand that it takes 25 votes to get that job done. This is a long bill. I think we have another item on the agenda coming up which needs to be heard right away. I want to say one thing. My wife is an historian, she ever now and then brings me bits and pieces of interesting things to read. She brought me a book the other day called "Street Car Suburbs", it is about the development of Boston, Massachusetts at the turn of the century. The book, the book chronicles the city fathers and mothers in Boston basically permitted cheap financing of Brookline of Medford of all of the suburban areas in Boston and so very quickly, very quickly the up and coming affluent people in Boston moved out of the city and into the suburbs and the town of Boston began a long steady process of declining deterioration. Now the reason Senator Newell has been so outspoken on this bill, and I am totally in sympathy for what he is doing, I will be equally as outspoken is because the Hoagland amendment continues to further the process of suburban sprawl. Make no mistake about it and it is the twentieth century equivalent to Street Car Boston, to Street Car Suburb, it is the twentieth century equivalent to continuing that process of making land cheap and money available in suburban Omaha, in suburban Omaha. You know Senator Hoagland got up here and Senator Hoagland said that if we have these high interest rate delinquencies on special assessments we will just add to the price of suburban land. I can't, I'd rather add to the price of suburban land than to urban land. I mean I would rather have my suburban land more expensive than my urban land so maybe I can encourage some in field policies in the City of Omaha. This bill needs to be laid over so we have a chance to go to each one of you in this body and convince you why the Hoagland amendment is a bad amendment for the City of Omaha and for suburban growth. Senator Schmit, I'm with you a hundred percent on farm legislation. It is important to protect the family farm, but one of the things that is happening to farm land is it is just being eaten up day in and day out by suburban developers. If we mean business about halting urban sprawl, if we mean business about keeping our agricultural land in farms then we stop the practice of providing practice for special benefits to suburban developers. That is what the Hoagland amendment does. So it is for that reason that I rise to have this bill laid over so some urban senators can take the time and talk to each one of you here and let you know what the story really is.

SPEAKER MARVEL: Senator Hoagland. We are speaking to the Newell motion.

SENATOR HOAGLAND: Senator Marvel and colleagues I rise in opposition to the Newell motion. Senator Johnson and Senator Newell have an attitude about SID's. They have an attitude about SID's in terms of...in terms of their relationship with suburban growth, in relation to urban growth policies in the City of Omaha and where the population should be encouraged to settle within the city or in the suburbs and the unincorporated areas around the city. Now I think a lot of us can concur with Senator Newell and Senator Johnson's general sentiments about whether we want people to fill in vacant lots in the city or continue to expand outside the city. The problem is this bill and this issue was not an appropriate vehicle for them to exercise their political attitudes towards suburban growth and SID's. Now what this bill and what this provision effects are particular SID's that have already become formed, have already created their political subdivisions, have already put in the paving and the streets and the sewers and in many cases have already sold 400 or 450 out of 550 or 600 lots and are left with a 100 or 150 unsold lots which go back to 1974 or 1973 in which they are having a great deal of problem selling because of the recessions and the realistic market we are all familiar with. Now, they would have the interest rates on delinquent taxes apply retroactively all the way back to raise the price on those unsold lots. Now that has a punitive effect on existing SID's that are out there. It is a meat ax approach in terms of doing something to channel suburban development or to discourage suburban development. If they want to discourage suburban development they ought to come in directly with a bill to do that. But, it doesn't make any sense to be punitive in our policies against SID's that are out there that have been established that have put the developments in and are now suffering severe financial hardships because of the recession of the real estate market. We should leave those people alone. To exercise their general political attitude towards suburban development and SID's using this bill as a vehicle simply does not make sense. I mean there are other ways we can handle the urban growth problem. But it is not right to take an existing development that is already there, already has the investment, already has the construction underway and say we are going to make life more difficult for you. I think they understand that. I mean I think they understand what they are going to be doing is putting these developments that are already there in even more serious jeopardy. But how is it going to help their policy? The only way it is going to help their policy is by driving some of those into bankruptcy and then the people that are left holding the bag for the assessments

that are unpaid and the fact that the lots are sold at a lower rate are going to be the existing residents in those areas. Not the developers. So, I'm not expressing the position very clearly, but what they are doing is they are shooting at the first available target to come in order to effectuate their policy about suburban growth in Omaha and they are kind of picking off whatever targets are there in the woods. They are not really dealing with the essential issue and in so doing a lot of innocent people, a lot of innocent bystanders are going to get struck with their bullets and it really doesn't make any sense. We have put a lot of time into this bill and I would suggest that we end the debate, that we pass it on Final Reading today and be done with it. Because I for one am not going to be persuaded and I don't think a majority of this body is going to be persuaded that they should be permitted to exercise their general political attitude towards SID's by way of this particular narrow provision. Thank you.

SPEAKER MARVEL: Senator Labeledz.

SENATOR LABEDZ: Mr. Speaker, I call the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? Okay. Shall debate cease. Record.

CLERK: 26 ayes, 0 nays to cease debate on Senator Newell's motion, Mr. President.

SPEAKER MARVEL: Senator Newell, do you want to close?

SENATOR NEWELL: Mr. President, members of the body, it is miraculous with what sincerity Senator Hoagland talks. Such sincerity sometimes has to be looked at in its total context. I represent a district that is indeed suburban. Indeed suburban. I have the second most SID's of anybody in the State of Nebraska in my legislative district. Senator Hoagland has none. Senator Hoagland has none. Senator Hoagland says that he understands this issue well. I have studied it for a long time and I can't say with any great positive attitude that I totally understand the ramifications. Senator Hoagland says, Senator Newell and Senator Johnson and others are trying to impose their will upon the Legislature and this is the first available target. This is a uniform interest rate bill. It is a uniform interest rate bill. It wasn't me that brought the amendment in on Select File it was Peter Hoagland that brought the amendment in on Select File. It wasn't I who said, listen we ought to reverse the present situation and provide

April 9, 1981

LB 167

the SID's with even a greater or even a less cost than they presently pay, it was Senator Hoagland that did that. I mean this....I mean it is amazing to sit here in my chair and hear these kinds of arguments. Let me simply say this. I agree with Senator Hoagland, this is not the appropriate vehicle to subsidize the SID's in. There isn't anybody else that doesn't have retroactivity. There isn't anybody else that is going to get a reduced interest rate out of this thing except the SID's. Everybody else is going to have to pay a uniform interest rate and they are going to have to pay it retroactively. You know we live in a different world in 1981 than we did in 1976. The interest rates are far greater than they used to be. Now frankly the situation is very simple. This bill should not be the vehicle for the kinds of subsidies that create advantages for people to leave the City of Omaha. We shouldn't subsidize anybody to leave the City of Omaha. In Omaha they are going to have to pay 14% delinquent interest rates. They are going to have to pay the full costs, but what we are saying with this bill is that in the SID's just outside of Omaha you can get a real deal. Move quick. Get out of the city. We don't need a tax base in the city, we need to continue to have the ~~1/2~~ city sales tax, we need to continue to move the people out of the city. That is exactly what we are saying. We are saying for only the suburban development and only metropolitan, Douglas, Sarpy County we are going....where they use these mechanisms, we are going to subsidize these SID's. That is what we are really saying. I'm asking this Legislature to lay 167 over. To lay it over for a very good reason. The good reason is, no one has fully explored the ramifications. No one fully understands the ramifications of this bill. The industry didn't come in and ask for this sort of change. They came in and asked for it on Select File. They didn't have a public hearing on this change, they asked for it on Select File. They are the ones that are using the system to try to subsidize the SID mechanism. I think that is wrong. If they want to do that let them come in with a bill. Let them justify that to a committee of this legislature. Let them do it fair, honest and straight across the board like every other piece of legislation is supposed to be done. We need some time for the City of Omaha to take a stand on this position. We need some time so people can fully understand this issue. This is an important issue. I don't want to vote against 167. I want to see the Hoagland amendment struck because it is wrong. It is unfair. I hope that you can see this in the proper context and not in this contrived one. This is in fact a major issue and we are not going to have a uniform

April 9, 1981

LB 167

bill if this bill passes in its present form. I urge you to lay this bill over so we have some time to fully understand the ramifications of the Hoagland amendment.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Labedz. All right the motion before the House is to lay the bill over. All those in favor vote aye, opposed vote nay. It takes 25 votes. Have you all voted? Once more, have you all voted? Record the vote. Senator Newell, for what purpose do you rise?

SENATOR NEWELL: I am going to ask for a Call of the House and a roll call vote.

SENATOR CLARK: Well, we are under Call. We will have everyone check in please. Will everyone please check in. Senator Newell, do you want to start the roll call? We are short Senator Cullan, Senator Fitzgerald. Now we are just short Senator Cullan.

SENATOR NEWELL: All right, if we could proceed I would appreciate it.

SENATOR CLARK: Call the roll.

CLERK: Roll call vote. Vote appears on pages 1373-74 of the Legislative Journal. 21 ayes, 22 nays, 4 present and not voting, 1 excused and not voting, and 1 absent and not voting.

SENATOR CLARK: Motion failed. Do you have anything else on the bill?

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

SENATOR CLARK: The clerk will read LB 167.

CLERK: Reads LB 167 on Final Reading.

SENATOR CLARK: For what purpose do you rise? Yes, go ahead state your point.

SENATOR HOAGLAND: That next to the last sentence could the Clerk read that again, I didn't hear what he said there.

ASSISTANT CLERK: Reread sentence and continues to read LB 167.

April 9, 1981

LR 54
LB 167, 72, 205, 378, 40,
44, 87, 173, 292, 292A,
317, 536,

SENATOR CLARK: We have about three pages left. Can we get the Legislature to take their seats and vote on the bill. Continue.

ASSISTANT CLERK: Continues to read LB 167.

SENATOR CLARK: Everyone is in their seats please. All provisions of law having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 30 ayes, 13 nays, 5 present and not voting, 1 excused and not voting. Vote appears on page 1375 of the Legislative Journal.

SENATOR CLARK: The motion passed, the bill is passed. We have 40 students from Westlawn Elementary School in Grand Island in Howard Peterson's district. Roger Lee is the teacher. They are in the north balcony. Could you raise your hands please. Welcome to the Unicameral. We will now go to item six.

CLERK: Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor at 11:00 a.m. LB 72 and 205.

Senator Marsh would like to print amendments to 378.

The Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 40 and find the same correctly engrossed, LB 44 correctly engrossed, LB 87 correctly engrossed, LB 317 correctly engrossed, LB 292 correctly engrossed, 292A correctly engrossed, 173 correctly engrossed and LB 536 correctly engrossed.

Mr. President, a new resolution. Read LR 54. That will be laid over Mr. President.

April 10, 1981

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Senator Peterson.

SENATOR H. PETERSON: Prayer offered.

PRESIDENT: Thank you, Senator. Roll call.

CLERK: Mr. President, Senator Higgins would like to be excused until she arrives, Senator Fitzgerald all day, Senator Pirsch for the day, Senators Haberman, Hoagland, Newell, VonMinden and Warner until they arrive.

PRESIDENT: Would everybody register your presence so we can get started on Final Reading. Has everyone registered your presence so we can get started with Final Reading and the Speaker would like to have a productive day so we had better get going. Senator Nichol is ready to go so why don't we all join him? Senator Labeledz, will you press your button so we can get going here. Thank you. 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: I have no corrections, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 257 and recommend that same be placed on Select File with amendments; 249 Select File with amendments, (Signed) Senator Kilgarin.

Mr. President, LB 17, 59 and 167 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 17, LB 59 and LB 167.

CLERK: Mr. President, Senator Barrett offers explanation of vote. I have a report of registered lobbyists for the week of April 2 through April 9. (See page 1392 of the Journal.)

Senator Sieck would like to print amendments to LB 241 in the Journal and, Mr. President, new resolution, LR 55 offered by Senator DeCamp. (Read. See pages 1392-1394 of the Journal.) That will be laid over, Mr. President.

April 10, 1981

LB 243, 17, 22A, 59, 158A,
167, 271, 317A, 326, 483

SENATOR GOLL: Mr. Chairman, members of the Legislature, the hour is late. I have no prepared minutes but I just want to say as one who has been involved with an NRD development very closely, very personally, that I would stand in opposition to Senator Sieck's motion. I know people that are on the NRD boards, know them personally. They are fine people. They are elected by us. They do a job. They do it to the best of their ability, and though it is no time to become dramatical, when you say "eminent domain" to me, it is like running in front of that big red bull out in the pasture and no fence within a good three wood shot, and as far as I am concerned, Senator Schmit, the ratio should have been fifty percent instead of seventy-five, and I think we have got to look at this question with a lot of sincerity and purpose in our views. I am for the bill. I am against the proposed kill amendment. Eminent domain is bad. Thank you, Mr. Chairman. It is 11:58 a.m.

SENATOR CLARK: I think we are going to stop right here and we are going to continue this afternoon with priority bills on General File so we will continue with this bill, after the Clerk reads some things in, at one-thirty.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 483; Senator Kremer to LB 326.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor LB 17, 59 and 167.

Your committee on Enrollment and Review reports LB 22A correctly engrossed; 158A correctly engrossed; 317A correctly engrossed; and 271 correctly engrossed. (Signed) Senator Kilgarin.

SENATOR CLARK: Senator Cope, would you like to recess us until one-thirty this afternoon?

SENATOR COPE: Mr. President, members, I move we recess until one-thirty.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. We are recessed until one-thirty at which time we will take up General File priority bills.

Edited by Arleen McCrory
Arleen McCrory

April 13, 1981

LB 11, 17, 59, 132, 167,
LB 205, 253, 253A, 284,
LB 284A, 329, 333, 366,
LB 483

first one now and then see how we get along.

CLERK: Mr. President, if I may, right before we go to that, your committee on Enrollment and Review respectfully reports LB 132 correctly engrossed; 253, 253A, 284, 284A, and LB 483 all correctly engrossed.

A letter from the Governor addressed to the Clerk. (Read. Re: LB 59, 167, 17 and 205. See page 1446, Legislative Journal.)

Senator Wagner would like to print amendments to LB 11.

And your Enrolling Clerk has presented to the Governor LB 329 and 333.

Mr. President, LB 366 (Read title). The bill was first read on January 19, referred to Retirement for public hearing. The bill was advanced to General File. There are committee amendments by the Retirement Committee.

SPEAKER MARVEL: Senator Fowler, do you wish to explain the committee amendments?

SENATOR FOWLER: I do. I move adoption of the committee amendments. LB 366 is a bill that deals only with police and fire in the City of Lincoln or that is cities of the primary class. The committee amendments are a compromise, a negotiated compromise, between the police, the fire and the city administration. It is acceptable to all sides and acceptable with an amendment that Senator Landis offers. The basic thrust and the reason for the agreement is that civilian employees if you want to use that term, the nonpublic safety employees, are currently being matched \$2 for every \$1 that they contribute. The city matches \$2 for every \$1 that is contributed. The city working with its actuary developed a proposal to improve the Lincoln Police and Fire system to the point that the same matching ratio would be used and that the 7% of employees salary contributed by the police and fire would be matched with a 14% of payroll contribution by the police. So these are amendments. 366, there is a companion bill, 367. That bill was killed. This integrates the proposals. It may be less than the public safety organizations initially wanted but it is something that provides equity and comparability between the systems. I would move for the adoption of the amendments.

SPEAKER MARVEL: The motion is the committee amendments to LB 366. Okay, the motion is to adopt the committee amendments. Senator Schmit, do you wish to speak to the committee amendments?