

March 3, 1982

SENATOR HABERMAN: A Call of the House.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call of the House vote aye. Record the vote.

CLERK: 9 ayes, 1 nay, Mr. President, to go under Call.

SENATOR CLARK: The House is under Call. All Senators will return to their seats and check in, please. Will all those that are in their seats please check in and we'll get the Appropriations Committee in here. Senator Cullian, will you check in please. Senator Newell, will you check in. If everyone will return to their seats please. We are waiting for the Appropriations Committee. Just as a little side light I thought you might like to know this process usually takes eight minutes to get a vote when you have a Call of the House. Senator Schmit, will you check in please. Sergeant at Arms, will you keep everyone in their seats, please. We're looking for Senator Warner, Senator Rumery, Senator Cope, Senator Dworak, Senator Lowell Johnson, Senator Goodrich. The Clerk would like to read a few things in here while we are waiting.

CLERK: Mr. President, a new A bill offered by the Revenue Committee. (Read LB 740A. See page 950 of the Legislative Journal.)

New resolutions, LR 235 by Senator Kremer and Vickers. (Read.) LR 236 is a resolution offered by Senator Fowler, Beutler and Burrows. (Read. See pages 950-952 of the Legislative Journal.) That too, will be laid over, Mr. President.

Senators Landis, Hoagland, Newell, Beutler, Fenger would like to print amendments to LB 359. (See pages 952-953 of the Legislative Journal.) And I have an Attorney General's opinion addressed to Senator Labeledz regarding LB 138 and LB 531. They will both be in the Journal. (See pages 953-954 of the Journal.)

SENATOR CLARK: Sergeant at Arms, have you gotten the Appropriations Committee? We're looking for Senator Warner, Senator Johnson, Senator Cope, Senator Rumery. Senator Haberman, did you want a roll call vote? Alright, thank you. Senator Dworak, Senator Goodrich, would you check in, please. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 949-950 of the Legislative Journal.) 24 ayes, 22 nays, Mr. President.

SENATOR CLARK: The motion lost. Next motion.

CLERK: Mr. President, Senator DeCamp would now move to amend the bill. The amendment is on page 833 of the Legislative Journal.

SENATOR CLARK: The next resolution is 236.

CLERK: Mr. President, LR 236 offered by Senator Fowler, Beutler and Burrows found on page 951 of the Legislative Journal. (Read.)

SENATOR CLARK: Who is going to handle it? Senator Fowler? Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, for those of you who didn't catch the Journal page number that is on page...it starts on page 951 and the body of the resolution is on 952. Basically as you are all aware the Board of Equalization sets the tax rates in the State of Nebraska and the Board of Equalization of course meets in November of every year and then they meet at the end of each legislative session and then they are authorized to meet on a number of other occasions and one of those occasions, and this statute is being handed out to you by the way. It is #27-1501. One of the other times when the Board of Equalization can meet is when there have been changes in the Internal Revenue Code, the federal Internal Revenue Code or changes at the federal level, any United States law changes relating to income taxes. Now obviously when this statute was drafted the members of the Legislature realized that, and anticipated what is happening today, that is, if there is a change in the federal income tax law since our Nebraska taxes, Nebraska income taxes are piggy-backed upon that law, a reduction for example results in a reduction of Nebraska revenues. We all know that. Now when this resolution was introduced a short time ago the tax commissioner, apparently speaking for the executive branch, indicated that the Board of Equalization could not meet. That is simply not the case and I would like to read the language from the statute to you. You can understand it as well as anyone. It says, "Within thirty days after receiving a report from the tax commissioner that there have been significant changes in the provisions of the internal revenue code and amendments thereto, other provisions of the laws of the United States relating to federal income taxes or the rules and regulations issued under such laws, that the Board of Equalization can meet." So right now Don Leuenberger, the tax commissioner, can issue a report on those changes and the Board of Equalization can meet to adjust the tax rates. The Governor has already indicated that the tax rates will be changed. We all are painfully aware that the tax rates must be changed, not only from 15 to 16 but from 15 to 17 and perhaps more, depending on what happens to the rest of the Governor's program. The point is this, that the general fund balance, that the cash flow situation in Nebraska is a serious one

and that we need to make a number of adjustments as quickly as we can to alleviate the problem and one of the adjustments that we can make right now is to have the Board of Equalization meet immediately, change the tax rates and get those tax rates...get the withholding into effect immediately. That is better than waiting to the end of the session to readjust the tax rates and that is basically what this resolution is calling upon the executive branch to do, to act now, to come together as the Board of Equalization, and to adjust the tax rates so that we're not caught in any kind of fiscal cash flow crunch come this summer. Senator Fowler, did you have anything to add to that?

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, there has been kind of a chicken and egg debate in here as to whether we raise taxes first, adjust the rates that is and get that clear. Ed Howard would appreciate that distinction that we're raising rates and not taxes. The question has been, do we raise the tax rates first or do we decide on the budget? And it seems that we've argued back and forth on that. I have supported the tax rate increases of legislative action but that it's been impossible to get the votes and finally I think we've reached the point that there is universal agreement that tax rates must be adjusted at least to 17% no matter what the budget level is. Now there are really two questions. One is revenue to meet the budget and the other is the cash flow. I think everybody has admitted now that rates must be increased and that deals with the kind of the overall year revenue thing but it does get to a question of cash flow with regards to this year as to how soon those rates go into effect. Now if you were to read the financial status type reports that the Department of Revenue research division puts out, they would show that at the end of this year, if we had 100% expenditure, we would end up with a negative balance, \$8 million in the hole for state government. Now that is obviously at a 100% expenditure and the Governor has sent a crisis memo out to his agency directors urging a rapid curtailment of spending, not because of the question with regards to the year round revenue but because of the problem faced with cash flow. In the next few weeks about \$30 million in aid payments must be made out of the state treasury. Currently our state general fund balance is thirty-seven, forty million. Now some money will come in. The \$30 million in aid payments will go out. Tax refunds have to go out. If, in fact, the revenue situation is bleaker than it now appears, we could, in fact, face that negative balance sooner than expected. So it is very important that this tax increase that we all agree go into effect as soon as possible. Now as Senator Beutler has indicated

as the statute that I handed out shows you, our state tax commissioner, if he would just issue the report indicating that there have been changes in the federal tax law, you may recall that we discussed that in a previous resolution that there have been such changes, if our tax commissioner would simply sent a report indicating that that has happened, which I think we all agree it has, that it has caused a major change in expected revenues for the state, which everybody agrees, that Board of Equalization could meet, has to meet within thirty days but certainly could meet quicker and this income tax rate increase could be in effect quicker than the provision that says the Board of Equalization meets fifteen days after the Legislature, at least a month quicker, so that revenues from that tax increase, that income tax increase could start coming into the state treasury now. It hardly seems worthwhile to play Russian roulette with the state treasury balance as when we have a situation as we do now. If our tax commissioner would have done this last fall, obviously not the current one but the one we had then, if he'd issued the report last fall we could have avoided the crisis we have now. It's still not too late for our tax commissioner to implement the statute that is very clear in front of you and I think it is unfortunate we even have to have a legislative resolution discussed to urge the tax commissioner to implement the state law but that seems to be the situation we're in. I would for adoption of the amendment.

SENATOR CLARK: Motion on the desk.

CLERK: Mr. President, I have two motions. They are both the same. The motion would be to indefinitely postpone LR 236 by Senator DeCamp. Senator Warner would then move to indefinitely postpone the resolution, Mr. President.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Which one was first? I wouldn't want to preempt Senator DeCamp under any circumstances. You were first, John, I withdraw.

SENATOR DeCAMP: Mr. President, members of the Legislature, I'd move to indefinitely postpone the bill, or the resolution, reason simple. I think we're going to have to decide here what our budget is going to be and when that is all said and done, where we are and what is happening and thirty days from now, then we've got a procedure established. The Board of Equalization can meet and do their job. I think it is going to throw everything out of kilter to do it now and I sure do see Senator Fowler's concerns and it would be one alternative approach. If we were going to do her maybe it should have been done two months ago if we're going to use this approach.

SENATOR CLARK: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, so we can move along, I call the question.

SENATOR CLARK: Does anyone want to talk against the kill motion? Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, I think this is one of the most responsible resolutions that has come before this body. I think it is unfortunate it appears to be needed because the quicker the State Board of Equalization meets and adjusts the tax rates upward, the less radical the changes may have to be a few months from now. If we go along draining the treasury to a zero point and we continue to suffer, which everyone is agreed, a reduction in revenues from the current rates, we're going to have to move the rates even higher at a later date. This is a responsible resolution that demands we pay our way as we go, that we trigger the tax increases immediately right up front and, therefore, take away the threat that they may go even higher. It may save an extra percentage point of income tax later. I think the public in this state is entitled to a more stable tax rate and the quicker we move the more stable that tax rate will be. Even in the Governor's memo it is agreed by everyone that the rates will have to move to 17%. Now that also included an \$8 million shift out of the Highway Trust Fund which this Legislature will never let happen. I don't think many of you think that we are going to vote to shift \$8 million to cover the cost of the state patrol in here. Without that \$8 million it is going to be 18% tax rate and if we put off raising the rate now, later we're liable to shove it to 19 or 20. This is a resolution of responsible leadership in state government. No one likes to vote for a tax increase. None of us likes taxes but we must do what has to be done and set the tax rates to where we balance the budget. We are prohibited by Constitution from issuing warrants or going into debt in the State of Nebraska and I think no one can go with the idea that we can run short, fail to have the money to pay the state employees and run government on a responsible basis. I think the motion to indefinitely postpone this is totally irresponsible and that we should vote down the motion to indefinitely postpone and pass the resolution and show that the Legislature is a responsible body and that it seeks to pay its bills as we go along. Thank you.

SENATOR CLARK: Senator Lowell Johnson.

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

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

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LR 236

vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: The motion is to cease debate. Have you all voted? I wish you would all vote. We're going to have a Call of the House anyway if you don't. I don't care how you vote if you'll just vote.

SENATOR L. JOHNSON: I'll ask for a Call of the House and a record vote.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed vote nay. Record the vote.

CLERK: 14 ayes, 1 nay to cease debate, Mr. President, or to go under Call, excuse me, Mr. President.

SENATOR CLARK: The House is under Call. All senators will return to their seats. Mr. Sergeant at Arms, let's see how quickly we can get them in and get them checked in. Will everyone check in, please. Senator Fenger, will you check in, please. Would everyone please check in. Senator Wiitala would you check in, please. Senator Dworak. The Clerk will accept call ins. We're voting on ceasing debate is what it is.

CLERK: Senator DeCamp changing from no to yes. Senator Barrett voting yes. Senator Duda voting yes.

SENATOR CLARK: The Clerk will announce the vote.

CLERK: Senator Dworak voting no. 26 ayes, 15 nays, Mr. President, to cease debate.

SENATOR CLARK: Debate is ceased. Senator DeCamp will close.

SENATOR DeCAMP: Mr. President, members of the Legislature, I would like to use one minute of my closing time and yield four minutes to Senator Warner. Mr. President, members of the Legislature, I simply think this process is unworkable, number one. Number two, I am not one of those that accept the notion that an increase to 17% is necessary or proper. Difficult as it is to understand, I would say to my people up in my district as I have, if you're going to have a tax increase then you'd better have enough of a tax increase that you address the problems of unemployment and a variety of other things, be they the Public Works projects or whatever.

SENATOR CLARK: (Gavel.) The House is still under Call. All senators will be in their seats.

SENATOR DeCAMP: Number three, as it exists right now we still have a target budget of \$763 million. That is what this Legislature decided and I think it is important that you remember that until we change it with 25 votes, 17% wouldn't accommodate that anyway under the present circumstances. Based on everything then, I think the resolution probably is an improper approach at this time.

SENATOR CLARK: Your one minute is up if you'd like to give four minutes to Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I'm not sure who I'm arguing with now. I want to point out a couple of things about the resolution. Number one, it very clearly indicates that the purpose for changing the rate to 17 is because of change in the federal income tax. Now whether the tax commissioner writes another notice now or as he did in November for that board meeting, I don't know that it is significant but I believe it has already been considered once. Secondly, the issue of cash flow has been raised. Cash flow is not affected. It is true that if the income tax was changed May 1 or April 1 instead of June 1 there might be some small difference but not significant in terms of cash flow but cash flow is not going to be a problem provided, and that is provided if we change the date for the 25% payout on state aid that was scheduled for what, September or October. That is the key, not the one cent as a matter of fact and even that may not necessarily be required. Secondly, the delay is not going to increase any need for a higher rate at this time. Appropriations could do it but the delay will not make any difference but the tax liability that will be incurred will be retroactive. It is only a matter of when it comes into the treasury but based on the figures, at least I have seen, cash flow is not a problem and so I would agree that there is no need to make this change at this point even though there certainly was a need to make it last November and I wish that many of those who support the 17 now would have supported 16 then. Then perhaps we wouldn't have had as much of a problem but I have promised not to make "I told you so" speeches and so I'm not going to say as much as I'd like to say. With that, I see no need for the resolution and I would move that the...support the kill motion.

SENATOR CLARK: The question before the House is the indefinite postponement of the resolution. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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LR 236, 240

CLERK: 30 ayes, 12 nays, Mr. President, to indefinitely postpone LR 236.

SENATOR CLARK: The resolution is indefinitely postponed. We'll take up the next resolution, LR 240.

CLERK: Mr. President, LR 240 was introduced by Senators Haberman, Lamb, Chronister, Clark, Richard Peterson, Fenger, DeCamp, VonMinden, Howard Peterson and Beyer. It is found on page 996 of the Journal. (Read LR 240.)

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, the resolution has two goals as far as I'm concerned, one, to fulfill the requirement that this Legislature pick a target figure that we direct the Appropriations Committee to bring us for a budget. We have already done that once. We picked a target figure of about \$763 million as I recall. Since that time I think the Appropriations Committee has committed itself, even if only informally, to making dramatic alterations in that number. I believe under the rules devised by that committee, supported by this Legislature, we would have to either amend downward dramatically the target figure or they would have to remain with a budget of \$763 million by our rules we've adopted. So purpose number one of the resolution is to set a target figure significantly lower than the \$763 million for the Appropriations Committee to bring us for a budget. And my hope and goal of course is that prevents any tax increase at all. That is the ultimate purpose. The second purpose stated in the resolution in the now therefore, is to say, look, as long as we're all tightening belts we're going to do it uniformly. We aren't going to give a major increase to A or B or C or D without treating the others equally or essentially in the same manner. That is what the resolution does. I would urge you to adopt it or some target figure here in some form or other.

SENATOR CLARK: There is a motion on the desk.

CLERK: Mr. President, Senator Koch would move to indefinitely postpone LR 240.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. I signed this resolution originally but I got to examining the content a little more closely and also those who believe this is appropriate that I decided to take my name off along with Senator Vickers. After listening to the debate this after-