

January 19, 1981

LR 6  
LB 311-356

read some bills in now, we will recess until 3:30 and come back and hopefully there will be more bills to process and then I would like to have a meeting with the chairmen in Room 1520 at 9:00 tomorrow morning. The Clerk now will....Senator Carsten.

SENATOR CARSTEN: Mr. President, I am hopeful to have a meeting of the Revenue Committee at 3:00. We may be a little late getting back in Exec Session, so I just wanted to alert you of that.

SPEAKER MARVEL: Okay. Senator Carsten is calling a meeting of the Revenue Committee for three o'clock this afternoon. In which room? 1520. Okay, Mr. Clerk, go ahead.

CLERK: Mr. President, first of all, Senator Marsh has an explanation of vote to be inserted in the Journal. (See page 244 of the Legislative Journal.)

New bills, Mr. President. Read by title LB 311-355 as found on pages 244 through 255 of the Legislative Journal.

Mr. President, new resolution. (Read LR 6 as found on pages 255 and 256 of the Legislative Journal.)

Mr. President, Senator DeCamp asks unanimous consent to have the names of all the members added as co-introducers to LR 6.

SPEAKER MARVEL: Okay, the motion before the House is the unanimous consent request that all names be added to the resolution which was just read. Is there objection to that motion? If not, the motion is so ordered.

CLERK: Mr. President, pursuant to our rules....

SPEAKER MARVEL: It will be in the Journal?

CLERK: Yes, sir, it will be taken up some time later.

Mr. President, LB 356. (Read title to LB 356 as found on pages 256 and 257 of the Legislative Journal.)

SPEAKER MARVEL: Okay, the motion by Senator Marsh to recess until 3:30 p.m. All those in favor of that motion say aye. Opposed no. We are recessed until 3:30 this afternoon.

Edited by:

  
Marilyn Zark

March 5, 1981

LB 12, 59, 74, 168, 177,  
284, 352, 392, 501

use of the parks and actually result in a net gain but whether it did that or not, I think the parks should be accessible to everybody and this would ensure that that would occur. So the amendment would strike the new language in the bill which raises this temporary fee from \$1.50 to \$3.00 and have the effect of reducing the current amount from \$1.50 to \$.50 and if you take this amendment, I will support the bill for sure.

SENATOR CLARK: I think we are going to stop right here. Senator Remmers, would you like to adjourn us until tomorrow morning at nine o'clock? We have something to read in first.

CLERK: Mr. President, your committee on Urban Affairs whose chairman is Senator Landis reports that LB 501 is reported to General File and LB 392 to General File with amendments, (Signed) Senator Landis. (See page 761 of the Legislative Journal.)

Mr. President, your committee on Revenue whose chairman is Senator Carsten reports LB 12 to General File; LB 352 to General File; LB 59 to General File with amendments; LB 168 to General File with amendments; LB 284 to General File with amendments; LB 177 indefinitely postponed. (Signed) Senator Carsten as Chair. (See pages 762-766 of the Legislative Journal.)

Mr. President, your committee on Miscellaneous Subjects give notice of hearing for gubernatorial appointments.

Mr. President, Senator DeCamp would like to have a meeting of the Banking Committee in Executive Session at 1:00 p.m. today in his office, 1:00 p.m.

SENATOR CLARK: Senator Remmers.

SENATOR REMMERS: Mr. Chairman, I move the body adjourn until March 6, Friday morning at nine o'clock.

SENATOR CLARK: You heard the motion. All those in favor say aye, all those opposed. We are adjourned until 9:00 a.m. tomorrow morning.

Edited by Arleen McCrory.  
Arleen McCrory

May 18, 1981

LB 523, 317, 317A,  
352

are guests of Barbara Hovland and Mathew Stacey and Vicky Wiese. Would you please stand so we may recognize you. Welcome to the Unicameral. Senator Schmit, will you please record your presence. Senator Wiitala, will you please... Senator Maresh, will you please record your presence. Senator Vard Johnson. Senator Chambers, will you record your presence please. Senator Pirsch. Mr. Sergeant at Arms, Senator Pirsch is the only one who is absent at the moment. Let's proceed with the roll call, Mr. Clerk.

CLERK: (Read roll call vote as found on page 2082 of the Legislative Journal.) 25 ayes, 23 nays, Mr. President, on adoption of the committee amendments.

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Now the motion is the advancement of the bill. All those in favor of that motion vote aye, opposed vote no. Okay, record the vote.

CLERK: 30 ayes, 8 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now go to the next item. The Clerk has a message to read and then we will go to LB 352.

CLERK: Mr. President, I have a message from the Governor. (Read message from Governor as found on pages 2083-2084 of the Legislative Journal: Re: LB 317, 317A.)

SENATOR NICHOL PRESIDING

SENATOR NICHOL: We will move on to LB 352. Mr. Clerk, do you have anything?

CLERK: Mr. President, LB 352 was introduced by Senator Koch. (Read title.) The bill was read on January 19. It was referred to the Revenue Committee, Mr. President. The bill was advanced to General File.

SENATOR NICHOL: Senator Koch, would you like to explain the bill and then I understand we have an amendment here, too.

SENATOR KOCH: Thank you, Mr. Chairman. I think many of us have been in a position where we have expected legislation to occur and peaked too soon. Right now as a former athlete I feel rather flat and I don't see much sense of humor but when this body enacted LB 285 in a special session that was called to change one date in the Criminal Code bill, at that time we thought it was necessary because there was an effort to provide initiative referendum on the Constitution. I would remind you that in the past two years we have seen

I think considerable evidence of our folly. We here at state level operate at seven percent and we find that difficult but at least we have the budgetmaking ability of all agencies under state government and so we offer them many times less than seven and sometimes considerably more than seven, depending upon what kinds of priorities we establish for each agency that is under state responsibility. We have over two thousand subdivisions of government in this state. They range from budgets anywhere as low as \$10,000 to budgets that exceed 125 or \$130 million. We sit here and we try to justify ourselves that these subdivisions can indeed operate under a seven percent when inflation is rampant, human services are different, indirect property services are different, about everything that you try to put together is different and there is an old quotation that I think is very appropriate. "There is nothing so unequal as equal treatment of unequals." That is exactly what we are doing today in the State of Nebraska. We are treating subdivisions of this government as though they are equal when we all know that is not true and all you have to do is look at 285. There are twenty-two different exemptions in that bill presently and this time around if you watch the legislation introduced I think there was something like sixteen or seventeen pieces of legislation that were introduced from the various subdivisions of government for the purpose of trying to get away from the impact of seven percent lids. I submit to you now is the time to make a courageous choice, that is to say we believe in local control and one of the most responsible things that local officials do is to build a budget. I also submit to you that by seven percent you are saying to them if you don't take advantage of seven percent as a floor you are stupid because your operating budget next year will be diminished by the amount you tried to be responsible for in terms of planning a budget. What you do is you encourage irresponsible budgeting. I know there are amendments running around on this floor where they are talking about anywhere from nine percent to ten or some other magic figure and I again would say to you that when you do this you are saying to subdivisions of government we are requesting that you use eleven or nine or whatever that magic number is because that is the way we will get you out of a momentary dilemma and that is all it is going to be. Recently we worked very diligently on 17E and 17E was a local option limitation. Even though it affected only two school districts it still has profound effect upon any subdivision of government if they want to operate at that level. So it isn't though we are taking away the check on irresponsible local officials. We are not at all. We have in place a piece of legislation which is in full force and effect right now that says to any subdivision

May 18, 1981

LB 352

of government if you have irresponsible decision makers, then you use the petition method and bring them back to responsible positions. So I am asking you at this time to vote your judgment. I think many of you committed yourself because when I submitted a letter to the Speaker for this priority hearing on this bill on the floor twenty-seven of you signed that. Some of you possibly with some reservations but many of you just as strong a feeling as I have about this issue. So, therefore, I would hope that we would turn down any amendments and those who have them would defer them until such time when we can look at them on Select File and make a determination of whether or not they might be reasonable. In my final closing point I want to say to you, I see where the Governor now has thrown out the hue and cry along with certain members of this body that we ought to have a committee to monitor the recisions that are being made at the federal level and their effect upon local governments. I predicted this a couple of months ago. I even predicted we might be back for a special session. There are some now who say there is a good likelihood we could be. I submit to you if you take off the lid there is no reason to come back because then the local governments can say, "Sure, we have suffered the recisions but we have a chance to make them up locally based upon what we think are reasonable programs, programs that should not be dismantled but programs that should be continued". So this is the way you solve that problem. You take away inequitable treatment. You let local subdivisions act on their own initiatives. Let them make their budgets based upon what the good news is and the bad news. There are subdivisions of government today who because when brought under a seven percent lid are suffering almost irreparable damages. Other subdivisions of governments who had the fat who were irresponsible are not suffering very much. There are subdivisions today who have over-ridden the seven percent lid but let me remind you they are not very large. They are primarily Class I schools who over-rode their lids. The auditors report gave us that figure and you check it out, that is what they were and so there are certain people in small communities when they realize something is terribly important to them and close to their heart, they will go the risk. They will go way above. But when you get into some of the intangible items that they can't directly see and don't want to directly protect, they aren't going to take that risk. So I would submit to you that LB 352, the time is appropriate and we should act and I think that we should demonstrate the courage to say with these times, and we don't know them very well, it is time to turn government back to local subdivisions, let them make the decisions. We will live with seven percent at state level. Then we will see the differences where some

May 18, 1981

LB 352

get fifteen percent, some get forty-five percent increases, some get three, some get less but that is our decision. I am saying let the local subdivisions, if you trust them, if you like local control, put it back where it really counts, that is to make your budgets. Let them make the budgets and make them according to their needs. Thank you, Mr. Chairman.

SENATOR NICHOL: Mr. Clerk, do you have something on the desk?

CLERK: Mr. President, the first amendment I have is from Senators DeCamp and Beutler.

SENATOR NICHOL: Are you going to read it to us, Mr. Clerk? Oh, Senator DeCamp, it is ten pages long so would you tell us about it in less than that?

SENATOR DeCAMP: Yes. Mr. President and members of the Legislature, indeed the amendment is ten pages long. Senator Beutler has done a tremendous amount of work on it. What we would propose is as follows, and I wish you would kind of pay attention because I think it is a reasonable proposal and maybe one that is workable, and quite frankly, politically palatable ultimately. It is a new formula for a new lid. It maintains the lid because politically we don't think it can be repealed. Even though I might have some sentiments for its total repeal, we don't think it can. What we would suggest is this other formula which is tied more closely to real life, in other words, we use an average of about three years past income as income increase in the state. That deals with what is really happening. That becomes the lid. What would be the practical effect? I am guessing, what, nine and a half, maybe ten percent is what it would end up being. If inflation is brought under control and things go down, the lid amount goes down. As a practical matter, if things blow apart, this would slowly go up, too, but it would be dealing with reality rather than the seven percent. What we are suggesting then, give you the general idea of this lid so you understand what it is. On Select File we will offer it, assuming the bill goes that far, and we are suggesting that you go ahead and advance it with the understanding that we are dead serious about this. We have talked to people on both sides, have brought it up to some of the administration officials, brought it up to county officials, school officials, school boards, all the various entities that really have a deep and abiding interest in the lid issue, and without saying absolutely that it will or won't go or that they all accept it, I can say the response from every quarter was quite receptive, and I would hope that on Select File maybe we would take this up and I would let Senator Beutler say something on it, sure, but

May 18, 1981

LB 352

I don't think we want to offer it at this time but we want you to kind of taste it and think about it. Senator Koch, I have talked to him. You indicated you might be receptive if we could have more time to work out some of the details, some of the support, so that it wouldn't take a great amount of time if we did work it out, is that still correct, Senator Koch?

SENATOR NICHOL: Senator Koch, would you like to respond to that question?

SENATOR KOCH: As long as we understand I said I might consider it.

SENATOR DeCAMP: Senator Koch, I would never hold you to anything other than a "might". I understand that. Senator Beutler, if I have some time, I would yield any time I have to you to discuss it further or on your own time, too.

SENATOR NICHOL: You have two and a half minutes, Senator Beutler. Would you like to take it?

SENATOR BEUTLER: Don't I get any time on my own, Mr. Speaker?

SENATOR NICHOL: No, there are four others ahead of you so you have a choice.

SENATOR BEUTLER: But I am an introducer.

SENATOR NICHOL: You now have two minutes.

SENATOR BEUTLER: That is all I need, Mr. Speaker. We are going to withdraw the amendment but we are dead serious about it. I think there are probably a lot of people in here who feel the same way I do about a seven percent lid. I don't like a seven percent lid or any flat-out percentage lid because it does not relate to economic realities. You may have inflation rates and increases in personal income in one year in the area of three and four percent and another year, like the years we have seen recently, when it is thirteen and fourteen percent. So seven percent is too high or too low. It doesn't really relate to what is going on in the economy. The second problem with the seven percent lid is that we have made so many exemptions to it that nobody in this Legislature can probably tell me what the actual increase in their particular school district and their particular city and their particular county was because the actual increases are not seven percent. They are something higher than that, somewhere between eight, nine and ten percent depending on how many of the exemptions apply to any

particular district. So a seven percent lid in addition to not having any relationship to economic reality also is unclear and uncertain as to its effect and does not apply equally to all political subdivisions. On the other side I am reluctant to do away with the lid completely because I think that the history of the last forty years of this country has shown, whether you want to call it irresponsible or not, that in effect we have not contained the growth of government at the local level or at the state level or at the federal level in this country and I think we have reached the point where a majority of the people feel that, in fact, the total growth of government, the percentage of income that is spent by the government as opposed to the private sector is now high enough, if not too high. Now I want to retain a kind of lid that at least insures that there is not additional growth, if it does not insure that there is a cutback. And so I think that the idea that Senator DeCamp and I have been working on relating the lid to personal income is an effective, a possibly effective solution. If you take the three years '77, '78 and '79 and average those three out, the average is 11.5% which would have been the figure...

SENATOR NICHOL: Time, Senator.

SENATOR BEUTLER: ...they would have been working with last year instead of the seven percent lid. So it is a compromise. I think it is a workable compromise and I hope you will give it some thought so that we can really talk about it seriously on Select File. Thank you.

SENATOR NICHOL: Now the amendment has not been adopted... offered, I should say. Mr. Clerk, do you have another amendment?

CLERK: Mr. President, Senators Newell and Burrows would move to amend the bill and the amendment is on page 2050 of the Journal.

SENATOR NICHOL: Is Senator Newell or Senator Burrows either one here that would like to talk about this? Senator Newell, do you want to take this?

SENATOR NEWELL: Mr. President, the amendment that Senator Burrows and I offer is a very simple amendment and we are not locked into stone in terms of how it ought to be. I mean there is some room for some negotiations but, basically, the amendment moves it from seven to nine percent with a three-fourths majority of the board. Now this proposal that Senator Burrows and I, and at that time Senator Johnson, was offering in the committee to avoid, basically to avoid



May 18, 1981

LB 352

the twelve bills that was offered to the Revenue Committee that dealt with exceptions to the lid or I think to put it, instead of perforating the lid with about twenty exceptions, we offered a supermajority would be able to raise the lid to nine percent and we would still have a lid. Frankly, I do not support the total repeal of the lid at this time and would urge the members of the body to adopt this amendment.

SENATOR NICHOL: Senator Burrows, did you wish to speak to the amendment?

SENATOR BURROWS: Mr. Speaker and members of the Legislature, I feel that it would be a serious mistake to repeal the lid outright at this stage. I think it would somewhat...I think it is too early following the passage of the lid legislation to repeal it without really breaking a trust with the voters, when we set up a lid really in some aspects to beat a constitutional referendum. This is one of the arguments that was coming before the Legislature. So I think a reasonable compromise is in order. Inflation has moved upwards and a nine percent with a supermajority vote I think is reasonable with the other exceptions that are involved presently in the lid law to make it somewhat comparable to what the lid bill was when it was originally passed. Inflation, seven percent was somewhat in tune with inflation at that time, and whether it be a seven to nine or seven to ten percent with a supermajority, I think these are questions the body could decide as this progresses but I think a repeal will probably bring a Governor's veto. If not that, I think the public may well come forward with a constitutional amendment that might be reasonable or it might be very unreasonable. Some of the problems with some of the other constitutional amendments that have been passed are the fact that they tie the hands of the Legislature in making any reforms or easing off the problems that come about by that constitutional amendment. It is extremely hard to remove a constitutional amendment and I think it is realism to think it is very probable that a constitutional amendment will be tried if we repeal, outright repeal the lid, and it would be successful. Our letters have been largely in support with large letter drives by educators for the repeal of this but that is not a reasonable assumption that the public, in general, is ready to repeal the lid. I think it is too quick. I think it is breaching our commitment to the citizens when we passed the lid in just a few years ago with a seven percent lid. So I would urge you to modify the lid slightly, take off some of the pressure off of the subdivisions where it is working in an unreasonable fashion to them but still retain the principles of the lid with a moderation that allows for some of this inflation. So I urge you to adopt this amendment and then pass this lid relief bill

at that point forward and see if the Governor would sign such a measure. I think it is reasonable and prudent to allow them to go to nine percent with a three-fourths majority of that elective board. It still leaves a strong ability for the public to get at least part of that board in opposition if they want to keep that seven percent lid on there. They can do it with a minority of the elected people at the local level and it keeps the lid concept intact. Thank you.

SENATOR NICHOL: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I strongly object to this sort of an amendment and I will try to explain why. Any time you perforate the lid of seven percent you put a heavier burden on the local tax, people that pay the local tax, usually property tax, than you do with the seven percent. If we allow holes to be blown in the lid, and this is one, it allows the local people or demands almost that they provide the funding for certain subdivisions of government at a higher level than the seven percent. Those parts of local government that are funded partially by state funding and partially by local funding are the ones that are going to get hurt. I like to use the technical community colleges for an example. About half of the money for the technical community colleges comes from the state and about half of it comes from the local subdivisions of government. If you allow the lid to be raised to let's say nine percent or ten percent or whatever it is, it allows those subdivisions or those units, those technical schools, to raise their budget by that amount. The State of Nebraska is not going to fund that at that level. They are not going to put that funding in at ten percent or whatever it may be. So what you are doing, you are allowing those subdivisions to come into the county government and ask for ten percent or whatever you decide it might be. So what you are doing is that at the local level you are not raising it just a couple of percentage points, you are raising it just twice that much because of the fact that the subdivision can raise their budget that much. I am against the lid. I will vote for taking the lid off. I resist any attempt to raise the percentage points in the lid because I think that hurts a local government much more than it is hurting it now and it also, as Senator Koch said earlier, provides a floor for those subdivisions of government. You would be foolish not to go the limit on whatever you can get away with because the governments that were frugal in the beginning are the ones that got hurt with the lid. Now I think that we are absolutely wrong if we try to spring holes in that lid. Either leave it where it is or take it off completely so

that those subdivisions of government, those officials, those county officials, those city councils, those school boards can operate with the authority that they are given by the vote of the people and let them do their job and not stand here in Lincoln, Nebraska and say, "Hey, don't do that. You don't know what you are doing. We will tell you what to do, and we will make sure that you don't spend too much money out there even if the public out there wants the program." And I don't know how in the world they could get more government at grassroots than if they let those people out there do their job and we sit here and try to finagle and twist and turn and try to protect everybody, we protect nobody. Thank you.

SENATOR NICHOL: Senator Higgins, did you wish to speak to this amendment?

SENATOR HIGGINS: Thank you, Mr. President. I think this whole debate this afternoon is a joke. I don't know why you are introducing any amendments. I don't know why we are speaking to any amendments. First of all, Governor Thone isn't in the rotunda to tell you how to vote yet. I have to laugh when Senator Koch stands up and says, "local control, local control". Koch is the one who introduced the bill this year to lift the school lid bill. Remember, people of Omaha and Nebraska City voted in a lid on schools. Well, that local control doesn't count and all of you that talk about local control and then you turn around and you say, "Why did you put a seven percent lid on in the first place? Because the people were demanding it," you said, and now you stand here and say, "Well, but the governments can't live with it." The City of Omaha came down here this year and said we want a half percent sales tax increase, and for those of you who say local subdivisions, local governments, they are going to watch the budget. They are going to tighten it up. You forget that the same city council that was begging you for a half a percent increase raised their own salaries and the mayor's salary this year and you think they are going to follow some kind of a mandate of the people. This is the place where the people are looking for help because they have been ignored by the cities and the counties and the schools and I think when you talk about local control, it is a joke. Local control is bandied around here just to everybody's own advantage. When it is to your advantage, you scream local control. When it isn't, then it is the Legislature's responsibility. So all I want to say is it is asinine to talk about any amendments. This is a bill that says, "Shall we lift the seven percent lid?" Senator Koch says let's have a referendum of the people. Why not an initiative of the people?

It takes the same formula of number of votes to have an initiative as a referendum. So I don't know why Senator Koch wants a referendum. I am for an initiative. If the people want to lift the seven percent lid, then let them get enough votes to have an initiative. Forget the referendum. Then you are going to find out what the people really want and I know you have been lobbied to death by the city and the county organizations but you wait until you get home and the people tell you, "We didn't ask you to lift the lid". And, furthermore, what did your lone leader do today? He cut the mental retarded budget. I don't think he would want to lift the lid. I mean "old tightfisted Charlie" isn't going to go along with this. You might pass this bill and he will have to veto that. Then he is going to have to come back into the rotunda and twist a few arms, again say, "Now don't override my veto". And here he just vetoed LB 317. I guess he figures today is his lucky day and maybe he could get that up to a vote. But I think it is redundant, asinine and ridiculous to offer amendments to this bill and, really, if you are going to vote on it, wait until the leader gets here to tell you how. Thank you.

SENATOR NICHOL: Senator Koch.

SENATOR KOCH: Mr. Chairman, obviously, Senator Higgins only heard what she wanted to hear. I am not in favor of...I am not in favor of adding any new dimensions to the lid. I am trying to repeal the seven percent lid, period, and I would hope that Senator Burrows and Senator Newell withdraw this amendment and advance 352, and if there are those on Select File who feel as though they have reached a consensus of the membership of this body and the Chief Executive, then that is the place to do it but we are standing here and we are engaging in a great deal of rhetoric, and I don't think we are prepared to do that much today except to move it and yield to time, and then on Select File accept the amendments and make a determination who has twenty-five votes and who doesn't. So I will not accept Senator Newell's amendment nor Senator Burrows. I know they offer it in good faith, and all I will say to this is that when you try to put the local subdivisions of government in there, you say two-thirds, I don't know that you are really going to help things very much. If you are going to do that, then you might as well leave it at seven percent and say if you want to exceed seven by two-thirds of your membership then you go ahead and get the vote and then exceed but we always talk about political reality on this floor. Political reality, this is now not the time. I submit to you that had the politicians in previous years faced reality,

May 18, 1981

LB 352

the nation wouldn't be in as many problems as it is today but they made promises, social security is a good example, an excellent example. The President wasn't going to increase the percentage figure, 11.2, until sometime next year and he could defer several billion dollars of expenses and now I see where he will probably concede. The same people who support seven percent still want a 11.2 increase in their social security. That is because we all are somewhat selfish, don't understand total government, so I would hope that we do not accept Senator Newell and Senator Burrows amendment and pass 352 to Select as it is. If we can reach a consensus by a considerable amount at that time, let's do it there in terms of what we want to do with the seven percent lid.

SENATOR NICHOL: Senator Kremer, did you wish to speak to this amendment?

SENATOR KREMER: Thank you, Mr. President. Yes, I do wish to speak to the amendment and speak against it. I strongly support LB 353 (sic). I have committed myself that I would speak to it. I have taken a stand that has not been easy to take. I have given this a lot of thought. I made it known to the people in my district. I have gone on radio and I have taken a firm stand that I am going to support the lifting of the lid and I am going to stand there, whatever the results may be because I think I am right. Now either we are going to trust locally elected officials or we are not going to trust them. Now if the state is going to at this level going to say we are going to operate county government or we are going to operate our schools from this level, I think we are going to find ourselves in a lot of trouble and with more problems than we can handle. Let me tell you what happened when I attended the Year 2000 Program in my district. When we arrived there, I asked Lieutenant Governor Luedtke how many districts have you been in and talked about the year 2000. He said, "Well, this is one of the last ones." I asked him to tell me if he could see a trend in what the people were saying as they conducted these programs in the various districts, and he said, "Yes, the trend seemed to indicate that the people want government off their back and we want to run our own program and we want to cut down on spending." Okay, I know in Aurora, and I know in other places, too, they divided the group into what, thirteen or fourteen or fifteen groups to discuss various issues. Now when these reports were given I did not hear that we want government off of our back. I did not hear that we want to cut spending. They wanted better roads. They wanted hard surfaced roads. They wanted state aid here. They wanted

May 18, 1981

LB 352

state aid there. So out of one side of their mouth actually they were saying one thing, that we do not want spending. The other side of their mouth they say we do want the liberty to spend what we think is needed. Now when we try to control spending by putting a lid on it, we are fooling ourselves and I am going to predict that if we...I don't care if we put the lid at nine percent, ten percent, eleven percent, there is going to be exemptions just like there are under the seven percent lid. I think the time has come where we need to go back, and I know that Senator Higgins feels that local control is just a farce, I don't think it is. I have long been an advocate of local control. I trust my local elected officials. I served on a school board for eleven years and I can truthfully say that every member of that school board over these years did the very best job they possibly could to cut down on spending and still doing the thing that needs to be done. I think I made a mistake when I voted for the lid bill in the first place. I still don't know why I really...I have taken the stand now on elimination of the lid, in support of 352. I stand there firm. If I get kicked out of my district, fine, but I think I have done that which my conscience tells me is the right thing to do and I am going to stand there. Thank you.

SENATOR NICHOL: Senator DeCamp. The question has been called. Do I see five hands? I do. The question is shall debate cease? All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Record. Debate has ceased.

CLERK: 29 ayes, 0 nays, Mr. President, to cease debate.

SENATOR NICHOL: Senator Newell, did you wish to close on your amendment?

SENATOR NEWELL: (Mike off) Mr. President. Mr. President, members of the body, I fully expect that this amendment will not have quite enough votes to be adopted and I understand full well why it won't. (A), because there are people who honestly, as Senator Kremer so eloquently said, who honestly believe that the lid should be repealed totally and those people will not vote for this provision. There are others who say that Senator Koch, and Senator Koch has pleaded, wait until Select File, we will have something that everybody can live with. That just isn't going to happen but there will be those people that are going to wait till Select

File and not put this lid on or not put any sort of change in the lid or whatever. So I feel that this amendment is not going to pass but I felt that I, for one, had to offer it on General File and the reason I did is because if it was adopted I could vote for the advancement of the bill. If it is not adopted, I cannot vote for the advancement of the bill and I can't for very simple reasons. Four years ago, three years ago, there was a proposal to put a five percent constitutional lid on all local subdivisions of government and I, like many other legislators in this body, went out and said it is irresponsible, it is wrong, give the Legislature a chance. We will do something. We will put a lid on that is strict and yet rational, a lid that allows for some exceptions, a lid that recognizes the inflation rate and what has happened to it, and this Legislature came back and in a special session did such a thing. It was a terrible bill which we later had to modify and we did and we made a workable lid, a seven percent lid, which we live under today. That lid is pinching very, very, very tightly and I recognize that. It is not the most responsible lid that we could impose upon local government and I recognize that, but at the same time that we changed it and made it workable, there was another proposal that went before the voters. It was called the "Jaksha flimflam, a little bit of everything, something for everybody" amendment and it didn't get on the ballot because it was so poorly drafted, so poorly thought out. It had a little bit of something for everybody and really nothing for anybody and that proposal was not on the ballot but, you know, I fear and I want to say this publicly to my colleagues who are probably going to vote this down and advance 352 the way it is written to repeal the lid, this is the wrong signal to send to those people who sincerely want to hold down government spending. It is the wrong signal to send when we send this bill from General File to Select File even with the promise of someday straightening it up and keeping a lid on. It is not only the wrong signal to send but it is in fact the kind of thing that will get the juices of those people who have led petition drives before going.

SENATOR NICHOL: A minute.

SENATOR NEWELL: And those juices will produce probably a very simple limitation, a seven percent limitation with no loopholes, with no recognition of certain other factors, one more strict and less thought out than even our own proposal, but that will be offered as a constitutional amendment and these people will be gearing up the minute this moves from General File to Select File. It is the wrong signal to send. I urge the members of this Legislature to adopt this

May 18, 1981

LB 352

amendment, to not send the signal that we are going to lift the lid and let local governments do as they will, even though I believe, like many of you, that they will not be that irresponsible. Let's remember the signal that we are sending. This amendment should be adopted. This bill should be advanced. If there is some tinkering to do afterwards, that would be fine but I do not think we should send 352 to Select File without this amendment.

SENATOR NICHOL: The question is, shall the Newell-Burrows amendment be adopted? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 9 ayes, 25 nays, Mr. President, on adoption of the Newell-Burrows amendment.

SENATOR NICHOL: The amendment failed.

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

SENATOR NICHOL: We are back on the bill. I have no lights that I know of on the bill itself. Senator Koch, hold up a minute until we get the machine working here. I have two lights, Senator Landis and Senator Labedz on that amendment. Do you wish to speak to the bill? Senator Koch, you may close.

SENATOR KOCH: Mr. Chairman, I have no close. I move to advance 352 to E & R Initial.

SENATOR NICHOL: The question is, shall the bill be advanced to E & R Initial? All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: There is no one excused. Have you all voted? Have you all voted? Senator Koch.

SENATOR KOCH: Mr. Chairman, I am going to ask for a Call of the House and a record vote.

SENATOR NICHOL: The question is, shall the House go under Call? All those in favor vote ay, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Record, Mr. Clerk.

CLERK: 21 ayes, 0 nays to go under Call, Mr. President.

SENATOR NICHOL: We are under Call. Will you all please



May 18, 1981

LB 158, 158A, 197, 197A,  
LB 352, 204, 204A, 245,  
245A, 292, 292A, 383, 512

take your seats and the Sergeant at Arms please get those who are not in the Chamber. There are none excused. I take it back, Senator Higgins is excused. Senator Koch and Senator Fowler, would you punch in please? Senator Maresh, Senator Wiitala, Senator Warner, Senator Lamb, Senator Hefner, Senator Newell, Senator Landis, Senator Hoagland, Senator Pirsch. Senator Koch, did you ask for a roll call vote? Okay.

CLERK: Mr. President, while we are waiting, your committee on Public Works reports LB 383 to General File with amendments.

Senators Peterson, Nichol, Burrows, Lowell Johnson, and Sieck would like to print amendments to 512; Senators Beutler and DeCamp to LB 352.

Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LBs 158, 158A, 197, 197A, 204, 204A, 245, 245A, 292, 292A. See page 2090, Legislative Journal.)

SENATOR NICHOL: Senator Lamb and Senator Carsten are the two that are not here yet. Senator Koch.

SENATOR KOCH: Mr. Chairman, can we take call in votes and speed this up?

SENATOR NICHOL: If you would like.

CLERK: Senator Chronister voting yes. Senator Hefner voting yes. Senator Hoagland voting yes.

SENATOR NICHOL: Record, Mr. Clerk.

CLERK: 26 ayes, 19 nays, Mr. President, on the motion to advance the bill.

SENATOR NICHOL: The bill is advanced.

CLERK: Mr. President, finally, the last item I am going to read in is a new resolution offered by Senators Kremer, Haberman and Rumery. (Read. See page 2092, Legislative Journal.) That will be laid over, Mr. President.

And, Mr. President, I have notice of hearing from Senator Warner regarding a meeting of the special committee regarding Federal-State-Local Fiscal and Program Policy.

SENATOR NICHOL: You will recall that Speaker Marvel announced

May 19, 1981

LB 243, 165A, 181, 316, 485  
322, 336, 336A, 352, 303  
412, 459, 459A, 523

they would prefer that it were more restrictive. All I am asking is that we give some kind of a guideline, some kind of direction and that we do it in a manner which is not going to be, I'm sure, restrictive to the operations of the Natural Resource Districts. I would hope that you would advance the bill. Mr. President, again I ask for a Call of the House and a roll call vote.

SPEAKER MARVEL: Shall the House go under Call? All those in favor of that motion vote aye, opposed vote no. Record

CLERK: 15 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators return to your seats, record your presence. Unauthorized personnel please leave the floor. Sergeant at Arms, we are looking for Senator Newell, Senator Lamb, Senator Haberman, Senator Marsh. We have one excused. Senator Newell and Senator Marsh. Senator Schmit, okay, call the roll.

CLERK: Roll call vote. 27 ayes, 13 nays, 6 present and not voting, 1 excused and not voting, 2 absent and not voting. Vote appears on page 2111 of the Legislative Journal.

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

CLERK: Mr. President, some items to read in. Senator Hefner wants a meeting of the Miscellaneous Subjects Committee in Room 2102 at noon.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 412 and recommend the same be placed on Select File, 352 Select File, 523 Select File with amendments all signed by Senator Kilgarin.

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed 316 and find the same correct engrossed and 322 correctly engrossed, (Signed) Senator Kilgarin.

Mr. President, the bills that were read on Final Reading this morning 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 Engrossed LB 181, 165A, 303, re-engrossed LB 336, Engrossed 336A, 459, re-engrossed legislative bill 459A, Engrossed Legislative Bill 485.

May 26, 1981

LB 316, 352, 360, 448,  
477, 477A, 512

PRESIDENT: LB 360 passes and that will conclude Final Reading for today. Do you have any matters to read in, Mr. Clerk, at this point?

CLERK: Very quickly, Mr. President, I have two Attorney General's Opinions, the first addressed to Senator Beutler regarding LB 352, and one to Senator Howard Peterson on LB 512. Both will be inserted in the Journal. (See pages 2250 through 2253 of the Legislative Journal.)

Mr. President, I have a letter from the Governor addressed to the Clerk. (Read letter regarding LBs 477, 477A and 316 as found on page 2254 of the Legislative Journal.)

PRESIDENT: We are ready then, Mr. Clerk, for General File. Thirty minute limit. Mr. Speaker, do you want to say anything at this time about the limits on General File and General File position. I recognize Speaker Marvel.

SPEAKER MARVEL: I think that this is to encourage people to understand that we are practically down to the end of the line and that they should treat things accordingly. That's....in other words, we can't force that issue but we can encourage it.

PRESIDENT: All right, we are ready then, Mr. Clerk, for LB 448.

CLERK: LB 448 was introduced by the Performance Review and Audit Committee and signed by its members. (Read title.) The bill was originally read on January 20 of this year. At that time it was referred to the Public Health and Welfare Committee for hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, first of all I guess I would not believe that this is a piece of legislation that has to be enacted in this session of the Legislature and I was quite surprised to see that the bill was place on the agenda. I personally would hope that we would simply pass over the bill until next year, and I guess at this point in time I would simply offer....well, I guess we will process it and see. But I really see absolutely no reason to process LB 448 in this session of the Legislature. But I should address at this point in time what the committee amendments do. The committee amendments to the bill delete the 16 hours of

May 26, 1981

LB 352

SENATOR CLARK: You all heard that motion. All those in favor say aye, opposed nay. The bill is advanced. LB 352.

CLERK: Mr. President, if I may right before that, Senator Cullan would like to print amendments to LB 95 and Senator Dworak to LB 552. (See page 2270 of the Legislative Journal.)

Mr. President, LB 352 has a series of amendments. First we have E & R amendments pending, Mr. President.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 352.

SENATOR CLARK: You all heard the motion. All those in favor say aye, opposed no. The E & R amendments are adopted.

CLERK: Mr. President, the next amendment I have is offered by Senators DeCamp and Beutler. I have a note that they wish to withdraw those. Is that right, Senator?

Mr. President, the next amendment I have is from Senator Koch.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, LB 352, if you don't remember is to repeal the 7% lid and when we moved that bill there were twenty-seven or twenty-eight votes. However, in watching the voting this session I realize that a number of those might have been sympathy votes but not hard votes in terms of politics. There has been a considerable amount of negotiating going on. First of all, the Governor said when we went over to see him a number of weeks ago, you better have thirty votes and obviously the Governor is prevailing and so to continue to try to win that battle is not very beneficial. And for us to take any other amendment above 7% is not beneficial either and let me say to you very quickly how I arrived at the decision and why this amendment is important. All the amendment does is it keeps the 7% and inserts in lieu of there one statement. "Receipts from federal tax sources shall mean funds received by a political subdivision from the federal government for use for general and noncategorical purposes." Now that is the only thing realistic that we can do because subdivisions of government are on notice right now that they are going to lose federal dollars and if we don't try to help them overcome that blow, then it is going to count against them 7% wise when 4 was a part of their operational funds and they have no way to replace them. There is only one way they can replace them right now, either all of them or part of them, or none of them and that is to repeal their programs locally, dismantle them or whatever they want to do or allow them to try to raise some money from

May 26, 1981

LB 352

property taxes to cushion the blow of the federal loss of dollars. I think that is the only realistic thing we can do but I will state right here that when the full effect of the federal government is known to us in this state, that which we look at today in great praise may not be of the highest praise within six months or next year. I am not going to accept any compromises in terms of additional increases in the lid bill. I think that is foolish because what we are going to do is we are going to encourage irresponsible budgeting if we raise it to 9 or 10 or some other figure or if we say by a two-thirds vote of the elected officials you may exceed. You know as well as I do, politically at that level that is suicide either way you look at it. We will be putting those people at that division of governmental level in a position of no win. Those who vote to go above are not going to be the greatest heroes. Those who say, let's live the way we are will be misunderstood. That person as an executive officer who recommends we should will be in a no win position on either way. Let me give you an example. I will use the superintendent of schools, for instance. If he is able to muster the votes he has to under two-thirds vote he has to recommend that you go. He ends up he doesn't get that majority vote. He is a loser then but he ends up getting it. There are still losers. I know there are people under pressure. Mr. Mills tells me that county officials haven't had a raise lately simply because of the 7% lid. That is maybe true. I also know that county bridges are falling into a state of disrepair from what I have read. I think that is true. I know that people are starting to suffer. I received resolutions from Chamber of Commerces and so have you saying repeal the lid. I watched the two thousand meetings that the Governor and Lieutenant Governor are hosting around the state and out at Grand Island came the word, let's repeal the 7%. I sat with people the other night in my legislative district, a hundred and fifty of them or so saying a lot of things that we don't understand here but they were candid enough to say it there. So I want to wait for a while and I will tell you why I want to wait. Because there were four thousand board members in the State of Nebraska and I haven't heard from very many. We have nineteen thousand professional staff members in education. I haven't heard from too many. We have four hundred board members in the State of Nebraska and I haven't heard from any of them. In the county we have nine hundred and fifty county officials and I haven't heard from any of them. We have almost three thousand city council members and I haven't hardly heard from them. We have other city officials that equal fifteen hundred and I haven't heard from any of them. The volunteer fire department sent me a resolution. There are sixteen thousand of those but I haven't heard from any of them and we have one thousand paid firemen and I haven't

5801

heard from any of them. So when you add this all up, not counting NRDs, we have over fifty thousand people directly affected either by elected positions or by salary positions and so I feel this way. Let's not go in the lifeboat theory. Let's not start pushing people off the raft. Let's keep them all there for one more year and maybe they will understand the injustice of 7%. I have always considered myself to be someone of courage but I am getting a little tired of the courage. I am getting a little tired of bleeding and I know that this body is not ready to repeal the 7% and I know the Governor isn't either but I would say to you, there is only one amendment to adopt. Use 352 for something and that is to allow them to discount their federal dollars they lose and try to raise it locally and I submit to you that local property tax will go up because there are services they can not do without. Otherwise they would not have had them in the first place. So, let's just adopt this amendment and leave 352 like it is, send it to the Governor. He can't very well veto that but he can accept that as being reasonable and I would hope that is what we would do today. But for us to go to 9% or some other figure would merely say to those people there, you better take 9% because if you don't next year you are going to be penalized. So let's live with 7%. Maybe next year there will be a hue and a cry for this body to repeal what I consider to be a very foolish lid and that is a 7% lid. So we will wait one year and see if there is a change of position by those elected and those who suffer in local communities. I ask for the adoption of that amendment.

SENATOR CLARK: Senator DeCamp. Senator Higgins. Here comes Senator DeCamp. No, there hasn't been any discussion at all yet. Senator Higgins.

SENATOR HIGGINS: I would like to ask Senator Koch a question for clarification. I want to make sure I know what I am doing here. Senator Koch, are you saying a vote for this amendment will keep the 7% lid unless federal dollars are cut and then say federal dollars cut it 2% so then we would allow them to go up 2%?

SENATOR KOCH: What I am saying, Senator Higgins, we repeal the original bill which was to repeal the 7% and we insert this amendment which says that any receipts from federal sources that they have received by any political subdivision shall be allowed to be raised at a local level since they have lost that money but they can't go above 7% under any conditions. Those federal dollars originally were considered in their operating budgets. Now if you lose a million dollars from federal funds you are out but you still are figuring 7% on those dollars as though they were there. So, we are trying to, when they lose them, we are allowing them

to make them up from local sources if they so desire.

SENATOR HIGGINS: Thank you, Senator.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Senator Koch, members of the Legislature, Mr. Chairman, I have always been against the lid in the first place. I have been in favor of any bill that would weaken the lid and even more in favor of one that would repeal it. I would not try to do anything with your bill other than what you want to do except if we had more days I would try, since it is going to be stripped of all dignity, to strip it of everything else and use it instead as a bill to repeal the sales tax on food. That would make everybody happy. It would please the Governor who says that it is costing more to rebate the credit. We could forget about the lid discussion altogether and let the hue and cry from the public become a little stronger so that we could act on it next year and we would be given a bill that would have some substance and value to the public and that could vindicate to some extent the legitimacy of the legislative process. But Senator Koch said he is getting tired of the courage. I think what he means is that he is getting tired of standing alone. Every time he sticks his head out there he gets it smashed and he doesn't have much company in his misery. I am very familiar with that situation but I have to tell him that as long as you take those kinds of issues you can expect that kind of result. But the thing that is very distressing to me is that as soon as the Governor rears his ugly head in the legislative process everybody cuts and runs. The bill has to change to placate the Governor so we don't have a Legislature anymore. We have one bully who is buffaloeing the whole body with the exception of one, myself. I will let others speak for themselves. I heard that in my absence it was decided that the last day of the Legislature would be June 5 so that there could be an attempt to go through the charade of pretending to try to override the Governor's vetoes. I am totally opposed to that waste of time. You are not going to override anything but what I wish that Senator Koch would do today is to not, not bow in this fashion. There has to be somebody else in this body who can look these threatening individuals in the eye without blinking. We are a Legislature. We are to represent the public and if it was felt that the best interest of the public would necessitate a bill like 352, that is the one that we ought to fight for. I will say it again so it is clear. We only have three days so I am not going to mess with Senator Koch's bill but I can't bring myself to vote for his amendment and I want him to understand why. It would be a sacrifice of a principle in this particular

May 26, 1981

LB 352

Instance and because he is trying to help the districts as much as he can I don't fault him but I would fault myself. Were it my bill I could not do it. The Governor would have to veto it and get whatever victory he considers that to be. So, I will not support Senator Koch's amendment but I am not arguing that anybody else take as their principles, mine.

SENATOR CLARK: Senator Carsten.

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

SENATOR KOCH: Yes, sir.

SENATOR CARSTEN: Senator Koch, I am sure that a good part of your reasoning for your amendment is the federal funds that come impact aid to schools. Is that correct?

SENATOR KOCH: That is correct. That is one of them.

SENATOR CARSTEN: And then may I ask you one more question? I am assuming that these total funds then, even though they may be raised from the local level when the federal funds are cut off, that that would be then included in the next year's budget for their submission for approval. Is that correct?

SENATOR KOCH: What you would do, Senator Carsten, you would treat it just like you have been treating it when you are getting it.

SENATOR CARSTEN: Yes.

SENATOR KOCH: But you would not be penalized for losing it and you have no control over it. It will allow you to try to raise it.

SENATOR CARSTEN: Yes. Now, Mr. President, if I may, one more question. You are aware that the Executive Board has appointed a specific special committee to be examining the impacts of federal funds if they are cut off and do you anticipate that this may very well be, should this come, a part of that special committee's summer work for the future year perhaps on how we are going to deal with it?

SENATOR KOCH: Yes, Senator Carsten. I sent a letter out the other day telling what education has already lost. That is a fact of life. That is not just a myth.

SENATOR CARSTEN: Okay, thank you, sir.

SENATOR CLARK: Senator Nichol.



May 26, 1981

LB 352

SENATOR NICHOL: Call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

ASSISTANT CLERK: Senator Clark voting aye.

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

ASSISTANT CLERK: 26 ayes, 1 nay to cease debate, Mr. President.

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

SENATOR KOCH: Thank you, Mr. Chairman. For those of you who may have not have understood my opening remarks, I will give you an actual case. In the case of Papillion where they have students that they educate, they have been notified that they will lose 830 thousand dollars in federal impact aid and that was a receipt and so they are going to lose 830 thousand dollars. What my amendment does, it allows them to treat that as a general receipt just as though they were receiving it and try to make it up from property tax to carry on the education of those students that are federally related either A's or B's. That is the classification of those students. Now the other cases where the cities and counties, for instance, if you lost revenue sharing, and obviously they are not going to lose it right now, but if they would, then the cities and counties would be able to count that in their general receipts just like they had been receiving it in the past. It was counted under 7%. What we are doing is saying, we are sorry you lost federal dollars but since it is counted in your general fund, you are allowed to try to recover it from your property tax because you have no other alternatives. Your other alternative is to cut it all out and forget it but there is some things, when it comes to human services, you can't cut that much.

SENATOR CLARK: The question before the House is the adoption of Senator Koch's amendment. All those in favor vote aye. All those opposed vote nay. Have you all voted? Record the vote.

CLERK: 28 ayes, 5 nays, Mr. President, on adoption of the Koch amendment.

SENATOR CLARK: The amendment is adopted. What is next on the bill?

CLERK: Mr. President, the next amendment is offered by Senators Beutler and DeCamp, Request #2454.

SENATOR CLARK: Senator Beutler, are you going to handle this?

SENATOR BEUTLER: Yes, I will start out. I'm sure Senator DeCamp would like to speak too. Mr. Speaker, members of the Legislature, I have passed around to you, and I hope you will follow along with me, a packet of information dealing with Request #2454 which are the amendments that Senator DeCamp and myself are proposing. On the front of that package you will see a summary of the amendment and some materials behind the summary, the amendment itself and behind that some additional materials which I will bring to your attention as we go along. This amendment is going to have a difficult time because those that do not like lids at all will be reluctant to vote for it on the theory that if we stick to the 7% lid, it will get so bad eventually that we will get rid of lids altogether. And those who like the 7% lid won't like this because it is a compromise. It loosens the lid up. On the other hand, in my opinion, this is the only kind of lid that makes sense if you are going to have a lid. A 7% lid has no relationship to economic realities because of the fluctuation in inflation rates. Secondly, the second problem with our present lid is that you really don't have any idea what the lid is. With all the existing exemptions I doubt if there are very few of you that can tell me what your local school district or your local city's real lid is. What was their real increase last year? It was certainly higher than 7%. 9, 10, 11? Our lid is no good because it doesn't give us any information for one thing. On the other hand I personally am not ready to do away with lids because I think that the history of this country in the last forty years has been a history of failure to control government spending and the biggest failure has been at the federal level but the failures have also been at the state and local levels and altogether it has been a dismal failure. And it is going to continue to be a failure unless we think of how to control spending because of the very nature of the legislative process, the democratic process. In this Legislature, in a school board meeting, in a city or county council meeting the process is always a trading up process. I will help you with this if you will help me with that. Like it or not, that is the way it is and to the extent that those bills are traded, have appropriations or cost money, the effect in a democratic process is always to pass more bills and spend more money than probably any one member of that legislative body would approve of but it is part of the process. This lid that we are proposing to you now relates to personal

income. It does not relate to the inflation rate and that is an important distinction to remember. It relates to personal income. It relates to ability to pay. If personal income increases in Nebraska and the people have an increased ability to pay for government services, then in proportion to that increase the government can increase. It has a number of advantages. It is truthful. It tells you exactly what the lid is. We are getting rid of some of the exemptions that exist. Second advantage, it relates to economic realities. If there are good times, if there are high inflation times, if personal income is high, then the lid increases. It is flexible. Secondly, it absolutely ensures that the size of government, vis-a-vis the private sectors does not grow and I think that is very important to us and certainly to people in this state. Most of the lid that we have now stays in place. The basic concept stays in place except that we replace the core concept. The core concept right now is a flat out 7% lid, 7%. That is replaced by a lid which says that the increase shall not exceed the average of the last three year's growth in personal income in the State of Nebraska. Let me reference you now to some of the materials that have been handed out to you. Past the summary sheet and past the amendment you will see a little article that says, "Those Tax Dollars." That is merely to show you how the overall tax burden on the people of the United States is going up. The next one is a little article again on the tax bite from 1950 to 1980. As you see in 1950 twenty-seven cents out of every dollar was spent, was taxed, was taken in taxes and in 1980 it was up to thirty-five cents in every dollar. The point of these two exhibits is to simply show you that historically we do need, I think, a lid, but I also hope you will look at the next exhibit which is entitled, "Total Personal Income, 1970-1978," and down on the bottom part of that, Nebraska. And it shows in there what the increase in personal income has been in this state from 1979 to 1978 and you will see that the average yearly increase has been 10.3%. So if you had in place, this lid, the basic concept would have allowed local government spending to increase on the average 10.3% during that particular time period. The next exhibit is one showing you state expenditures and the one after that illustrates the situation in personal income with regard to the City of Lincoln and you can see that the average there, the increase would have been 10.3% under the lid that we are proposing whereas their actual average in that time period was 16%. If you take the last three years for which we have figures, the average of the last three years was 11.5% so that the lid for this particular fiscal year would have been based on a core concept that would have allowed 11.5%. So this basically is what we are trying to do. The same basic statutory framework is kept. The new core concept of

personal income is inserted and that is measured by the way, by the U.S. Department of Commerce. I might say to you there has been an AG opinion on this amendment which pointed out a couple of problems both of which have already been corrected in the pending amendment. It retains the idea of not including user fees under the lid. It retains exemptions for new political subdivisions, for bonded indebtedness and for adjustments for population change. Those are the three that are retained. It does not retain the energy exemption and it retains, of course, the ability of the populous to vote to override the lid in any event, the same provision that we have now to override the lid. I think I will stop with that. That is the basic idea. I feel that this is the only workable kind of lid ultimately. I think a lid is workable. I don't think it is artificial. I think it makes some sense to state to the people governing this country at all levels that philosophically there is concern in the country that only a certain percentage of our dollar be spent by the government, whether it is local, federal or state and by golly, we are going to do something to see that that is the case. If you raise the 7% lid to 9 or 10% you are effectively doing away with the lid. If that is what you want to do, fine, but do it straight up and forward with the people. I think we all should declare in here whether we believe in lids or not and if we do believe in a lid, then work for a sensible one and not retain one that undermines the whole concept. Thank you.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. The idea sounds great but Senator Beutler knows in his law business that when the costs of doing business increases, he also increases his fees. He doesn't live under any magic figure. He knows what he takes home. He knows what it costs to feed his family and I submit to you that if we believe government spends too much, then we should do something to change the way we govern ourselves locally. What he presents to you is a ratchet in terms of personal incomes figured by the federal level and all we are going to do if we adopt this amendment, we are going to mislead the people one more time that by some magic number or formula we are going to solve their problems and we at the state level are going to dictate to them a new formula, a new way to cover the problems that they provide by a service. I happened to visit a museum the other day in Franklin County. Do you remember the old collars they used to buy? They were plastic, that they wore around their neck? The little deal said two for a quarter. You can't hardly buy anything for a quarter anymore let alone two of it. You can't even buy good bananas for two for a quarter. You

can't buy a Snicker anymore for a quarter without paying some tax on it. For us to adopt this type of amendment is not in our best interest. If Senator Beutler proposes he has the magic formula based upon the income of the State of Nebraska, that is what we use, I suggest he comes in with a new bill before the Revenue Committee next session, it be given a proper hearing so that the people who are elected at local levels are able to determine whether or not that does indeed solve their problem. I said to you very clearly when you adopted my amendment, let's use 352 for one thing. Let's try to help them a little bit in terms of federal dollars they are going to lose and may not know. Senator Kremer came up to me a moment ago and said I want to speak because I am willing to repeal 7% and I will stand on that. I know Senator Kahle will too and I know many of us in here will but the fact of life is, we are not going to repeal it and I think we ought to keep it right where it is and live with it and then the people on the street may start to understand it. It is interesting when we federal level, President Reagan was going to do a lot to save the Social Security program. We were going to reduce the cost of living index but obviously he is hearing from quite a few people that they don't want that cost of living index decreased from 11.2 to some other magic number in view of inflation and a lot of other factors. So I can not support Senator Beutler and I know he believes he has the right formula. Several years ago we thought we had the right formula too when we adopted 7% in a panic but if you noticed a poll in the newspaper today it says, the poll nationally it says people are thinking now that these hot issues of putting lids on taxes are not so great anymore because a few of them had to suffer a little bit. So I submit to you until every man in the street and every woman understands the effect of a lid and the services it might deter or delete or abolish, they may then start to understand a little better about what the cost of doing business is or may be. So, Senator Beutler, as a good friend I suggest if you really believe this solves the problem, introduce legislation next session. The Revenue Committee will hear it...

SENATOR CLARK: You have one minute.

SENATOR KOCH: ...this body will act on it and if we decide by twenty-five votes then, it is better than what we've got right now, then so be it. I oppose Senator Beutler's amendment.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature,

I, too, rise in opposition to Senator Beutler's amendment. I think that, and I am not saying that his approach is not all that bad, but at this late date without a public hearing, people to come in and express themselves. I would agree with Senator Koch, it is not a good procedure. I am sure that as we go on down the road with the lid that we have had for two years now that people are going to understand and if they do and like it, they will continue. If they don't they are going to tell us. But I believe until we reach that point and we are asked to make changes, with a strong voice we should leave it where it is at and, Senator Beutler, a good friend of mine too, if you believe so strongly in this and this is the correct and good answer, I would suggest that you come in with a bill next year. Let's have the hearing on it. Let's get the input, both pro and con, and make our decision then. I think it is poor timing to do it now. I do think the amendment that we did put on 352 was worthwhile and needed because of the potential and reality that is going to hit us. Thank you, Mr. President.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President and members of the body, I rise to oppose the Beutler amendment and I will be very brief. It is very similar to other proposals that have been kicked around, in fact, probably the most popular kind of ratchet or indexing sort of proposal has been the CPI or certain other indexes which should really deal with cost. I think frankly I am going to oppose the Beutler amendment purely on that argument only. That income is a fine thing to look at and there has been good years when incomes went up and taxes haven't and there has been bad years when taxes went up and income did not quite do as well but that has no relationship at all with needs or spending and for that reason I oppose the Beutler amendment. I think the CPI indexing would be more logical. Now frankly I will admit that I wouldn't support that either and I have a real problem with the lid and I have always had philosophical difficulty with the lid and have become a real convert and supporter of the lid during the special session and since that time because frankly, it has provided us with a political solution to a political problem. The problem is that the people of this state think the government is spending too much money. There is no question that they believe that. They have different priorities than you and I and different priorities from each other but they want the lid. Polls have indicated they want a lid. 7% is arbitrary but frankly I think it is less arbitrary than a 5% constitutional lid and that is why I support this proposal. I mean that is

May 26, 1981

LB 352

why I have supported the lid and I oppose the Beutler amendment because I don't think it has any relationship with need and while it is a good idea and has some merits, it just does not fit the needs so with that in mind, I urge my colleagues to oppose the Beutler amendment.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Call the question.

SENATOR CLARK: Well we have only heard three speakers and they have all been in opposition. We haven't heard anyone else so I am going to let Senator Wagner talk.

SENATOR WAGNER: Mr. Speaker, members, I, too, oppose the Beutler amendment and I will tell you why, that is many times during the committee hearing one of the things that came out there was somebody was always saying return local control to us and I asked this question many times. Is this what you want, return local control? And basically this is one of the things that people wanted is return their local control to them and I would like to return that control to them because it would take the burden off of us here. Some people indicate they use this lid, so to speak, as a crutch and I think we take the blunt for many of these political subdivisions. I think in a way too, I look at this amendment as another kind of an exemption. There are many exemptions to our lid because really we do not have a true lid in the State of Nebraska. We have got too many exemptions to it and I think it ought to stay at 7% until they decide they want to take this lid off and that is the way I will vote. Thank you.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Could I ask the question?

SENATOR CLARK: You sure can. Everyone is against it. Do I see five hands? All those that want to cease debate vote aye, opposed vote nay.

CLERK: Senator Clark voted yes.

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

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

SENATOR CLARK: Debate is ceased. Senator Beutler, do you wish to close?

SENATOR BEUTLER: Yes, I do, Mr. Speaker. It is interesting to note that all who have spoken today spoke against the amendment and all spoke against the amendment because they are against lids even though the amendment makes the lid more reasonable. What is happening is very apparent. Those who want no lid at all are afraid of an effective rational lid that makes some sense and so they all say, horrible, horrible, let's keep this 7% lid around because sure enough, eventually, people will see that 7% doesn't make sense. How about that? It doesn't make sense. We all know it doesn't make sense so all our alternatives are two, do away with the lid completely or change it into something that makes sense. I think maybe this amendment, people are not ready for this amendment because we all have our hopes that things are going to go more our way but they are not. The people feel strongly about this and I don't blame them and if you do away with this lid and if you continue to put more exemptions in it and if you continue to make it sillier, you are not going to fool Ed Jaksha and you are not going to fool some other serious people who think that the lid can be made rational and can be made an appropriate tool of American government. You are not going to fool them and they will be back at you with another petition and they will get her done. So I am asking you to make sense today, to avoid something harsher tomorrow and to avoid the stupidity of the present lid which we are all living under. Thank you.

SENATOR CLARK: The question before the House is the adoption of the Beutler amendment. All those in favor vote aye, all those opposed vote nay. While we are waiting for the vote I might tell you that the Speaker said we have to get everything off of Select File today. You can judge yourself accordingly. Record the vote.

ASSISTANT CLERK: 5 ayes, 26 nays on the Beutler-DeCamp amendment, Mr. President.

SENATOR CLARK: Motion failed. Do you have another amendment?

ASSISTANT CLERK: Mr. President, the next amendment is offered by Senator Newell and that is found on page 2050 of the Journal.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, this is a proposal that Senator Burrows and I offered last time. I am offering it this time since Senator Burrows and I have not had a chance to talk about it. It basically moves the lid from 7% to allow local boards to go to 9% if they have



a three-fourths majority of that board. Now basically it was originally designed to get rid of the six or eight, ten or twelve, I think it was twelve exemption proposals that came into the Legislature this year. I think six or eight of them came to the Revenue Committee and some of them were farmed out to some of the other committees. Basically they allowed for more exemptions, more loopholes. I think that that was intolerable and I voted to kill all the loopholes and said, all right, if there really is a justification, in order to save some money, with a super majority, with a three-fourths majority we ought to allow local boards to make those kinds of decisions. I chose three-fourths instead of two-thirds because I once proposed the two-thirds thing before. Then Governor Exon "whupped" me over the head with it, pointing out that there were a lot of three member boards across the state, a point I had not totally researched and so I am offering this to make it a super majority. Frankly, I think Senator Koch made some good arguments and maybe ought to just let it set but I offer this because I do believe we need some more flexibility and that with a super majority those board members ought to be able to take the heat and with that in mind I offer this to the Legislature for its consideration.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. Yes, they will take the heat just like we can take it here. We've got more immunity. What you will have is those who do it will be subject to recall. We've had a little history on that. There is no reason to put them into the frying pan when here we feel the heat ourselves. Either this body is willing to repeal it totally and take the heat. Let's not pass it to them because the few that do that, I will tell you, I can name who will be, will be a few Class I schools who will take the heat but they will do that unanimously and they will still be appointed in their annual caucuses. But let them be elected in a larger system and see how many are going to be around when they decide to give themselves more flexibility. So, Senator Newell, I know that you are trying to do this to get a full discussion in debate and I appreciate it but until such time as we find a greater unanimity among the elected officials of the State of Nebraska and their constituents to repeal, I suggest we keep the 7% and the amendment just adopted, due to federal fund recisions and try it one more year. I remind you when some of us visited the Governor he said you had better have thirty votes because I will accept hardly any form of a lid removal I know of or even some kind of adjustment. So, I have seen enough of the Governor's vetoes in here and I have watched us try to override them and the least we can do is have something in 352 that might help a little bit at the local level when they lose some federal dollars. I oppose Senator Newell's amendment.

May 26, 1981

LB 352

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Senator Newell, just one question if I may. If this lid is raised, is it 9 or 9½?

SENATOR NEWELL: It would be 9, Senator Beutler.

SENATOR BEUTLER: 9 in any particular case, can you tell me how that relates to the people's ability to pay, that is, you talk about need. Let's talk about ability to pay. Does it have any relationship whatsoever to ability to pay? I mean if personal income does not increase at all from this year to next year for example, and they want to increase the lid by 15%, well let's be more practical, 11% or 12% which is what it might be. Now how do you expect the people to deal with that?

SENATOR NEWELL: Well, Chris, frankly you will use income. This, it does not have the ability to pay which is factored in, I don't know that that is a tremendous indicator as I indicated in my speech previously. Frankly, I think the issue is, what does it need to fund that government. We have wide fluctuations in growth of income. Frankly, the sales tax is...(interruption)

SENATOR BEUTLER: So whatever the special interest groups decide is what is needed, that is what the people should pay.

SENATOR NEWELL: Now, wait a minute. I am talking about the local boards that set the budgets. Frankly, I think the pressure groups that try to influence them, or the special interest groups, I think we have written that into political accountability and disclosure.

SENATOR BEUTLER: Well, I guess I would oppose this amendment as I oppose all flat out percentage amendments. It has nothing to do with economic realities. It has nothing to do with ability to pay. It doesn't make sense.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, I would like to ask a question of Senator Newell if I could, please. Senator Newell, how far are you going to go with governing boards? I think generally we think of school boards, city councils, county boards. What about technical community college boards, NRD boards? Are they all covered by your amendment?

SENATOR NEWELL: Yes.

SENATOR KAHLE: How would it work if, I guess a school board decided that they wanted a 9% increase and they were in three different counties? Would the county board be bound them to raise this much money?

SENATOR NEWELL: Yes, the local...this is to exceed, Senator Kahle, this is to exceed the budget proposal. This is a limitation on the budget and so frankly, they then, you know, it is sort of a pass through thing. Whatever they choose as their budget, a school board or an NRD or whatever, they cross as jurisdictions, the county board is sort of duty bound frankly and has always done, has always raised whatever was necessary. This is a budget control act and so it is very compatible with this sort of a...with our present legislation and lid.

SENATOR KAHLE: But you could wind up with a considerable increase in your property tax without having any vote on it.

SENATOR NEWELL: Well, Senator Kahle, right now you can go to 7% if more than three-fourths of the board voted a special motion to say we should go to 9%, they could go to 9%. So it would be a 2% increase above 7% which is well below the inflation rate. It would be an increase from the 7% that is true if they chose by three-fourths majority to do that.

SENATOR KAHLE: Well, I oppose the amendment. There is no use to drag out the discussion any longer because if you can just...it is like a jigsaw puzzle trying to put a budget together anyhow and if you have one governing board that wants 9% and the others want 7 and maybe another one wants 8, you can go anywhere between 7 and 9. It is tough enough to work out the budget the way it is and I think that either, well I might as well say it flatly, either we take the lid off or leave it where it is at.

SENATOR CLARK: Senator Fenger.

SENATOR FENGER: Mr. Speaker and members of the body, I, too have to oppose the Newell amendment but on the grounds that it is not realistic or practical. I received my morning mail a copy of the minutes to the Sarpy County Board of Commissioners May 19. I just want to read one line. "Commissioner Gilbert moved that the Board support repeal of the lid bill." The motion died for lack of a second. So I don't see the hue and the cry and I would urge rejection of this and let's get Senator Koch's bill on the road if you please.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I think you ought to look at the rationale the original lid

was imposed on. We were talking about 7% inflation at the time of it. It has now risen so it is above 9 so this amendment to allow to go to 9 by a super majority of the elected officials is in line with the original concept when the 7% lid was passed, keeping it down with an inflation factor and it is reasonable to look at it from this angle. Now as far as ability to pay, the property tax system never has related to this and we've got several groups involved. We have got high incomes in the last, since 1969. We are taking less, a smaller percent of the adjusted gross or the net income of the state. Now, in 1969 we took 7.8 and we are now taking under 7.3 or the last year we had figures on. It dropped over a half percent but at the same time, the elderly who had a fixed income have not shared in that income prosperity of the state. Many of them have been on fixed incomes and the inflation of the property tax system has really cut at these people. The lid does not get at the real problem. Then the real problem is the fact that we have a tax system that is regressive in nature, does not relate to ability to pay. A young family that puts 5 or 10% down on a home is not better able to pay taxes than a family with the same job, the same income that is renting a home. Often that renter is in a better position to pay a tax bill than that person trying to buy a home but he becomes the large taxpayer if he tries to buy a nice home and decides to spend the substance of his income in buying a home. So relating a lid to ability to pay, really there is no question. The lid bill concept does not get at the problem but to remove it now with a regressive, ancient property tax system as the major source of taxation for subdivisions, I think would be quite foolish and subject the subdivisions to a constitutional lid. That might take very well away the ability of the Legislature to deal with future reforms in the problems of taxation. It might take a four-fifths majority of the Legislature which might never be achievable as the California lid came out with. I would urge you to support this and really look at it seriously. It would be a somewhat relief measure where there is a unity in that subdivision to go beyond. Those that have a question of whether it is responsible to go beyond could stay with that 7% lid. A minority could very well, with a super majority of three-fourths, stop the increase and in this case I think it gives the taxpayers a very sound way of stopping an increase. If you don't vote for this I think we are going through with no increase on the lid. I think really the subdivisions in their lobbying efforts are probably bringing this about and in some ways, may have it coming. It is up to the members of the body. This is another shot to give it some meaningful relief without opening it up to where it is really an unreasonable concept. Thank you.

SENATOR CLARK: Senator Lowell Johnson.

May 26, 1981

LB 352

SENATOR L. JOHNSON: Mr. President, I call for the question, please.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record.

CLERK: 26 ayes, 0 nays, Mr. President.

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

SENATOR NEWELL: Very briefly, Mr. President. The proposal allows local boards to exceed the 7% lid and go to 9%, as much as 9%. They don't have to go that high if a three-fourths majority of the board authorizes it. Frankly, I offered this only to get away from the many, many exemption proposals. I offered it for the Legislature's consideration. I feel it has a relationship to need. The inflation rate is much higher than that and has been recently. I won't feel terribly bad if it does not go on. Thank you.

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

CLERK: Senator Clark voting no.

SENATOR CLARK: Record the vote.

CLERK: 9 ayes, 26 nays, Mr. President, on adoption of the Newell amendment.

SENATOR CLARK: The motion fails. Do you have anything further on the bill?

CLERK: Mr. President, Senator DeCamp would move to amend the bill. It is Request #2641.

SENATOR CLARK: We only have fourteen bills left after this one. Senator DeCamp.

SENATOR DeCAMP: Mr. President, you've got a good point and I will be brief. This ain't a heck of a lot different than what Senator Newell just tried. It says 9½% and it uses two-thirds. From contact I have had with public officials they say, getting three-fourths of a body is nigh onto impossible, whereas getting two-thirds is something that is at least within the realm of possibility and this says, if

a public board wants to exceed that 7% they can exceed up to 9½% but they have to have two-thirds vote of the public body. That is about it and the way things have been going I am not sure how strong it is. You've heard the arguments on both sides so, I don't think there is too much more to discuss.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: We are speaking to the DeCamp amendment?

SENATOR CLARK: The DeCamp amendment.

SENATOR HABERMAN: And this is the one that is...

SENATOR CLARK: The same amendment with different figures.

SENATOR HABERMAN: This is the one that is graduated. It goes up every year....

SENATOR CLARK: 9½% with two-thirds vote of the board.

SENATOR HABERMAN: Mr. President, we did adopt a bill that the schools can raise the lid to replace federal funds, then the cities and the counties. Is this correct? And now we have an amendment that they can also raise the lid up to 9½% with a three-fourths vote of any board. Is this correct?

SENATOR CLARK: Two-thirds vote.

SENATOR HABERMAN: Two-thirds. Then it looks like we pretty well busted the lid. I wish that I would have had the opportunity to speak on the replacing the federal funds as I probably would have said that makes some sense but this one, plus the federal funds, doesn't make too much sense. I told the people in my district and I met with the schools and I had a gymnasium full of them one time, that I would support increasing the lid as high as 9% but I wouldn't vote to take the lid off. But from the actions that we have just taken it looks like we have taken the lid off or we are just about to. So I am going to say that possibly for this year, let's let them have the authority to replace the loss of federal funds and then come back next year and consider increasing the lid to 9½%. Thank you, Mr. President.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, why belabor this? Two-thirds, whatever? It isn't going to change the situation and for us to continue to argue or to amend I think is not the best use of our time right now and I have said it before, that

what you send to the Governor, you better be ready to override because the Governor stated very implicitly, thirty votes, and I have watched thirty votes here and they are hard to come by. So I would not support Senator DeCamp's motion because if you take two-thirds of a six member board that is four and I want to tell you the four who vote to go, politically I have a feeling that in some places that is almost like suicide and there would be no winners under those kinds of conditions so I oppose Senator DeCamp's motion.

SENATOR CLARK: Senator Stoney.

SENATOR STONEY: Mr. President, I would respectfully call the question.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, real briefly, it keeps the lid. It keeps every single thing intact with this change. If a board, a public board, not a vote of the public, but a public board, let's say the city council, determines that their particular city can't live within the 7% absolutely, by a two-thirds vote of that public board they could go up to 9½%. So it really doesn't deal with the issues that Senator Haberman was raising and some others. It is basically the Newell thing with this variation. It is 9½ instead of 9. It is a two-thirds vote instead of a three-fourths. It is my understanding that the various public bodies of the state have thought that they could live with this and they find, they think it is necessary. I guess you make that own judgement yourself but the county officials, the city officials, the school people, think this is something that they can live with. Will the Governor sign it? I don't know. I guess if I were a betting man I would bet he probably will because it keeps it under 10% and it is my information that he said, double digit. In other words, 10% or more he is going to veto. Well this isn't 10% so, use your own judgement but I think it might be a reasonable solution.

SENATOR CLARK: The question is the adoption of the DeCamp

May 26, 1981

LB 352

amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: 10 ayes, 22 nays, Mr. President, on adoption of the DeCamp amendment.

SENATOR CLARK: The amendment failed.

CLERK: Mr. President, Senator Beutler would move to amend the bill.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I have had my shot at the bill. I am not trying to make any major amendment to the bill here but the Attorney General and the Auditor of Public Accounts have suggested and asked that we clarify the existing exemption for bonded indebtedness in the bill and this is a technical amendment to do that. The amendment originally contemplated that construction warrants which are used usually in an interim before you issue bonded indebtedness, that construction warrants were covered under that bonded indebtedness exemption and I think the interpretation is that they still are covered but to make that plain, I am including two words, "construction warrants" in the exemption for bonded indebtedness so that everybody is clear on the exemption, a minor amendment. Thank you.

SENATOR CLARK: Senator Landis, did you want to talk on the amendment? Senator Stoney. The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote nay. Record the vote.

CLERK: 27 ayes, 1 nay, Mr. President, to cease debate.

SENATOR CLARK: Senator Beutler, do you have any closing?

SENATOR BEUTLER: I move the amendment.

SENATOR CLARK: All right. The question before the House is the Beutler amendment. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of the Beutler amendment.



May 26, 1981

LB 352

SENATOR CLARK: The amendment is adopted.

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

SENATOR CLARK: Senator Koch, do you wish to move the bill, or attempt to?

SENATOR KOCH: Mr. Chairman, I move to advance LB 352 to E & R and Final.

SENATOR CLARK: You have all heard that motion. All those in favor say aye, opposed. The bill is advanced.

May 26, 1981

LB 411, 216, 320, 352,  
406

interlocutory procedure whereas a defendant will have an adequate chance to appeal at the conclusion of a trial and loses no substantive rights. If defendants are allowed to use this mechanism, it is quite possible that they can use this mechanism as a delaying tactic. For that reason in the middle of a trial take up one of these kinds of appeals use three months, six months or whatever until an answer comes back before the case could proceed, or also in the alternative it is possible for them to make an appeal based on certain of the evidence of the prosecution, whereas even without that questionable evidence there would be enough to convict and yet the trial would come to a halt while this barely relevant and perhaps non-material evidence was ruled on by a higher court. In other words, the defendant can use this mechanism if it is allowed to be utilized as a delaying tactic where as the prosecution will not. For that reason I would urge the adoption of Senator Sieck's amendment as found on page 1982 of the Journal to LB 411.

SENATOR CLARK: Is there any discussion on the amendment? If not, all those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 26 ayes, 1 nay, Mr. President, on the motion to adopt Senator Sieck's amendment.

SENATOR CLARK: The amendment is adopted. Is there anything further on the bill? It is now the advancement of the bill. It was returned for a specific amendment. All those in favor of readvancing say aye, all those opposed, the bill is readvanced. Pat, do you have the bills back from Emory?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and reviewed LB 216 and find the same correctly engrossed, 320 correctly engrossed, 352 correctly engrossed, 406 correctly engrossed. Those are signed by Senator Kilgarin as Chair.

SENATOR CLARK: Senator Haberman, I do believe we are ready for your motion.

SENATOR HABERMAN: Mr. President, members of the Legislature, I move we adjourn until 12:00 tomorrow noon.

May 27, 1981

LB 548, 352

Kremer, Senator Schmit. Senator Schmit, Senator Burrows and Senator Kremer. Senator Nichol, did you want a roll call vote? We are short Senator Kremer and Senator Schmit.

SENATOR NICHOL: Let's go.

SENATOR CLARK: Call the roll.

CLERK: Senator Barrett.

SENATOR NICHOL: Do you want to tell them what we are voting on?

SENATOR CLARK: Yes, go ahead and tell them what we are voting on.

CLERK: Mr. President, Senator Nichol has moved to return LB 548 to Select File for a specific amendment. (Read amendment as found on page 2335 of the Legislative Journal.) (Read roll call vote as found on page 2335.) 19 ayes, 23 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: Motion failed. The next bill is LB 352. Senator Carsten.

CLERK: Mr. President, Senator Carsten would move to return LB 352 to Select File for a specific amendment. The amendment would add the emergency clause.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I move to return LB 352 to add the emergency clause. This amendment that Senator Koch had put on the other day was overlooked, the emergency clause was overlooked and because of the varying time frame that various subdivisions make their budget statements and requests vary so much, in order to be sure that everybody has ample time to get their job done it does appear that the E clause should be added, and with that explanation, Mr. President, I would again move that the bill be returned for that amendment.

SENATOR CLARK: Is there any discussion? Senator Newell, did you want to discuss this? The motion before the House is the return of LB 352 for a specific amendment, add the emergency clause. It takes 33 votes. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

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

May 27, 1981

LB 352, 551

CLERK: 33 ayes, 3 nays, Mr. President, to return the bill.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: I move for the adoption of the amendment, Mr. President.

SENATOR CLARK: The motion before the House is the adoption of the amendment which is the emergency clause. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 33 ayes, 2 nays, Mr. President, to adopt the amendment.

SENATOR CLARK: The amendment is adopted. Senator Carsten.

SENATOR CARSTEN: I move the bill be advanced to E & R engrossing.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. A machine vote, all right, all those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 32 ayes, 2 nays, Mr. President, to readvance the bill.

SENATOR CLARK: The bill is readvanced. LB 551. Senator Remmers.

CLERK: Mr. President, Senator Remmers would move to return LB 551 to Select File for a specific amendment.

SENATOR CLARK: Senator Remmers.

SENATOR REMMERS: Mr. President, members of the Legislature, I am asking that this be returned to amend the Hefner amendment to change the six miles to three miles, reference to the six miles to three miles and the southern boundary, change it from the Missouri Pacific to the Union Pacific in that area. I am asking that it be reconsidered. During the discussion on LB 551 yesterday on the Hefner amendment I heard all the repeated accusations about this being special

May 29, 1981

LB 344, 352

SENATOR FITZGERALD: I thank you and, I thought I knew what was going around here but I guess this caught me unaware but maybe I don't want to say anything bad about my good friend, David, but I mean, you know I had to keep him going for two years. I thought maybe he would have a little trouble. So I know if I went down to Sarpy County I knew Dave would not follow me down because they all love him down there you know, over that little interchange down there they are having. So I thank you very much and I am going to miss you because I love each and every one of you. (Applause.)

PRESIDENT: While you are all in a festive mood, I would like to announce that May 31st is Senator Don Wagner's birthday. He will be at the great age of fifty-four years of age, that youngster, on that day and it is also his wedding anniversary. He and his wife, Gert, will have been married thirty-three years. So would you also give Senator Wagner a little bit of attention at this time too. Congratulations, Don. Okay, now that gives us enough of a break now. You can all sit down and relax until lunch. We have a couple of short bills to read and then, Mr. Speaker, do you want to break for lunch after that? There is a couple short bills here we understand. LB 344, Mr. Clerk, if you will read on Final Reading.

CLERK: (Read LB 344 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 344 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 2405-2406 of the Legislative Journal.) 46 ayes, 0 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 344 passes with the emergency clause attached. Before we go to LB 352 the Chair would like to introduce some guests of Senator Wiitala, Sally Prescott and Laurie Vail. They are under the North balcony. Would Sally and Laurie stand up and be recognized and welcome to your Legislature. And now, Mr. Clerk, will you read LB 352 on Final Reading.

CLERK: (Read LB 352 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 352 pass. All those in favor vote aye, opposed vote nay. Mr. Speaker, the next bill will take us about ten or twelve minutes and that will get us to right about noon. Do you

May 29, 1981

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

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

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

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

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

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

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

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

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

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

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

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

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

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