

January 8, 1981

LB 1-18

duced before we recess before this afternoon's ceremonies. So would you please get all the bills that you have ready for introduction up to the desk at this time so that we can proceed. Thank you. Proceed then, Mr. Clerk, with the introduction of the bills you do have.

CLERK: Read LB 1-18 by title for the first time. (See pages 74-77 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Speaker Marvel.

SPEAKER MARVEL: Is Senator Marsh in the room?

PRESIDENT: Senator Marsh is right there.

SPEAKER MARVEL: Senator Marsh, do you have a Committee on Committees report that you would like to distribute and take up at this time?

SENATOR MARSH: Yes, Mr. Clerk, would you please start the distribution.

CLERK: Yes, Senator, it is on its way.

SPEAKER MARVEL: The item that we refer to is being added to the agenda as 5(a). This is to bring before you the Committee on Committees report for your consideration.

PRESIDENT: The Chair recognizes Senator Marsh as soon as we get the...we probably ought to wait until we make sure all of the reports are distributed, Senator Marsh, so why don't you just kind of watch...

SENATOR MARSH: Mr. President, I believe we are now ready.

PRESIDENT: All right, proceed.

SENATOR MARSH: Thank you very much. I will ask that the Clerk would read the cover letter on this report.

PRESIDENT: Mr. Clerk, go ahead.

CLERK: Mr. President, a communication from Senator Marsh addressed to Mr. Speaker and Senators: The following report is submitted as a final action of the Committee on Committees five hour meeting on Wednesday, January 7, 1981. Respectfully submitted, Shirley Marsh, Chairperson.

SENATOR MARSH: Mr. President, I move for the adoption of this report as the final action of the Committee on Committees following our five hour meeting on yesterday, January 7, 1981.

Mr. President, I have a lobby registration report for the interim period covered by April 19, 1980, through January 6, 1981. That will be inserted in the Legislative Journal. (See page 94 of the Journal.)

Mr. President, I have a reference report from the Executive Board referring legislative bills 1-36. That is signed by Senator Lamb as Chairman. (See pages 94-95 of the Legislative Journal.)

Mr. President, I have in my possession proposed lease renewals as supplied us by the State Building Division. Those will be on file in my office. I also have a report from the Nemaha Natural Resources Districts regarding payment of attorney fees. (See page 95 of the Journal.)

Mr. President, Senator Hefner would like to announce that Senator Barrett has been elected as vice chairman of the Miscellaneous Subjects Committee.

Mr. President, Senator Labedz would like to announce that Senator Pirsch has been elected vice chairman of the Constitutional Revision and Recreation Committee.

Mr. President, Senator Marvel would once again like to announce a meeting or a chairperson's caucus for Monday, January 12 at 9:00 a.m. in Room 1520. It is a chairperson's caucus for Monday, January 12 at 9:00 a.m. in Room 1520.

PRESIDENT: The Chair will recognize Speaker Marvel once more for additional announcement concerning procedure.

SPEAKER MARVEL: I think, Mr. President, the first thing we need to note is the fact that we are using valuable time that we may wish we had at the end of this session. I guess I am going to repeat this every day for a while and so would you please put on the Clerk's desk whatever legislation you have so that we can once again begin processing this legislation which means that the Exec Board needs to meet and refer the bills as soon as they have been processed by the Clerk and, therefore, I remind you first of all, get the bills in and, secondly, that the Exec Board then will have to meet to refer the bills. Now this process has to go on even if we may only meet until noon. Now, Mr. President, is that the... Pat, is there anything else to say about the reference of bills?

CLERK: No, sir, not that I am aware of. I think Senator Lamb might want to make a...

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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

March 27, 1981

LB 483, 12

CLERK: Mr. President, LB 483 was introduced by the Miscellaneous Subjects Committee and signed by its members. (Read.) The bill was originally read on January 20, referred to Miscellaneous Subjects. It was advanced to General File. I have no amendments on the bill, Mr. President.

PRESIDENT: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move the advancement of LB 483. This bill increases the amount of per establishment advertising from the wholesaler or the distributor to the retailers that hold a liquor license from a hundred dollars to three hundred dollars per year. It also excludes from the bookkeeping requirements the inexpensive paper items, advertising items and those under five dollars in cost. This is to eliminate a lot of the book work that retailers now have. The hundred dollar limitation that we now have became law in 1935 and this bill was brought to us and asked us to update this from a hundred dollars to three hundred dollars which I think is only fair in this day and age. The Liquor Control Commission had no objection to this bill and approved it. There was no other opposition at the hearing either. So I would urge you to vote for the advancement of LB 483.

PRESIDENT: Are there any other persons that want to discuss it? Okay, I guess your opening is your closing, Senator Hefner, so we will move...the motion is to advance LB 483 to E & R initial. All those in favor vote aye, opposed nay. Record the vote.

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

PRESIDENT: LB 483 is advanced to E & R initial. The next bill on consent calendar is LB 501. Senator Fenger is excused so we will pass over 501 and go to LB 12.

CLERK: Mr. President, LB 12 was offered by Senator Richard Maresh. (Read.) The bill was first read on January 8, referred to Revenue, advanced to General File, Mr. President. I have no amendments on the bill.

PRESIDENT: The Chair recognizes Senator Maresh.

SENATOR MARESH: Mr. President and members of the Legislature, LB 12 will adjust for the cost of food increase that is predicted to be at 15% this year. My bill calls for an 11% increase in the present \$28 credit, up to \$31. We all know that the price of food keeps rising and we want to compensate

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for this increase so I hope that nobody tries to amend the bill or anything so we can get it advanced. If you want to do something to it, do it on Select File and not on General File. I move that the bill be advanced to E & R initial.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Senator Maresh is waving no at me so I probably won't take much time. I will just take a second. Senator Maresh, what is the fiscal impact of this bill?

SENATOR MARESH: About four and a half million dollars. It is one and a half million dollars per dollar increase.

SENATOR CULLAN: Okay, thank you, Senator Maresh. That is all I wanted to know. I don't like the whole rebate system anyway. I think we ought to either go with Senator Newell and eliminate the tax on food or just tax food so I am going to vote against the bill. Thank you.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, here we are again on consent calendar being lulled to sleep and this bill needs a little bit more discussion than fifteen minutes, I think, and Senator Maresh pleads with us not to touch it until it gets to Select File. I just can't help but want to amend this bill even though I respect Senator Maresh's request. I would like to hear from the chairman of the Appropriations Committee to what effect this bill has and whether or not it is reasonable and if we really need to advance it to \$31 dollars because every time we do this I don't know if we help people or not. It gets back to the issue that many of us have tried to resolve for a number of years. That is, to repeal a tax on food, period rather than for us to annually try to return a rebate to the people of this state. I would like to see us use this bill just to plain repeal it and not wrestle with what people are entitled to coming back to them because of taxes on food. And I know very well what has happened is the state has learned to live on some of the profit. Several cities are living on some of the profit and every time we talk about repeal of this tax on food immediately we send those people into a state of tremor because they are going to lose considerable revenue. I think it is high time the people of this state understand what is happening. We actually make money on tax on food in this state. We do not return it back. It never gets back. It never will, not all of it. So here we are, we are saying, okay now, people, we are returning \$31 to the \$28, so now we are returning it to you, that tax you pay on your food and today in the conditions that some of the

people live under, the tax they put on food in some cities like Omaha for instance is considerable and those people do not get their full rebate and I don't care how you try to send it back to them. So I think we ought to look at the problem a little more seriously than a fifteen minute pass-over and kiss it goodbye and say, look folks, we helped you one more year. Senator Maresh, I will have an amendment on Select File.

PRESIDENT: Amendment on the desk. Read the amendment.

CLERK: Mr. President, the first amendment is offered by Senator Beutler and that is to increase the credit to \$34.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, here we go into our annual auction again and I think from the testimony that I heard last year that it should have been up to \$34 and I don't want to go through all that testimony again but the amendment is basically to raise it a couple additional dollars and rather than take a lot of time on it I would just ask for the Legislature's consideration of that. Thank you.

PRESIDENT: Senator Maresh, the Clerk advises me that there are about three amendments on the bill already and since it will never survive the fifteen minute rule, he is wondering if you would prefer just to lay it over and take it up at another time?

SENATOR MARESH: Mr. President, that is what I was afraid of, that people are going to jeopardize the people of Nebraska to get an increase. That is what happened two years ago. If we would not have had all that wrangle about increasing more than the bill allowed for we would have got the bill passed but...so I guess if they do not want to give the people of the State of Nebraska what is coming to them, that is...the people of the State of Nebraska are the ones that are going to stand the loss.

PRESIDENT: So you want to pass it over at this time and take it up at a regular time, all right. So at the introducer's request we will go on to the next bill on consent calendar which is LB 535 and before we do that, Mr. Clerk, the Chair would like to introduce some 50 seniors from Cathedral High in Omaha from Senator Hoagland's district, with Tim Cannon, Martha Heck and Rich Garrigan, their teachers. They are up here in the North balcony. Would you welcome Cathedral High of Omaha. Welcome to your Legislature. The next bill, Mr. Clerk, on consent calendar then is LB 535.

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bills which now have been removed. That's fine.

PRESIDENT: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, would it be okay if we start from the back of the list and work toward the front since my bills are toward the end? I ask unanimous consent.

PRESIDENT: I hear little sounds out there and I don't see the Speaker nodding in an affirmative manner, so I guess we will proceed the way the Speaker set it up. All right, nobody wants to get started I guess. We'll start with LB 12. Senator Mares, I have just been advised by the Clerk that there are three motions already. Do you wish to proceed with the 15 minutes anyway and take up the....?

SENATOR MARESH: Mr. President, I would beg these people to take those motions off so the bill could be advanced. They could always do it on Select File, so I hope they are cooperating this morning and take those off and place them on Select File. If not, probably it's no use to taking it up and the people won't get their increase in the food tax credit for 1981.

PRESIDENT: We might just go through who has the most motions and we might just see if they would do that.

CLERK: Well, Mr. President, I have two by Senator Beutler, and one by Senator Chambers.

PRESIDENT: None of them are here.

CLERK: No, sir.

SENATOR MARESH: Where is Senator Beutler? Is he excused?

CLERK: Until he gets here, yes, sir.

SENATOR MARESH: Can't we take it up without him being here, or not?

PRESIDENT: Well that would be a problem. That would be one problem....

SENATOR MARESH: He saw that it was number one on the list. He should have been here if he had motions. Maybe that is the reason he wasn't here, so he wouldn't be taken up.

PRESIDENT: We could just go ahead with it. If they come in, they come in. They know it. The list was printed.

SENATOR MARESH: Okay.

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LB 12, 501

PRESIDENT: My thought is to just go ahead with it.

SENATOR MARESH: I move that it be advanced, Mr. President.

PRESIDENT: All right, the Clerk will read the title and then we will recognize you, Senator Maresh.

CLERK: Mr. President, LB 12, offered by Senator Richard Maresh. (Read title.) The bill was read on January 8 and referred to Revenue. The bill was advanced to General File, Mr. President.

PRESIDENT: The Chair recognizes Senator Maresh.

SENATOR MARESH: Mr. President, LB 12 would increase the food tax credit by \$3, and this is necessary because of the increase in the price of food. They predict about an 11 percent increase for 1981. This would compensate. You take 11 percent times the amount we have refunded, it will give you \$3. So this is a reasonable amount and I hope that we can advance the bill today so the people will get their increase in food tax credit. This will cost the state about four and a half million dollars, this \$3 increase. There will be a lot of money going back to be stimulating our economy, so I move that the bill be advanced to E & R Initial.

PRESIDENT: The Chair recognizes Senator Kahle.

SENATOR KAHLE: Mr. Speaker, I support Senator Maresh in his efforts to get this passed because as most of you realize, a couple years ago I guess it was we stalled a bill similar to this because some wanted to take the sales tax clear off, some of them wanted to change the value or the amount of money in the refund, and as a result we wound up with nothing. So I think at this stage of the game, it is important that this bill move and I support Senator Maresh in his effort to carry it today. Thank you.

PRESIDENT: Senator Maresh, you may close on your motion to advance. No further debate, no closing. The question before the House is the advance of LB 12 to E & R Initial. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 30 ayes, 0 nays on the motion to advance the bill, Mr. President.

PRESIDENT: Motion carries. LB 12 is advanced to E & R Initial. The next bill on the consent calendar is LB 501.

CLERK: Mr. President, LB 501 was introduced by Senator

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LR 76
LB 12, 99, 228, 257, 361, 385,
LB 561, 428, 451, 472, 472A, 501

SENATOR CLARK: Senator Cullan. The question has been called for. Do I see five hands? I don't see them. Now I do. All those wishing to cease debate will vote aye, opposed no. Have you all voted to cease debate?

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: Debate is ceased. Senator Wiitala, do you want to close?

SENATOR WIITALA: Mr. Speaker, members of the Legislature, in all due respect to my distinguished colleagues, Senator Warner and Senator Marsh, since the legislative intent has been placed in the record by their remarks as far as the responsibility to the duties of the Performance Review and Audit Committee, I would respectfully withdraw my amendment at this time. Thank you.

SENATOR CLARK: It is withdrawn. Do you have anything else on the bill?

CLERK: Mr. President, if I may read some matters in right before?

SENATOR CLARK: You go right ahead.

CLERK: Mr. President, a new resolution, LR 76 calling for a study offered by Senator Hoagland. (Read LR 76 as found on page 1724 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 12 and recommend that same be placed on Select File; 501 Select File; 472 Select File with amendments; 451 Select File with amendments; 428 Select File with amendments; 472A Select File; 99 Select File with amendments; 385 Select File with amendments; 361 Select File with amendments. 228 Select File. (See pages 1725-1726 of the Journal.)

And Senator Remmers would like to print amendments to LB 257, Mr. President. (See pages 1726-1727 of the Journal.)

Mr. President, the next motion I have on LR (sic) 561 is a motion by Senator Landis to reconsider the body's action in adopting the Kremer-Schmit amendment to LB 561.

SENATOR CLARK: Senator Landis.

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LR 171 - 179
LB 3, 12, 257A, 404

SENATOR CLARK: The motion is to advance 404. All those in favor say aye. All those opposed. The bill is advanced. The Clerk wants to read some things in.

CLERK: Mr. President, study resolutions. LR 171 by Senators Schmit, Wiitala, Wagner, Maresh, Remmers, calls for a study to provide a review of the effects of a corporate structure of farm ownership and the economic and sociological impacts of such a structure on the surrounding community, the agricultural sector, and the general economy of the state. LR 172 offered by the Ag and Environment Committee. The purpose and intent of the resolution is to provide for an interim study of the practices and operations of various Natural Resources Districts and their impacts and inter-relationships with agricultural and environmental issues in the state. LR 173 by Senators Maresh and Kahle, the purpose being to provide for an interim study of the cases and effects of the rising incidence of pseudorabies among swine in Nebraska. LR 174 by Senator Newell calls for a study of the state and federal highway systems and the effect of these systems on the growth and development of the metropolitan areas in the state. LR 175 by Senator Newell, the purpose being to study the problem of deteriorated areas of Nebraska cities and villages and to analyze the sufficiency of our present community development laws. LR 176 by Senator Newell. The purpose of the resolution is to study the effect of the present tax structure on community development and of tax incentives to encourage redevelopment of substandard areas in our cities and villages. LR 177 offered by Senator Newell, the purpose being to study the effects on the tax base and revenue collection in nearby incorporated municipalities of Sanitary and Improvement Districts bondings and assessments. LR 178 by the Public Works Committee. The purpose of the study is to examine the issues related to the management, conservation, and beneficial uses of Nebraska's water resources. LR 179 by Senator Beutler, the purpose being to consider soil erosion as it relates to water quality problems. (See pages 1889 through 1894 of the Legislative Journal.)

Mr. President, new A bill, LB 257A, introduced by Senator Fowler. (Read title to LB 257A for the first time as found on page 1895 of the Legislative Journal.)

Mr. President, Senator Wiitala would like to print amendments to LB 3 in the Legislative Journal. (See page 1895 of the Journal.) That is all that I have.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, the next bill is LB 12.

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CLERK: Mr. President, with respect to LB 12, I have a series of amendments. The first that I have is offered by Senator Beutler. Mr. President while we are waiting for Senators Beutler and Chambers, I have an amendment from Senator Sieck to the bill. It is Request 2259.

SENATOR SIECK: Yes. Mr. President and members of the body, this amendment is really a simple amendment. At the present time the Meals on Wheels, a nonprofit organization, by definition in the law, at the present time have to pay sales tax on those meals that are provided for the elderly. Now we only have one of those in the State of Nebraska to our study so far, and that is in Seward, Nebraska. We have a nonprofit organization that is providing meals for the elderly at cost and below cost, whatever the individual can afford. What this amendment does is exempt them or a nonprofit organization of Meals on Wheels for elderly and handicapped persons not to have to pay sales tax on that particular item. Now in most cases the Department of Aging which we just discussed recently is providing meals throughout the State of Nebraska, but in Seward, Nebraska we have an organization that feels that they can do a better job than the Department of Aging and they love to do this but they feel they are jeopardized against because they are charged sales tax and these other agencies don't have to pay sales tax, or the people that get the food do not have to pay a sales tax. So why shouldn't they be treated the same? I feel that they should. So I am asking you to support this amendment so that these individuals will not have to pay sales tax on that food. I attached this to this bill because I felt that it was germane and was such a simple issue that I didn't feel it merited a public hearing. So I highly endorse you to support this amendment.

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Mr. Speaker, I support this amendment. I agreed with Senator Sieck that I would support it and so I hope you vote for it.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, just a question of Senator Sieck. I don't necessarily support or oppose it, but I was wondering, in some instances I understand that they buy their food as catered by other concerns who some are not tax exempt. Now I was wondering for the record if you wanted to exempt all those furnishing the food as well as those who are presently exempt from paying tax.

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SENATOR SIECK: As I understand at the present time, the Meals on Wheels who I was referring to at Seward, Nebraska do not pay sales tax on the food that they receive because they are a dispenser of food, but they do have to collect the sales tax from the individuals that they present the food to for the meals.

SENATOR NICHOL: So what....I am not objecting to that one bit, Senator Sieck. What I am wondering about is when Meals on Wheels buys their food from someone else, they have to buy and prepare the food, would that organization, be it tax exempt or not, then be exempt from paying sales tax on the food that they buy?

SENATOR SIECK: If it was an organization of this type, I would say, yes.

SENATOR NICHOL: All right, if that is on the record, then I will support it. Thank you.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Only a question, if I may, Mr. President, to Senator Sieck. I wonder if you have got a fiscal impact note with your amendment.

SENATOR SIECK: I don't think it is going to be over \$50. I think that is the figure that we figured out.

SENATOR CARSTEN: One other comment then, Mr. President and members of the Legislature, once again while I sympathize and can understand the motive behind Senator Sieck, once again we are looking at our tax structure and another little pinhole in the dam, and I warn you again that that is what we have been constantly fighting and have for several years and lose a little here, lose a little there, and we find ourselves in a situation again. I am going to pass on this vote because I think I should even though it is worthwhile. Thank you, Mr. President.

SPEAKER MARVEL: The motion is the adoption of the Sieck amendment. Are you going to close? Senator Sieck closes.

SENATOR SIECK: Just to....Mr. President and members of the body, just to make a comment to Senator Carsten. I am just as concerned about this and I know Senator Carsten realizes that I am just as concerned about this as anybody, but I feel because of a quirk in the law, a misinterpretation of the law from the Department of Revenue, that I felt this should be corrected. And since all of the Department

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of Aging as we know presently are providing food with no tax to the people, I felt it was no more than right that we should include these individuals. Thank you.

SPEAKER MARVEL: Okay, the motion is the adoption of the Sieck amendment. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Once more, have you all voted? Senator Sieck, what's your pleasure?

SENATOR SIECK: We have 23 here that's not voting. I would ask for a Call of the House.

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

CLERK: 10 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: Okay, the House is under Call. All legislators please return to your seats, indicate your presence. How many absentees are there? Senator Kilgarin, will you please record your presence? Senator Wesely. No. Senator Chronister, Senator DeCamp, Senator Clark, Senator Landis, Senator Pirsch. Mr. Sergeant at Arms, you need to find Senator Landis, Senator Pirsch, Senator DeCamp and Senator Wesely. Senator Sieck, we have Senator Landis, Senator Pirsch, Senator Wesely, Senator....is DeCamp here? Senator Pirsch, Senator DeCamp. Do you want to go ahead with the roll call vote? There are two missing, Senator DeCamp and Senator Wesely. Okay, Senator DeCamp, Senator Wesely, Senator Pirsch. Do you want to go ahead with the roll call?

SENATOR SIECK: Those are two votes.

SPEAKER MARVEL: Mr. Sergeant at Arms. Senator Pirsch, Senator DeCamp and Senator Wesely, Mr. Sergeant at Arms.

SENATOR SIECK: Mr. Speaker, while they are looking for them I would like to explain the bill a little more because a lot of them have come in that didn't....

SPEAKER MARVEL: There are three legislators that we can't find and the Chair doesn't know the solution to it. Senator Pirsch....Senator DeCamp and Senator Wesely are supposed to have left the building.

SENATOR SIECK: Would you read the amendment and I will.... just read what the amendment does. Just...no just....

CLERK: Just the new part? Okay. Mr. President, Senator Sieck's amendment is a 10-page amendment. It's Request 2259.

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The new language would amend Section 77-2704 which, if I may, Mr. President: (Read the Sieck amendment.).

SPEAKER MARVEL: Okay, call the roll.

CLERK: (Read the roll call vote as found on page 1896 of the Legislative Journal.) 14 ayes, 24 nays, Mr. President.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, the next amendment I have is from Senator Chambers and that would be to indefinitely postpone the bill.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, and Senator Maresh, I ask unanimous consent if Senator Maresh doesn't object to withdraw this amendment.

SPEAKER MARVEL: Hearing no objection, so ordered.

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

SPEAKER MARVEL: Senator Maresh, do you wish to advance your bill?

SENATOR MARESH: Yes, Mr. Speaker, I move that LB 12 be advanced to E & R Engrossing.

SPEAKER MARVEL: All in favor of that motion vote aye.... say aye. A machine vote has been requested. All those in favor vote aye, opposed vote no. Have you all voted? Record.

CLERK: 27 ayes, 7 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried, the bill is advanced. Before we proceed it is my pleasure first of all to introduce from Senator Vickers' District in the north balcony 30 members of the Cambridge Girls Drill Team from Cambridge, Nebraska, 12 parents. Connie Jo Bible is the leader. And here we are, right up here. Welcome to the Unicameral. That's a nice looking group coming from Senator Vickers' District. From Pittsburgh, Pennsylvania three visitors to Nebraska to visit the State Capitol. Where are you folks located? Do we have Pennsylvania visitors? Okay. Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. Speaker. Before we adjourn

LB 3, 11, 12, 70, 95, 99, 228,
250, 257, 266, 266A, 296A,
310, 318, 328A, 369, 381, 384,
389, 428, 441, 470, 472, 472A,
497, 501, 506, 541, 543, 556A

May 11, 1981

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain Palmer.

REVEREND PALMER: Prayer offered.

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President, plus one.

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

CLERK: Mr. President, I have no corrections.

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

CLERK: Mr. President, I have an Attorney General's opinion addressed to Senator Chronister regarding compensation of rural water districts. That will be inserted in the Journal. (See pages 1899-1900 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined engrossed LB 3 and find the same correctly engrossed. 11 correctly engrossed, 12 correctly engrossed, 70 correctly engrossed, 95 correctly engrossed, 99 correctly engrossed, 228 correctly engrossed, 250 correctly engrossed, 257 correctly engrossed, 266 correctly engrossed, 266A correctly engrossed, 296A correctly engrossed, 310 correctly engrossed, 328A correctly engrossed, 369 correctly engrossed, 381 correctly engrossed, 384 correctly engrossed, 389 correctly engrossed, 428 correctly engrossed, 441 correctly engrossed, 470 correctly engrossed, 472 correctly engrossed, 472A correctly engrossed, 497 correctly engrossed, 501 correctly engrossed, 506 correctly engrossed, 541 correctly engrossed, 543 correctly engrossed. Those are all signed by Senator Kilgarin as Chair.

Mr. President, a new A bill, LB 556A, offered by the Speaker at the request of the Governor. (Read as found on page 1904 of the Legislative Journal.)

Mr. President, Senator Vard Johnson would like to print amendments in the Journal to LB 428 and Senator DeCamp to LB 318. See pages 1904-1906 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Speaker Marvel for an explanation of order of business today on the agenda. Speaker Marvel.

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LB 12

ASSISTANT CLERK: Mr. President, I have a motion on the desk. Senator Maresh moves to return LB 12 to Select File for a specific amendment.

SENATOR MARESH: Mr. Speaker and members of the Legislature, I would like to alert you that LB 12 is on the endangered species....about to be shot down if we don't make this change. The Governor has promised a veto if we don't cut down the amount of credit from \$3 to \$1 in 1981 and another \$1 increase in 1982. That would make the tax credit \$29 for 1981 and \$30 for 1982. I move that the amendment be adopted.

SPEAKER MARVEL: Okay, the motion is to return to Select File for the specific amendment. Senator Beutler. We are speaking to the motion to return.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I would like to very strongly oppose the amendment. First of all, let's be clear on what we are doing. The food sales tax credit now is \$28. What this amendment says is for this year we will raise it by \$1...\$1, that is a 3 percent increase in the credit. And for next year we are going to increase it by another \$1, so that would be more or less 3 percent for that year. But I suggest to you that food prices have been increasing at 3 to 4 times that rate and that in all probability in that two-year period the increase will be more around 20 percent in terms of the cost of food, and we are talking about a 6 percent increase in the credit. We have had a debate that we are all familiar with in the Legislature with regard to whether we should do away with the food sales tax altogether or whether we should retain a credit system. And the one strong argument that the credit system has had is that it bears some reasonable proportion to the taxes paid on food. But now one of the strongest supporters of the system, the Governor, is coming in here and telling the Legislature that he is not willing to even stand by that system, and that now we are going to have a credit system that doesn't even keep up with the cost of food. If you follow the credit system philosophy, which a majority in this Legislature has to date, then I hope you will reject the amendment and stick to your philosophy. If you are not sticking to that philosophy, then I guess I can just hope that next year you will go along with the rest of us who hope to do away with the food sales tax altogether. But I think that this departure is a serious departure from the commitment we have made to the people of the State of Nebraska. I feel that most of the people in the state don't want a sales tax on food to begin with but many of them are willing to go along

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so long as we have a reasonable credit system. But now we are destroying our credit system because the credit is clearly now not going to keep up with the cost of food if we adopt this amendment. It is not keeping up with it even if we don't adopt the amendment. But if we adopt the amendment, it is a disaster from that point of view. Thank you.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Mr. President, I would hope that Senator Maresh would stand tough to this threatened veto. I think that this Legislature just said that we are going to provide \$2 million of tax relief to industry and if there is room in the budget to do that, and if there is room for the Governor to sign that, then perhaps indeed there is room for this food sales tax increase. Now Senator Beutler has indicated that the \$3 increase is mathematically correct, it makes sense as far as keeping up with the cost of living, and I cannot see how we can do any less than that. A 3 percent increase in the food sales tax credit is an insult to the public of Nebraska, and I think that there are 30 legislators here that would be willing to stand up and say that. If we really believe in this credit system, then I think we ought to hold faith to the promise and to keep current with the real cost of food. Otherwise, in fact, we do have a sales tax on food because our credit is below the actual tax paid. So I would hope that Senator Maresh, rather than back down on this issue, would reconsider, and if he doesn't I would hope at least that there are 25 Senators that do not believe that we should change this, that we should pass the bill as it is, then let the Governor take whatever action he wishes to take, and then 30 of us can override that and we can have a realistic food sales tax credit for next year. So I would hope that after giving a \$2 million tax break to industry, that we could at least keep these sales tax on food credit equal with the true cost of food in Nebraska.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President and members of the body, I would like to speak briefly in opposition to the proposed Maresh amendment. Now frankly this whole commitment to the food sales tax has been....to the credit system has been one in which I have had mixed emotions all along. But I felt very strongly that if we are going to "maintain" what I think is somewhat of a...I won't say sham, but there has got to be some other word for something very close to that, then what we ought to be doing is keeping this up somewhere

close to where it ought to be. Now, frankly, I can understand the political realities of the times which says sometimes you give up a little to get a little or etcetera, and I might well understand that. If I thought we could not pass this and we could get Medicaid reduced the entire... down to 10 percent this year at a cost of \$6 million or \$7 million to the state, I would say that would be a fair trade, because, frankly, that provides for property tax relief and maybe the people of the state can wait one more year to try to get up to where they ought to be. But, frankly, the proposal that Senator Maresh offers is a \$1 increase this year and a \$1 increase next year which will dilute the opportunity to come back next year and try to raise that no matter what the revenue situations are. So what we are really being asked to do here is say as we have been asked so many times before that we will give special interests a little help and we will do this and that and the other for other groups or interests, but for the average individual we are not going to be able to help them, and not only that, but we are also going to make it very difficult to help them next year because we are going to give them a very token amount, \$1 increase next year. Had I known that this was going to happen and there wasn't any corresponding sort of proposal here, I would have prepared my amendment to eliminate the sales tax on food and put that on the bill. As Senator Maresh and I have discussed, I felt that maybe this was not the time for me to be pushing that on the floor of the Legislature. But I assure you, Senator Maresh, and the other members of the body that if this bill should come back to be amended, that the amendment to eliminate the sales tax on food will be offered the next time it reaches Final Reading, because, in fact, if we are going to make a sham of the credit system and if there is going to not be any resulting understanding of providing for basic property tax relief or something else with those dollars, then I see no reason to try to be restrained in this regard, and I don't think the rest of the members of this Legislature should either. If the credit isn't going to try to keep pace with inflation, if it is not intended to do that, that signal ought to be made very clearly so the people of this state can recognize that what we have to be about doing is eliminating the sales tax on food and giving the average individual an exemption like every other special interest group in this state has been able to manage to get from this Legislature in recent years. I would very much oppose bringing this back for this amendment, and if it does come back, I want to promise this body that they will have an opportunity to eliminate the sales tax on food the next time it comes up for Final Reading.

SPEAKER MARVEL: Senator Chambers.

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SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, and Senator Maresh, it is....no, I'm not going to ask you a question, I was about to give a eulogy. I am watching today, but I hope we can prevent it, the death of one of our colleagues, manhood. Rather than stand as he told me he would when he asked me to take a kill motion off this bill on Select File, he has assumed the shuffling, backward, bent-over, hand wringing posture of a coward. That's all I can say, Senator Maresh, because you tricked me...you tricked me into taking a kill motion off this bill, and I do take that personally. I think when we say that we are going to take a position and calls one or more of our colleagues to alter a position based on the guarantee we give, then we violate our word, we have done something which justifies that person who received the violated word and acted upon it in responding. And I think it is time that the Senators know that our violations of our word which happen repeatedly as occurred even on that motion Senator DeCamp had for the church schools, is being seen by the public now. I was told yesterday that one of our most auspicious but, in the minds of the church people, suspicious leaders of the Legislature sent out a note that he is going to support them and then didn't do it. And these people who represent Jerry Falwell's point of view came to me calling me "Brother Chambers", we feel more close to you than these other people around here because we knew where you were but they made us a promise and violated it. And now here comes Senator Maresh not only with going back on his word but doing it in a way that should cause all of us to hang our heads in shame. It would be better not to have a bill at all than to offer a travesty like this to the public. About two years ago it was calculated that it would take about \$34 to be just and maybe \$36 for people in Omaha, and somewhere in between for the people in Lincoln who pay an additional sales tax on top of the state's 3 percent. The sales tax has been misnamed a tax because it is not supposed to generate revenue. It is placed on the food as a convenience. At the end of the year the amount that people pay on this food is to be returned. For the Governor to adopt the morally indefensible position of violating the promise that has been made to the public should cause all of us to reject resoundingly what Senator Maresh is offering to us this morning. Let him go back over his word, the rest of us ought not. I remember a promise that the Governor made last year, or implied, on ADC. He cut in half the appropriation that the Legislature made indicating that it should be done in two steps. So when I attempted to offer the second step this year, what did the honorable man do, he vetoed that. The amount is not what is involved, it is the principle and we are dealing with unprincipled people. He will get

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Senator Maresh to trick us into going for a dollar to insult the public, then next year when the time comes to add the additional dollar, he will tell Senator Maresh or whoever else is carrying the bill, well we don't have enough in the treasury so we will veto that. What does he mean the is not enough in the treasury? That money that was raised on tax on food is blood money in the first place. That money has already been set aside, Senator Maresh, in trust for the people of this state. There is no way that there cannot be enough to return to the people the amount they paid in taxes on food. It is there. It is theirs and we should not deny them of this money. There is no way that we morally can do such a reprehensible thing. Around the turn of the century a wheeling-dealing north-eastern politician named Marc Hannah was going to punish a guy who voted the wrong way during an election and he was going to go all the way to North Dakota to do so, and a person that he was grooming for president that he was pulling around on a leash said, Marc Hannah, do not do this thing, you will be slaughtered....

SPEAKER MARVEL: Thirty seconds.

SENATOR CHAMBERS:if you go out there. And Marc Hannah gave the resounding reply, Senator Maresh, although he was a cutthroat politician, "God hates a coward".

SPEAKER MARVEL: Thirty seconds.

SENATOR CHAMBERS: And he went. Now certainly our conduct can at least reach the standard of that set by a cutthroat, wheeling-dealing, scheming politician like Marcus Alonzo Hannah. I am totally opposed to this motion and I hope it will be defeated as it ought to be.

SPEAKER MARVEL: Senator Wiitala.

SENATOR WIITALA: Mr. President, members of the Legislature, I stand before you dismayed not only over my proposed amendment to LB 3 which was an attempt to address the inequities of placing a tax on a necessity of life...I feel like holding a requiem for two bills today, LB 48, which would have eliminated the sales tax on food, and LB 61, which would eliminate the sales tax on utilities. Again, people on fixed incomes and lowered incomes are going to be asked again to subsidize the state when it comes to the sales tax. In the Omaha area it's especially true, 4 1/2 percent on sales tax on food, 4 1/2 sales tax on utilities. Take a look at what we have been through the last three to four or five years with rising costs of living approaching 16 percent. Whatever

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our interest rate is, our cost of living increase seems to match it. I support LB 12 out of necessity because LB 48 was not seen fair enough to be referred out of committee. But to reduce the \$3 increase to \$1, I find rather reprehensible. I say to my friends that have spoken well for commerce and industry and agriculture and for the urban situation, please, let's render justice in opposing Senator Maresh's amendment to his own bill. I am not about to question why the amendment is being proposed, but I certainly am questioning....I am not questioning Senator Maresh why he proposed it, but I am certainly questioning why it should be raised. There is a lot of inequities in our food tax credit system. You know, for those of you that are of a conservative bent, what is more ridiculous than taxing citizens for their utilities and food and sending those dollars to the state and in the food tax credit system, then referring it back to them in the form of a credit? Can you imagine the paper work? What is the sense in giving the collectors of those revenues 3 percent of their gross sales tax receipts to run the whole system? In these economic times it is inefficient. But I am not going to argue the merits of the food tax credit as opposed to eliminating the sales tax completely on food. I just simply want to say that it makes no sense, and it certainly won't to the citizens that live in our metropolitan areas, our large municipalities, our rural environments, wherever they may live, to grant them only \$1 increase in credit in times such as these. Thank you.

SPEAKER MARVEL: Senator Landis, and then Senator Higgins and then Senator Lamb.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, those who are familiar with the way bureaucracy builds a budget knows the fudge factor, and the fudge factor is those little hidden places in the budget where money gets put aside which can be reclaimed later in the year when times get tough. What we find now is that the sales tax credit on food is the fudge factor in reverse for the Governor. It is the place where after he has made some agreements and some deals and allowed at least portions of the Natural Resources Development Fund money to go through and has seen the totals as far as the Appropriations Committee, where he knows he can get a little more revenue, because, of course, the revenue is going to come in, we are going to have those sales tax dollars flowing in taxing food, and if he can reduce the credit that goes back out, of course the state coffers bulge with the money that is left over, and it is the fudge factor in reverse. The Governor has found a way to increase revenue, decrease disbursements and allow himself

a side pocket from which to negotiate other kinds of political revenue arrangements with certain members of the Legislature. And I guess, although we all know that, although we continue sometimes to allow that charade to continue, this is so obvious that it really strips the mask away from the food sales tax credit idea and shows it for what it is, a manipulation, a hypocritical way of saying that we don't tax food when, of course, in fact, we do, and it shows that the credit system is not what it was designed to be and what it was promoted to be and what it was sold to this legislative body to be, simply a convenient way of returning those sales tax dollars at the end of the year in an administratively simple way, but, in fact, as a revenue raiser it's a way of taxing people and yet at the same time maintaining the promise that we are not taxing them. It is really, really ironic this morning to see that pious hypocrisy brought out so clearly because, in fact, we are reducing the credit not because it is not justifiable, not because people will only spend that money in taxes on food, but because if we reduce the sales tax credit in this way, we will have more money in the budget and we will balance our budget. It is the perfect evidence that what the sales tax credit is is the fudge factor for the Governor and the Legislature, I have to add, and that it is not the attempt to return to people the money that they pay in taxes on food that we promise and herald and bannered when we passed the sales income tax legislation. I am going to vote against the Maresh amendment, and if that means we have to raise taxes, so be it. We passed a healthy agenda of social change earlier this session. It included ADC payments, and included full commitment to the Natural Resources Development Fund. It committed funds to Mental Retardation. It committed funds to people and people programs, and I am not ready to retreat from that agenda, and I am not ready to retreat in the form of the Maresh amendment to LB 12. I am going to vote against this amendment.

SPEAKER MARVEL: Senator Higgins and then Senator Lamb.

SENATOR HIGGINS: Mr. President and members of the body, everybody has spoken so far to the morality of this, to the politics of it, I don't speak to anybody but you rural agricultural Senators. One of the ladies that lives in a high-rise in Omaha, when I was asking her about the sales tax on food, she told me, she said, you know, when I get that check back every year, you know what I do with it? I said, what? She said, I go to the grocery store and I buy the things I denied myself all year. Instead of buying pork and beans I buy one steak for myself, and she said, I dearly love cream in my coffee but it is too expensive, but

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I always buy a half a pint of cream. And she says, I spend the entire amount of money on fixing myself what you might call a gourmet dinner that will last a week, maybe two weeks, depending on how much of it she uses. Cut back the sales tax credit on food. After all, you people produce the food. The people in the urban areas buy it. You cut down the sales tax on food, you are going to cut down the amount of money they can use to buy food, bread, potatoes, corn, meat....I am not even going to talk to you about the moral aspects. I am just telling you, you are cutting off your own nose to spite your face, and there will be an outcry from these people when they don't get it. Mostly the ones that are going to be hurt are the senior citizens. There isn't one of us 49 Senators that are going to be hurt by that cheap \$2 reduction because as I have said before, most of us are affluent, we either have a husband that brings in a second income or we are retired and we own lands and properties and businesses, but the people that spend their money to buy your products are going to know it and they are going to have less money to buy agriculture's products. So forget the morality, forget the politics of it, forget whose idea it was, because I know the best way to appeal to you is your pocketbooks, and there will be less money spent in the urban areas on food when there is less sales tax return. There has got to be. One other thing, is there a Senator here that knows how much money we just gave to business in LB 3? How much money did we just give back to business on the sales tax? How much exemption does agriculture have on taxes on their machinery? And then do what your conscience tells you to do, gentlemen and ladies. Thank you, Senators.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, I had told my friend, Senator Maresh, earlier this morning that I would be opposing his amendment. However, after hearing some of the stinging remarks, it almost makes me reassess my position. But from the beginning I have supported the rebate system we have on the sales tax on food. I do think that the amount needs to be reasonably close to the actual amount that is involved in this sales tax on food, and so with those things in mind I oppose the Maresh amendment. I think the bill should be advanced, should be passed as originally we have it in our bill books.

SPEAKER MARVEL: Senator Burrows and then Senator Koch.

SENATOR BURROWS: Mr. Speaker and members of the Legislature, I just can't believe what we are doing this morning. If we proceed with what we are doing, we are playing Robin Hood

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in reverse, taking from the poor and giving to the rich. We just passed LB 3 to give industry a bonus and I cannot believe that the Governor would sign LB 3 and veto a reasonable increase in the sales tax credit on food. From agriculture's standpoint, this is one of the poorest taxes we have. Every other industry comes before our Revenue Committee fighting increased taxes on the product it sells and goes through the retail system. They want to protect their product through the retail with a minimum of taxes. In this case the sales tax on food is the very tax upon the products of the major industry of the state. From the consumer standpoint, we are just putting this amendment...just takes \$2 from every person in the state to subsidize other programs such as LB 3 that we passed the bill before last this morning which is a real freebie for the industry of the state. I don't think the voters will look at this as a very kindly gesture by the Nebraska Legislature if we proceed to reduce the sales tax on food from \$3 to \$1 to pay for a relief gesture for industry. I can't believe the Governor would veto a reasonable increase in the sales tax on food and place that tax upon the average consumer upon the food sales in the state, the most regressive tax we have in the State of Nebraska, and then sign LB 3. If we are that short of revenues, maybe we had better look at some other things. A few days ago an amendment I put to take \$400,000 out of the University budget with the intent to cap salaries at approximately....salary increase was approximately \$3200 increase. This was rejected by the body. Now let's be consistent and at least give the average taxpayer a break. I urge the body to reject the amendment and come forward with 30 votes to override any potential veto of the Governor. I don't think he could possibly veto this. I think it would be too foolish a political gesture of the Governor of the State of Nebraska. So let's try it and let's assure that we have 30 votes to keep the reputation of this Legislature at least halfway clean as to whom we are representing. Thank you.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Koch.

SENATOR KOCH: Mr. Chairman and members of the body, this issue confronts us almost annually. Not only that, but those who seek political office, the political parties many times have stated that tax on food should be repealed, and I agree. I am getting a little bit tired of sitting in this body and becoming a whipping boy on certain kinds of issues that require money. There is a quotation and I think it is appropriate under politics which states very

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simply that those who take credit for the rain then must also take credit for the drouth. I am stating this because the State Board of Equalization last November met and said this state's financial condition was very healthy and as a result they could cut the income corporate tax by 1 percentage point. The same individuals then take all the credit because of the return of tax dollars to the citizens of the State of Nebraska. Now as you look at our budget and we have been hearing this moaning and groaning all session about how short we are of dollars, we then are going to take it from the people who I think are being unfairly taxed in terms of buying food. And as Senator Wiitala stated very well, with the increased costs of food automatically the buying power of the people is being diminished as well because of the tax which cannot morally be defended. Senator Maresh brought this bill to us in good faith not too many days ago, and suddenly he must have been asked by the Governor to bring it back for surgery and to cut the amount from \$31 back to \$29. As far as I am concerned, rather than do this we might as well leave it where it is and be honest with the public rather than trying to deceive them. It is also interesting to note, you look at Senator Maresh's amendment in 1982 it goes up a couple more dollars. I don't know where we are going to get the money in 1982 if we don't have it now. I ask you only to look too at other states, Michigan, Minnesota, Iowa, where they thought they had a bundle of money in surplus and they cut their revenues back severely and today those states are facing almost impossible problems financially in terms of services. What I am saying to you today is, we ought to let LB 12 go as is, and the Governor in his infinite wisdom if he sees fit to veto it, so be it, not us because we represent the people just like he does, possibly in a little different fashion with not all the visibility, we don't all get press conferences, we have to find our platforms in various ways before very few people. As an individual, ever since I have been in politics I have promised and committed myself to people in my district who are probably a little wealthier than other districts that we should repeal the sales tax, and they agree. But you are never going to do it because too many people make money from it contrary to what the public understands. The state makes money from it. The cities make money from it. We never get the dollar back to the people and I don't care how you try to deceive them. And I would hope that Senator Maresh will withdraw his amendment. Let the Governor veto it if he so desires. Then let us override it because we know that what we are returning to the people today in terms of that rebate is not close to what they spent on their tax on food particularly in inflationary times and costs. I object strenuously to this action,

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and I would hope this body has some integrity and credibility and some morality and some Christian ideals and would refuse to acknowledge this type of an amendment at this time of session where we all know that the people presently are being hoodwinked under the whole system. I reject that amendment.

SENATOR NICHOL: Before we go to the next speakers, we have some guests. You are all acquainted with our Page, Joan Brunig. We have her parents and family under the north balcony, Mr. and Mrs. Joe Brunig and Mary, Sharon and Linda Brunig. Would you please stand up and be welcomed by the Legislature? In the north balcony Senator Hefner has some guests. We have twenty-two 8th Graders and five adults from Monowi, Nebraska. Do I pronounce that correctly? All right. The teacher is Mr. Schreves. Would you please welcome them to the Legislature? Senator Sieck. The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor signify by voting aye, opposed nay. Record, Mr. Clerk.

CLERK: 29 ayes, 1 nay to cease debate, Mr. President.

SENATOR NICHOL: Debate has ceased. Senator Maresh, would you like to close, please?

SENATOR MARESH: Yes, Mr. Chairman, I guess I am a bit surprised that Senator Chambers attacked me personally and I can't remember any deal that I made with him, and he always prides himself in not making deals and I can't understand that he would say he made a deal with me, so that is hard to understand. I guess the question is here if we want to give the people a slight increase or no increase at all because I am afraid that the votes won't be here to override the Governor's veto. So use your judgment on this. Thank you.

SENATOR NICHOL: We are voting on the Maresh amendment. All those in favor vote aye, opposed nay.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion lost. Record.

CLERK: 8 ayes, 35 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: Okay, we are....technically, Senator Koch, your announcement came after we recorded the vote. But due to your seniority we will put it in the Journal. Record vote, Mr. Clerk, record the vote.

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LB 12, 70, 99, 146E

CLERK: (Read the record vote as found on page 2024 of the Legislative Journal.) 9 ayes, 38 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: Motion lost. What's the next item? Okay, read the bill, Mr. Clerk.

CLERK: (Read LB 12 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 12 on Final Reading. Record the vote.

CLERK: (Read the record vote as found on page 2025 of the Legislative Journal.) 44 ayes, 3 nays, 1 present and not voting and 1 excused and not voting, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Next on Final Reading is LB 99. I am sorry, LB 70.

CLERK: Mr. President, LB 70. (Read LB 70 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 70 on Final Reading. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 2025 and 2026 of the Legislative Journal.) 38 ayes....Senator Wiitala changing from yes to no. 39 ayes, 9 nays...10 nays, 2 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next bill is LB 146E....I'm sorry. Okay, the next bill, LB 99.

CLERK: (Read LB 99 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading? Those in favor vote aye, opposed vote no. Record the vote.

CLERK: (Read the record vote as found on pages 2026 and 2027 of the Legislative Journal.) 44 ayes, 1 nay, 2 excused and not voting, 2 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next bill on Final Reading, LB 146E.

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

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LB 3, 11, 11A, 12, 70, 99, 146,
184, 228, 250, 266, 266A, 296,
296A, 310, 328, 328A, 361,
366, 369, 376, 561

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 184 and recommend that same be placed on Select File with amendments; LB 376 placed on Select File with amendments. Those are both signed by Senator Kilgarin as Chair.

Mr. President, LBs. 3, 11, 11A, 12, 70, 99, 146, 228, 250, 266, 266A, 296, 296A, 310, 328, 328A, 361, 366, and 369 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 3, LB 11, LB 11A, LB 12, LB 70, LB 99, LB 146, LB 288, LB 250, LB 266, LB 266A, LB 296, LB 296A, LB 310, LB 328, LB 328A, LB 361, LB 366, LB 369. Okay, if we may have your attention, the first item will be from the Clerk's desk and the second item will be Senator Warner's. So, Mr. Clerk.

CLERK: Mr. President, I have a letter addressed to the membership from Senator Warner who is Chairman of the Appropriations Committee. (Read. See pages 2052 and 2053, Legislative Journal. Re: Line item vetoes of LB 561.)

SPEAKER MARVEL: Senator Warner, you are recognized to comment on the letter just read.

SENATOR WARNER: All right, Mr. President, again under the provision of the rule, the Appropriations Committee is to make such report, and as the report indicates, there was one item which the majority of the committee did support to offer a motion for override which at the time which will be designated by the Senator representing the majority of the committee's position on that issue. The other portion I might just go through briefly with you is the second and third page which is to give you for your information. Page two that is an analysis of the Governor's line item vetoes points out those vetoes that occurred relative to committee recommendations and it shows what the collective floor amendments were, and the last group indicates the vetoes that were relative to the floor amendments and shows the total dollar amount then of \$728 million to \$74,747 that would remain under the Governor's veto as the legislation now stands. If you look at page 3, headed Financial Status Summary, it is similar to what is on the back of the agenda but in a slightly different form. Above the line at the top it shows again the original committee level of recommendation in those bills. The next shows the allocation for A bills that was originally recommended, that subtotal, and then it shows the amount that was

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LR 181, 182, 185, 186, 187
LB 12, 273, 404

SPEAKER MARVEL PRESIDING

REV. MYRON J. PLESKAC: (Prayer offered.)

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Would you record in please so we can get on with the show? Record please.

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

SENATOR NICHOL: Let's go to item #3 please.

CLERK: Mr. President, I have a Rules Committee report offered by Senator Wesely for the Legislature's consideration.

Mr. President, Senator Schmit would like to print amendments to LB 404.

Mr. President, I have a message from the Governor. (Read. See pages 2166 and 2167, Legislative Journal. Re: LB 12.)

SENATOR NICHOL: We are ready for #4 and we will go into Final Reading, LB 273 with the emergency clause.

CLERK: Mr. President, Legislative Resolutions 181, 182, 185, 186 and 187 are ready for your signature.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LR 181, LR 182, LR 185, LR 187. Okay we are ready for item #4, Final Reading. The Clerk will read LB 273 with the emergency clause attached.

CLERK: Mr. President, I have a motion on the desk. Mr. President, Senator Vickers moves to return LB 273 to Select File for specific amendment. The amendment reads as follows: (Read Vickers amendment found on page 2167, Legislative Journal.)

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Yes, would you read that again, Pat. I want to make sure I have got the right lines here.

CLERK: (Reread amendment.)

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LB 466, 12, 184, 477,
477A, 561

Since this was printed as a Final Reading bill and it has been returned now, it is going to have to be reprinted again. So I just call that to your attention and I want it made a matter of record. Thank you.

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

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

SPEAKER MARVEL: Motion is carried. The bill is advanced. On Final Reading. LB 477. The Clerk will read.

CLERK: Mr. President, if I may right before that, Senator Warner would like to have a meeting of the Special Legislative Working Group on Federal-State-Local Fiscal and Program Policy.

Senator Beutler moves pursuant to Rule 6, Section 11, to override the Governor's veto of LB 12.

I have an Attorney General's opinion addressed to Senator Wesely on LB 561; and Senator Schmit on LB 184.

And I have a report, Mr. President, of session employee expense to be inserted in the Journal. (See page 2181.)

(Read LB 477 on Final Reading.)

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

CLERK: (Record vote read. See page 2182, Legislative Journal.) 43 ayes, 4 nays, 2 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read LB 477A.

CLERK: (Read LB 477A on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 477A. Have you all voted? Record the vote.

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LB 12, 435, 460

CLERK:to Senator Howard Peterson regarding LB 12, and Senator Landis would like to print amendments to LB 435 in the Journal, Mr. President. (See pages 2255 through 2258 of the Legislative Journal.)

Mr. President, LB 460 was introduced by the Retirement Committee. (Read title.) The bill was first read on January 20, referred to Banking, Commerce and Insurance. The bill was advanced to General File. I have no amendments on the bill, Mr. President.

PRESIDENT: All right, the Speaker asked for all the chairpersons to meet with him in his office while we are taking up LB 460. The Chair recognizes Senator Fowler then for purposes of discussing the bill. LB 460.

SENATOR FOWLER: Mr. President, this is a fairly far-reaching and significant bill that changes the manner in which the State of Nebraska invests its fund giving broad discretion to the State Investment Officer and removing statutory authority. It was requested by the State Investment Officer, introduced by the Retirement Committee, sent to the Banking Committee for their expertise on this subject. I lay the matter in the hands of Senator DeCamp to explain the merits or deficits of this proposal.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, very briefly and very simply this adopts for the hundreds of millions of dollars that the State Investment Officer has control of, something called the Prudent Man Rule in the investment of these funds. As you know, tens of millions, maybe hundreds, I don't know how much at this time, have been lost in the principal value of the funds and the primary excuse, and it's accurate, that has been given is because there is no flexibility in the statutes that date back to when this thing was formed for adjusting to times of inflation and the realities of the world we live in today, and, therefore, the funds have been put into things that just guarantee they are going to be in trouble. There has been no flexibility. Very simply, it adopts the Prudent Man Rule. I urge the advancement of the bill.

PRESIDENT: Okay, Senator Fowler. Senator Fowler, anything additional? That will....Senator DeCamp, does that consist of the opening and the closing on this then, because I don't see Senator Fowler. Senator Beutler, did you wish to discuss the....?

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PRESIDENT: Senator Schmit, do you want to move the bill on?

SENATOR SCHMIT: I move the bill be advanced.

PRESIDENT: Motion to advance LB 385 to E & R for engrossment. Any discussion? All those in favor of advancing to E & R for engrossment LB 385 signify by saying aye, opposed nay. LB 385 is advanced to E & R for engrossment. It is awful hard to hear up here so you had better yell out. Okay, that will conclude the matters under Select File. The Chair at this time, Mr. Clerk, Senator Koch has a...is Senator Koch back there...the Chair recognizes Senator Koch for a point of personal privilege. State your point, Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker, but I will do it by a form of resolution instead, thank you.

PRESIDENT: All right, thank you. Then we will proceed, then, Mr. Clerk, do you have anything else to read in? We will proceed then with motions, agenda item #5. We will start then with LB 394, motion to reconsider by Senator Maresh. Mr. Clerk.

CLERK: I understand that Senator Maresh would like to withdraw that motion.

PRESIDENT: Motion withdrawn. All right, so that disposes of that one. It is withdrawn. Go on to LB 12.

CLERK: Mr. President, Senator Shirley Marsh, Senator Vard Johnson, Senator Dave Newell and Senator Chris Beutler move to pursuant to Rule 6, Section 11 of the Legislature override the Governor's veto of LB 12.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, the debate now will be over whether we should override the Governor's veto of LB 12. LB 12, as you will recall, increased the food sales tax credit from \$28, which it was last year, to a proposed level of \$31 per person. Over the years we have had a long debate in this Legislature over whether we should have a food sales tax credit or whether we should abolish that system altogether and simply abolish the sales tax on food entirely, and to date, the proponents of the credit have won out, sometimes by larger votes, once by one vote. So we have had a credit system, in effect, ever since Governor Tiemann, fourteen or fifteen years ago, established the system. But the proponents of the credit system have always promised us and pledged to us

and told us that the amount of that credit would be and remain and continue to be equal to the amount of money that people actually lose through sales taxes on food. So they are, in effect, paid back for what they pay in. That has been their promise until this year and that promise has now been broken. Last year this Legislature argued extensively and long on the floor as to the appropriate amount of the credit and those who were taking the tough position, the proponents again of the food sales tax credit, said \$28 is enough. \$28 is right. \$28 is the proper figure. Now one year later if you will take a look at the handouts that I passed out to you, you will see that food prices have risen in excess of ten percent. Logic, common sense, rationality would indicate to us all that simply to provide a continuing program at the same level for the food sales tax credit that we would likewise raise the credit by ten percent. If you do that, then you would do what LB 12 did, raise the credit from \$28 to \$31. The bill is not radical. It doesn't even concede to the arguments of those who have been saying all along that it is too low. It is based on the \$28 that we gave last year and it covers inflation and it keeps the credit up with inflation. But now we are hearing something new. Now we are hearing that \$28 last year, contrary to everything that they had said last year, was not the proper figure. Let me review for you exactly what is happening with regard to the manipulation of figures recently. The \$28 figure was based on statistics as supplied by the Department of Agriculture, Family Economics Review. That was the measuring standard that was used last year and for all the years before that. That was the standard that was set up by the Tiemann administration. That was the standard adhered to by the Exon administration. That was the standard adopted by the Thone administration. That has been the underlying basis of all discussion of the repeal of the sales tax on food and on the sales tax credit. Let me ask you then to look at the second handout that I have given you and you have seen it before. It is the fiscal note on LB 48. LB 48 this session was introduced to do away with the sales tax on food and it was killed in committee, but the fiscal note is significant to prove to you that the Thone administration has been using this standard of measurement itself. Look at the fiscal note and you will see that the anticipated revenues are \$50 million, and if you divide that out by the population, that comes out to a credit of about \$32 per person. That is the standard they used to argue against the repeal of the sales tax on food. Too much revenue would be lost, they said. \$50 million would be lost. Now it is not January. It is May, and it is not the repeal of the food sales tax, it is whether the credit should be increased, and the figure is no longer \$50 million, it is

\$35 million, and I say to you if the people of this state don't have any faith in the integrity of government, this is one of the reasons. They look in the paper one day and they see it is \$50 million worth of revenue, and four months later, government is telling them, no, it is only \$35 million revenue, and by the way, we are not increasing your credit. They have now switched to the Department of Revenue figures which have problems in and of themselves and I will let Senator Newell and others discuss those problems and I hope they will go into some detail but the two points that I wanted to make to you for openers are, one, all we are asking is a continuation program for the food sales tax credit, just keep up with inflation, and, two, don't let the administration hoodwink you by this switch in their use of statistics. The revenues by any fair measurement that we have ever accepted prior up until this time are \$50 million, and when you divide that by the population, it comes out to about \$32 per person, and those are the facts of the matter. Thank you.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, I rise to support the override attempt of the Governor's veto of LB 12 and I would like to talk a little bit about not only the statistics that the Governor has provided in his budget message but also a little bit of the figures that various groups have provided, talk about some of the reasons why the Governor came up with his proposal, and then, basically, ask some questions as to whether or not the Governor is coming around on the food tax elimination. First of all, let me say that in the Revenue Committee when we heard LB 48 which is the elimination of sales tax on food, the opportunity to express and discuss and analyze various figures have always been there because there has never been a time when you couldn't find fifteen different estimates or at least six different estimates on what it would cost to eliminate sales tax on food or if it would cost anything. Now those figures do vary widely and I pointed those out in committee and I have on occasion argued some of the same things that the Governor argues in his veto message. Now I did it using some different data and, basically, said that there would be no cost to this state to eliminate sales tax on food if this data was correct. And the Department of Revenue said the data was not correct, the Department of Revenue said that I was woefully, clearly underestimating the amount of food that people purchase and the tax that they pay and, therefore, when I argued that it would not cost anything to eliminate sales tax on food, the Department of Revenue and

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the Governor's Office said absolutely not. In fact, the Governor has said on many occasions that it would cost money. In fact, May 1, 1981, the beginning of this month, at his weekly press conference, the Governor said that he would not support the elimination of the sales tax on food. That is when, if you can remember, I was doing a little posturing on possibly trying to amend LB 12 to eliminate the sales tax on food. Senator Maresh was so eloquent in his arguments at the time begging me not to try, not to offer my elimination amendment, and so forth, because this was going to pass and this was the best we could do and I, basically, succumbed to Senator Maresh's arguments and I did not offer the elimination proposal at that time. But at that time the Governor in his weekly press conference said we cannot afford to eliminate sales tax on food because it would be a loss of revenue to the state. Now, obviously, he hadn't done his sleight of hand or looked at the other possible figures that were available because he has changed his mind now when he finds himself in a little bit of a budgetary problem and wants to find some justification for leaving the credit as it is today. So, basically, what we find is that the Governor has provided and has used figures to justify his position even though previously he has argued that they were not justifiable. Now in some quarters they would call this, oh, I think intellectual dishonesty or playing fast and loose with figures. In my neighborhood we are a little more direct about those things. We would say it is, basically, a big fib or a lie or a bald-faced lie. In my neighborhood, we are not quite as polished as they are in the Governor's Office. We don't try to find these justifications when it is convenient but, basically, if you use the Department of Revenue's figures and the Governor uses the Department of Revenue's figures but he uses them only...he doesn't use their figures of the estimated cost, he uses them to say here are the receipts from grocery stores. Now he forgets that (interruption).

PRESIDENT: 30 seconds, Senator Newell.

SENATOR NEWELL: My time is running quickly, forgets that, in fact, we are consuming food outside...we are buying food outside of grocery stores. We buy it at the Kwik Shops, the K-Mart's, all those kinds of places. We buy at restaurants and that an estimate of thirty percent of all food consumed by the American public is, in fact, taken outside the home in restaurants and fast food places so the Governor is woefully inadequate in terms of that but he is using receipts and not the Department of Revenue's estimates. Those estimates would justify \$31 very easily...

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PRESIDENT: Time.

SENATOR NEWELL: \$32 is more like what the Governor's Department of Revenue figures would provide. So when he uses these figures, it is, basically, a slap of hand. It is at best intellectual dishonesty and thank you for your extra fifteen seconds.

PRESIDENT: Okay. The Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Speaker, members of the Legislature, I would urge the body to override this veto. I think the choices are quite simple. We passed LB 3 and given a substantial amount of money in the same direction to the business interest of the state and here we are trying to get it back, taking \$3 from every man, woman and child across the state, and especially where this hurts are the poor people, the elderly, those that really can't afford it. That \$3 cuts that. To tip that \$3 in to pay for LB 3 to bail out industry is, I think, really inexcusable for this body. When it comes to the projections from the Revenue Department, the \$3 is approximately inflation over last year and for several years our projections have been that we have been attempting to cover to really just rebate the actual take from the sales tax on food. Now all of a sudden we have one set of figures that disputes this dramatically pop up that ends up for an excuse for a veto on this \$3. The opposition to abolishing the sales tax on food has primarily been centered on two positions, one, that it would be too expensive, which has been the main one, and the other, the involvement of the city sales tax and the loss of revenues to the cities. But I think the overwhelming reason that we did not abolish the sales tax on food which would have saved another million dollars on the three percent on this \$30 million, would have saved a million dollars in collecting the sales tax and rebating. There is a whole million to deal with right there. But it would have been too expensive a route to have abolished the sales tax on food. Then when we get up to Final Reading right at the end of the session, suddenly we are given figures that have some partial factual basis but do not include the vending machines, do not include cafe meals and the other assortments and are really unrealistic when you look at them as far as what would be a true representative figure. I think the issue is really simple. Are we going to take and rob from the sales tax on food to pay for these other gifts we are giving in legislation this year where the primary benefactors are generally the wealthier people? We have a salary bill in to raise the judge's salaries. We are raising the University's salaries and this Legislature

would not buy an amendment I had to cap the increases at \$3200. That would have saved \$400,000 and we have room for this and have to take it back out of the sales tax on food. I can't believe what is happening. I can't believe this body won't override the veto on the sales tax on food. I think it is atrocious what we are doing here in taking from the poor to give to the rich or the wealthier people of the state in salaries across the board. Our Constitution law officers salary bill, we have got money for that maybe, for the judges' salaries, for the University highest salaries, and then we come around and take it out of the sales tax on food. I can't believe it. Thank you.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, LB 3 was signed by the Governor. LB 12 in its public hearing had no one opposing it from the Governor's staff, no one opposing it from his budget department, no representative explaining that it ought to be a reduced figure, it ought to be an adjusted figure, it ought to be changed. At the last minute it leads us to speculate on the reasons for the veto by the Governor. The speculation simply must include the fact he does not wish to have sales or income taxes increase. In practicality you must look to your constituents across the State of Nebraska. They may not remember that there was a state reduction last year. They will remember if you do not override the Governor's veto. A very modest increase in income tax will be paid by those who have the funds to pay an income tax. A reason for an increase, a specific reason for an increase that treats the citizens of our state on a fair basis, why, when the public hearing was held on LB 12 was the Governor's Office absent if he needed to veto it at the very last minute? In fact, there was no need to try to change the figure. The introducer of the legislation was not apprised of the need to change the figure until the very last minute. My constituents are spending more in sales tax than \$31. My constituents feel this is a fair way for their government to treat them. I have been a strong advocate the nine years I have served in this body for keeping the sales tax on food. If this piece of legislation is not overridden this year, it seems to me I will have to change my position and no longer support sales tax on food but rather support the removal of sales tax on food, if we do not keep faith with the people. We have told the people, all branches of government have told the people, that you will receive a fair return on the sales tax you pay on food. If we do

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not override the veto on LB 12, we are not keeping faith with our constituents. Again why was there no contact until the very last minute? That leaves speculation. If you will turn in your bill book to LB 12, you can see as well as I can that there were two persons who appeared against this bill. Both of them were testifying as opponents because they favored the repeal of the sales tax.

SPEAKER MARVEL: You have thirty seconds.

SENATOR MARSH: That was the only opposition to LB 12 at the public hearing. I urge your support of the override effort on LB 12 for the benefit of your constituents who sent you here to represent them in the Legislature.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I rise in opposition to the motion to override, and at the outset of my remarks, I want and I have to make this statement. Last fall our Revenue Committee researcher, Senator Newell's researcher had made the very point of the explanation of the veto message that we received. For some reason or other, and I cannot explain that, the comments and the suggestions that they made at that point were not adhered to. We have from time to time requested from the Department of Revenue a little more detailed information for us to use so that our decision might be more correct and much of the time have been disappointed to some degree. However, it was the best that we had to use and did use it. I think that the publications upon which the Department of Revenue has based their judgments at this point can very well be documented by those people that have made these projections and that it is not too far out in left field. It is more on an average than being one side or the other. I also want to call to your attention, and perhaps you saw it in last night's Lincoln Journal, the article on Food Cost Guess Gets A Second Look and it does quote from the U. S. Department of Agriculture on the projections of food down the road and does to some degree at least paraphrase and coincide with those statements that the Governor made in his message to us. I would suggest you reread the Governor's message, that you analyze it again, and make your decision from that, and if you have last night's Lincoln Journal, I would also suggest that you read that article also. Thank you, Mr. President.

SPEAKER MARVEL: Senator Fowler and then Senator Vard Johnson.

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SENATOR FOWLER: Mr. President, I rise to support the override. I guess I would express the same surprise everybody else has, that the numbers on which we have calculated over the years this credit no longer are valid, that the assumptions that three administrations have used and the Department of Revenue have used somehow seem to have been false. Now it will be interesting to see next year when a bill is introduced to repeal the sales tax on food whether the numbers are the same or if suddenly the same numbers that are used to argue against repeal will reappear. It would seem that if we repealed right now, based on the Department of Revenue's new figures, if we repealed the food sales tax, we could gain for the State of Nebraska \$7 million. We are sending \$7 million back that we shouldn't be at the current \$28 per person. So if we have such a shortage of revenue, I would think this administration would want to repeal the sales tax on food rather than to send back money to people unnecessarily but I don't think they do because I think they know that these new numbers are temporary numbers. They are numbers for May, 1981 and they hope that the memory will disappear and that next year they can go back to their same old calculations. It is, as Senator Newell called it, intellectual dishonesty. I think that this Legislature should not endorse that type of intellectual dishonesty. Now the Appropriations Committee in building the total budget put an allocation not just for dollars for state government but an allocation for A bills and an allocation for the food sales tax and that four and a half million dollars that this bill contains is within our budget figure and there was money set aside for A bills such as those signed by the Governor and to date the Governor has yet to sign as many dollars as we allocated. So we can override this veto and stay within the Appropriation Committee's guidelines and there still would be over a million dollars left within our figures for additional A bills. So I think the revenues are there. Inflation dictates this type of increase and I would say that we should not rely on figures that suddenly appeared at the last minute as the basis for this type of calculation. I think we should stay with what three administrations, Democrat and Republican, have told us is the best way to calculate this credit and we should stick with that process until we have greater evidence that the new figures that are being provided are true. So I think that there are obviously the revenues for this override that fit within the allocation allowed by the Appropriations Committee. We were counting in our figures on this bill being passed and becoming law so I would support the override.

SPEAKER MARVEL: Senator Vard Johnson and then Senator Cope.

SENATOR VARD JOHNSON: Mr. Speaker, members of the body, it seems to me that when we deal with a very sensitive subject of veto overrides, it is important for us to get back to first principles, and the first principle that I look at in considering what is the significance of a veto override, if we look at our own State Constitution, our Constitution provides as follows: "Every bill passed by the Legislature before it becomes a law shall be presented to the Governor. If he approves, he shall sign it and thereupon it shall become a law. But if he does not approve or reduces any item or items of appropriation, he shall return it with his objections to the Legislature, which shall enter the objections at large upon its Journal and proceed to reconsider the bill. If then three-fifths of the members elected agree to pass the same, it shall become a law notwithstanding the objections of the Governor." Now the first principle here, in my opinion, is that the last word on law belongs to the Legislature. It does not belong to the executive. It belongs to the Legislature. That means we are the ones that have the final determining voice on what shall or shall not be the law of the state. Now what is the second principle that is important, in my opinion, at looking at a veto override? It is our basic organizational function, our basic organizational function, as all of us well know, is that this is a nonpartisan Legislature. It was created specifically to take out of the legislative process party considerations. This is not a Republican Legislature. This is not a Democrat Legislature nor is this an Independent Legislature. It is a nonpartisan Legislature. One of the unfortunate things that happens, of course, when a Governor who is a partisan officeholder vetoes a bill is that in some sense that veto politicizes that bill, and that means simply if we have a Democratic Governor, then it may well be that some members in our body who label themselves Democrats want to support that Governor because they are of the same political party, or if we have a Republican Governor, then some Republican members of our body may want to support that Governor on that veto because they are of the same political party, but under first principles, the Governor's party has no relationship to our nonpartisan function and our nonpartisan function in this context means that we have the last word irrespective of the Governor's politics and irrespective of the Governor's view. Now one of the things that you and I have not done this session is you and I have not really provided individuals any kind of direct tax relief. We have developed a relatively responsible state budget. We have developed some decent water policies, transbasin diversion. We have done some other good things

but we have not done any kind of tax relief. The food sales tax credit is one of the two credit items that exist on the individual state income tax return and, frankly, it is important to the taxpayers in this state to be able to have a credit that reasonably reflects the kinds of money they pay out in food sales tax. It seems to me that we act foolishly if we fail to provide our taxpayers with this modicum of income tax relief. Now Senator Newell and Senator Fowler and others, Senator Marsh, have talked about the basic unreliability of the Revenue Department's statistics. I took a look at the statistics the other day and I kind of worked them out in my own crude way. If we have a \$31 a year tax credit, a \$31 a year tax credit really reflects on a three percent sales tax situation that I would spend about \$20 a week for my food purchase. On the other hand a \$22.15 tax credit, which is what the Revenue Department ends up saying that really all our sales tax collections are worth...

SPEAKER MARVEL: You have thirty seconds.

SENATOR V. JOHNSON: ...reflects about a \$14 a week expenditure by me for my food purchases. Now I happen to do a lot of shopping in my family, sometimes contrary to my best desires but I do it, and I can guarantee that I spend more than \$20 per week for our family members on our food and I am confident that is the experience of most wage earners in this state. To return to our wage earners the kinds of dollars they are spending on food sales tax is only just and appropriate and it is a nonpartisan issue. I encourage you to vote for the override.

SPEAKER MARVEL: Senator Cope and then Senator Labeledz.

SENATOR COPE: Mr. President, members, I will not vote for an override of LB 12. I think it is up to all of us to use what statistics that we think are correct. They are floating around by the bushel baskets. So that is up to us. I voted for LB 12, as I said. I am sorry that we are not going to be able to pay it but what is more important to me and the reason that I am not going to vote for an override is that I don't want the sales or income tax to be raised and I think the people in Nebraska agree with me. Now, remember, this isn't \$3 a week, it isn't \$3 a month. It is \$3 a year and that is all. So I think we have a choice and I will go with holding the sales and income tax.

SPEAKER MARVEL: Senator Labeledz and then Senator Pirsch.

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SENATOR LABEDZ: Thank you, Mr. Speaker. I wholeheartedly support the override of LB 12 and Senator Cope is right. We have had statistics all over the place but I do want to emphasize that the figures do not include the sales tax that you and I pay in restaurants, in drive-ins, when we take our families to the drive-in, or from the vending machines. Now I understand that could mean about thirty or forty percent of the sales tax revenue that is collected on food and both the blue collar and the white collar workers, many of us, purchase our lunches during the noon hour. Lot of us also purchase our breakfasts. Not only that but there is numerous times when we will take the family out to the drive-in or to the restaurant, and if that is amounting to thirty or forty percent of the sales tax paid on food, then I certainly believe that the statistic that we received from the Department of Revenue are very wrong and I urge the members of this body to vote for the override and I don't think the amount that we have in there is enough compared to the amount of food that is purchased by any family in the State of Nebraska. Thank you very much.

SPEAKER MARVEL: Senator Pirsch and then Senator Wesely.

SENATOR PIRSCH: I am one of those who will not vote to override the Governor's veto on LB 12. I have consistently in the past supported the abolishment of the food sales tax and I continue to do so and I think we are just placating by raising the amount. We are putting off, we are postponing, we are making excuses for charging a sales tax on food. My constituents have not clamored for a raise in this payback and it doesn't make sense to me to take in more money to give back more of a collection fee and send back to the people that we took it from and I think you're just postponing the time when we have to deal with this and I would hope that our Revenue Committee in their extensive studies this interim would make that decision that now is the time to eliminate the sales tax on food. We argue about whether it should be from the restaurants. We argue about whether it should include both restaurants and stores. I think it should be eliminated entirely and this is just going to delay that decision. In looking at the handout that Senator Beutler passed around, he divided the population into the \$50 million figure which equated to a credit of about \$32 but he did not go down and take off the allowance for nonfood items which is a great deal of your supermarket expense, the \$7 million. When you do that, it turns out that it is only \$27.58 credit that is paid on the food amount. If you take off the three percent discount to

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the retailer for collection and you take that amount, it drops farther to \$26.61 credit. I highly recommend that you do not override the Governor's veto.

SPEAKER MARVEL: Senator Wesely and then Senator Koch.

SENATOR WESELY: As much as Senator Koch and I would like to talk on this, I am going to call the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Shall debate cease? Record the vote.

CLERK: 27 ayes, 4 nays, Mr. President, to cease debate.

SPEAKER MARVEL: Debate is ceased. The Chair recognizes Senator Beutler. Do you wish to close?

SENATOR BEUTLER: I would just take a minute, Mr. Speaker, and Senator Newell would finish the closing. Just let me make a couple of comments on the figures we have been talking about. \$50 million is the figure that we should be using and you should subtract out of that nonfood items which brings it down but you should also add back into that food that is sold in restaurants and food that is sold at vending machines, and when you subtract out non-food items and then add back in restaurants and vending machine sales, the actual revenue figures are higher than \$50 million and it is not correct, in my opinion, to subtract out of that a three percent discount that you give to the retailers for handling the matter because the fact is that what was paid in by the food purchaser is the total amount including the discount. That is what is paid in and that is what he should get back. So the \$50 million figure is a conservative figure at that. Now above and beyond all that, if you come from Lancaster County, if you come from Lincoln, and if you come from Douglas County, we haven't even begun to be fair to you. I don't know how anybody from Douglas County or Lancaster County could not vote for this override because we are not talking about three percent for them, we are talking about four percent and four and a half percent. So they should have a considerable additional amount coming back to compensate them for what they are being taxed. So with those two comments, I would like to ask Senator Newell to finish the closing.

SENATOR NEWELL: Mr. President, members of the body, I think we spent a lot of time on the figures. Frankly I am not

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sure that I disagree with the Governor's figures all that much. The only thing I resent is when I tried to use them he said they weren't adequate, they were too low. When he wants to justify his position they are all of a sudden adequate. So I guess that is the only thing I have to say about the figures. One other thing that I would like to say, and I think it is important, is I am in a really good position. If we override the veto of LB 12, we have done the right thing and that is good. If we don't override the veto of LB 12, then I think I win also because I think we have a stronger argument for the elimination of sales tax on food next year. We use the Governor's figures. He has now come to agree with me that those are the right figures and, frankly, I think that because many of us will see that we have broken faith with the body politic, with our constituents, that I am going to win in either case whether we override or whether we don't override. And, frankly, it is with mixed emotions that I argue that we should override this veto. It is right. It is just. And, frankly, it isn't going to create the kind of problems that the Governor has been talking about in terms of the tax rates. Frankly, I think we can override this and LB 39 both and not increase the tax rates, and if we do, we'd only increase the income tax and that raises \$28 million. That is going to be substantially more than this and LB 39 together. So, frankly, you know, I have heard a lot of arguments and the only real argument that I would make in conclusion and that is simply this, that when this bill passed on Final Reading it had 44 votes, 44 to 4, and unless there is a heck of a lot of just plain politics involved in this, this veto ought to be overridden very, very easily, and, frankly, I win in either case. The right thing to do is to override it. I would urge you to do that. We ought to do a few things correct this session.

SPEAKER MARVEL: The motion before the House is the override of the veto. All those in favor of override vote aye, opposed vote no. Have you all voted? Senator Newell.

SENATOR NEWELL: Yes, Mr. President, I am surprised but for the record I would like to have everyone come in and register their presence and we will have a roll call so that everybody has an opportunity to show their constituents just exactly where they are on this issue.

PRESIDENT: Okay, the first motion is, shall the House go under Call? All those in favor vote aye, opposed vote no. Record.

CLERK: 27 ayes, 4 nays to go under Call, Mr. President.

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LB 12, 172, 242, 302, 321,
344, 376, 411, 488, 494

SPEAKER MARVEL: The House is under Call. All legislators should be in their seats and record your presence. Senator Burrows, will you record your presence? Senator Koch, will you record your presence? Senator Schmit, will you record your presence? Senator Remmers. Mr. Sergeant at Arms, we have two excused and we need to find Senator Schmit. After we have completed this activity, will you please remain. We have an announcement to make. Senator Newell, are you ready for the roll call. Do you want a roll call vote? Okay, call the roll.

CLERK: (Roll call vote taken. See page 2313, Legislative Journal.) 23 ayes, 25 nays, Mr. President.

SPEAKER MARVEL: The motion lost. May I have the attention of the Legislature for just a moment. I would like to read a statement. "The Governor has notified us that he will act on all legislation by Friday, May 29th. Through the Governor's cooperation in taking this prompt action, it will enable us to meet on Friday, May 29, 1981, and adjourn sine die that day." It is now my recommendation that we continue with our original calendar and meet this Friday and adjourn that date sine die. I believe this accommodates most of the members desires. However, please understand that all bills not correctly engrossed at the start of business today, the 88th Day, cannot be considered on Final Reading until the final date, the 90th Day. This proposal allows us to accomplish all goals set forth for this legislative session. If you have questions, I would suggest that you talk either to Senator Lamb or to Mr. O'Donnell. Do you have something you wish to read in?

CLERK: Yes, sir. Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 172 and find the same correctly engrossed; 242, 302, 321, 344, 411, 488, and 494 all correctly engrossed. (Signed) Senator Kilgarin.

Mr. President, I have an Attorney General's opinion addressed to Senator Lamb regarding LB 376.

SPEAKER MARVEL: Underneath the South balcony, it is my privilege to introduce as a guest of Senator Jim Goll his daughter visiting from San Francisco, Mrs. Sarah Goll Haskell. Where are you located? Will you please stand up so we can see where you are? Welcome to the Unicameral. What is the next order of business, Mr. Clerk?

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LB 12, 39, 39A

RECESS

PRESIDENT: The Legislature will come to order. Register your presence. Record the presence.

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

PRESIDENT: All right, do you have some matters to get into the record or what is the first order of business, Mr. Clerk?

CLERK: Mr. President, I do have letters and a certificate that needs to be signed by the presiding officer certifying the passage of LB 39 and LB 39A notwithstanding the objection of the Governor.

PRESIDENT: Okay, as presiding officer I shall sign these certificates while the Legislature is in session and capable of doing business. Yes, the Chair recognizes Senator Warner.

SENATOR WARNER: I did not understand the bill numbers that you are signing.

PRESIDENT: 39 and 39A.

SENATOR WARNER: If I was to make a motion relative to 39, is now the time to do it yet?

PRESIDENT: Well, I suppose you could, yes.

SENATOR WARNER: There is nothing signed (interruption)

PRESIDENT: Well it has not gone off the desk here.

SENATOR WARNER: Well I have a motion to reconsider LB 12 filed. I could not file the one on LB 39 as I was not on the prevailing side but I was on LB 12 and the only way I could bring up what I want to bring up is to file the motion. I did because that is the only motion I am eligible to do.

PRESIDENT: Okay, there is a motion. Why don't we just take up the motion and see what it is. Motion on the desk. Read the motion.

CLERK: Mr. President, Senator Warner would move to reconsider the override motion on LB 12.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I am sorry to bring this up again in a sense but some things that were said on LB 39 over the noon hour I have thought about and I am moving to reconsider LB 12 but it is on a condition that I would otherwise withdraw and that is that someone who voted on the prevailing side of LB 39 which was to override would indicate that they were willing to reconsider that and not override that. The basis for my thinking in part was some discussion that took place on LB 39 which one of the members indicated, incidentally, I have not talked to anyone on what I am proposing here, but one of the members indicated there was only concern from apparently the Governor's staff that both bills would not be overridden and I got the implication at least if one was that it wouldn't be all that bad. Now if that is correct then I would suggest that the wrong bill was overridden and the wrong bill was sustained because there is no tax relief out of LB 39 as was indicated that if it was not passed it would mean some programs and services would have to be cut at the local level for the county to pay their Medicaid bill but if it is passed they would still have that money to spend for other programs. So there obviously is no reduction in taxes. Whereas in the case of LB 12 there is a reduction in taxes, at least 4 dollars net taxes or 3 dollars less total taxes per person so that is clearcut tax relief or tax reduction. So what I am attempting to do without having visited with anyone is to inquire if there is anyone who voted for the override on LB 39 that would be willing to make the motion to reconsider and, secondly, if so, if they would be willing to offer that motion ahead of the reconsideration motion of LB 12 and then I would pledge to personally support 12 and its override and I would hope that 39 would not be overridden. Now maybe the Legislature feels that it has made its decision and that is that and that is all well and good but if it was correct that one could have been overridden then I feel very strongly we did the wrong one. So I will pause for a moment, Mr. President, if anybody would push their button to indicate they would be willing to do a reconsideration. Otherwise I will ask to withdraw my motion.

PRESIDENT: All right, if someone wants to they can speak to the issue and let you know. Is that what you want done? You want to somebody to tell you they will do it. All right. Mr. Clerk, maybe we could advise the body, those that are coming in, what motion is before the House. Yes, Senator Lamb. The Chair recognizes Senator Lamb.

SENATOR LAMB: I believe that we should just continue the schedule since there is no motion before the body at this point.

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LB 12, 39

PRESIDENT: There is a motion before the House. Senator Warner is addressing the motion. We are waiting to see if anybody will respond to his question. If, in a very short period of time no one responds, I understand he is going to withdraw the motion for the time being at least.

SENATOR LAMB: Time is up.

PRESIDENT: Senator Warner.

SENATOR WARNER: I'm sorry. There is no motion. Mr. President, was there any motion, or anyone acknowledge their willingness to make a motion on 39? If there was not, I will withdraw the motion. I don't want to take time.

PRESIDENT: Senator Newell.

SENATOR NEWELL: Mr. President, I appreciate very much what Senator Warner has said and I would only say publicly what I told Senator Warner privately, that we have one, we have 39. I hate to admit this but the food tax credit was pretty weak as I recall it. I just happen to have the vote right here, not that I pay attention to those things but there was only 23 votes for the override of the food tax credit. My father once taught me, he wasn't a real good hunter, but he taught me a bird in the hand is better than two in the bush or anything in the bush so I think at this point in time I appreciate Senator Warner's concern. I would sure like to bring back 12 and get that overridden but not at the expense of losing 39 at the same time, so, thank you anyway, Jerry.

PRESIDENT: Senator Marsh.

SENATOR MARSH: Mr. President and members of the Legislature, I voted on the affirmative side of 39. I would like to see a reconsideration of 12 first. I will make a reconsideration of 39 if we pass 12. I don't want to lose both and I would remind the members of this body that there are more dollars in 12 that will go into each constituent's pocket. So each individual will be aware. I need to know if there is support for a reconsideration for 12. I cannot make the motion. I was on the losing side.

PRESIDENT: Only Senator Warner can make that motion. As I understand, there is no motion before the House. So we are talking about to no motion and unless somebody makes a motion I am going to go ahead with the business of the afternoon. Senator Warner.