

November 5 , 1982

LB 1, 2, 3

PRESIDENT: The committee will escort the Governor out of the Chamber. We will have introduction of the bills after which we will stand at ease until we can get them...the committee can reference them. Go ahead, Mr. Clerk, with the introduction of bills. CLERK: Mr. President, new bills. (Read LB 1 and 2. See page 8 of the Legislative Journal.)

PRESIDENT: Before we stand at ease the Chair recognizes Senator Beutler for an introduction. Senator Beutler.

SENATOR BEUTLER: Mr. President, I'd like to ask the privilege of introducing to the legislative body a couple of visitors from Somalia who we have the privilege of entertaining in our state this year, Brigadier General Mohamed Sheikh Osman in the far north corner and he is accompanied by his son, Maikal Mohamed Sheikh Osman.

PRESIDENT: Welcome to our distinguished visitors to the Nebraska Unicameral Legislature. And the Legislature will now stand at ease until the Referencing Committee has completed its task.

EASE

PRESIDENT: The Legislature will come to order. The Clerk will give us any messages on the desk and read any reports. Mr. Clerk.

CLERK: Mr. President, first of all I have a reference report from the Reference Committee referring LB 1 and 2 directly to General File.

I have a notice of hearing from the Revenue Committee, an informational hearing scheduled for next Monday and Tuesday. The Appropriations Committee will hold an informational hearing as well, Mr. President, on next Monday and Tuesday.

Mr. President, new bill, LB 3 offered by Senator Koch. (Read LB 3 as found on page 10 of the Legislative Journal.)

PRESIDENT: Anything further on the desk, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President, I move that the body adjourn until 10:00 a.m., November 8, 1982.

PRESIDENT: The motion is to adjourn until Monday, November 8 at 10:00 a.m. All those in favor signify by saying aye, opposed nay. We are adjourned until Monday at 10:00 a.m.

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SENATOR LAMB PRESIDING

SENATOR LAMB: Good morning, ladies and gentlemen, if we could please come to order. We will have the prayer by Dr. Al Norden, Pastor Emeritus of the University Lutheran Chapel where he served for thirty years and he also happens to be the father of Don Norden who is committee counsel for the Revenue Committee.

DR. NORDEN: Prayer offered.

SENATOR LAMB: Roll call. Have you all recorded your presence? Record.

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

SENATOR LAMB: Corrections to the Journal.

CLERK: I have no corrections, Mr. President.

SENATOR LAMB: Messages, reports or announcements, Mr. Clerk.

CLERK: I have none this morning, Mr. President.

SENATOR LAMB: The next order of business is #5, General File. The first bill to be considered is LB 2. Senator Carsten.

CLERK: Mr. President, LB 2 was introduced by Senator Lamb at the request of the Governor. (Read title.) The bill was first read on November 5th of this year. The bill was referred directly to General File, Mr. President. I do have two amendments to the bill offered by the Revenue Committee, Mr. President. (Amendments appear on pages 46-47 of the Legislative Journal.)

SENATOR LAMB: Senator Carsten.

SENATOR CARSTEN: Let's take the one that changes the filing date first, Pat. Okay? Mr. President and members of the Legislature, I move for the adoption of this amendment. There are two separate amendments. The first one, and as you know, the procedure is a little bit different than our normal procedure. The bill was directly referred to General File. However, we did have an informational hearing on the bill and went through the general processes that we usually do on a hearing. The discussion of the changing of the filing date to the 15th was the real, most important part that we had testimony on. It did appear that there needed to be some changes made on that date because of various reasons, one being, about four times during the year the last of the month comes on a weekend and then the monies are finally gotten to the Department of Revenue on the first of the next month and thus, lowers the receipts for the month in which it is really paid. So it throws it out of

projections to some degree. That was one of the basic reasons for it. The original bill moved it to the fifteenth and during our discussion with it there were several alternatives suggested. The fifteenth did seem to be not very well accepted at all, in fact, any changes was not completely accepted. However, with some discussion later with various people, the twenty-fifth did seem to be more or less a better date than the fifteenth. So the committee in their deliberations then voted to approve changing the date from the fifteenth on page 2, lines 7 and 11, to the twenty-fifth instead of the fifteenth. Now in presenting this amendment to you I want to also alert you that the payouts to governmental subdivisions from the Department of Revenue are also made during the month on the twentieth. So you can see there is going to be a discrepancy of five days there on receipts and disbursements. The committee anticipates that in order to rectify that difference, that in the next session, and of course we cannot do that now because of the specific call, but in the next regular session the Revenue Committee will be submitting a recommendation that that payout date be changed to coincide with this reporting date on the sales tax. I believe, Mr. President, that, in short explanation, does cover the discussion that we had at the hearing and the result of our committee discussion and decision. So I would again then move for the adoption of this amendment, changing the date from the fifteenth to the twenty-fifth.

SENATOR LAMB: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. Chairman, which amendment are we talking about now? The twenty-fifth? I support this amendment reluctantly. I was one of those that testified that didn't think we ought to change the date at all but since we are in a financial bind, I think that perhaps we do need to compromise. It is hard for me to believe that with the state's shortfall of cash, that we ask one segment of Nebraska people to bear that burden and of course that would be the merchants that collect the sales tax. It is true that Nebraska has a cash flow problem but let me tell you, small business of Nebraska has a cash flow too and so it is going to put a burden on them. I think by changing it from the fifteenth to the twenty-fifth it will give them an additional ten days to collect their accounts and to have this money to pay the State of Nebraska. A lot of the small businesses of Nebraska have charge accounts and of course, usually when you have charge accounts you call it a thirty day credit and they usually pay you ten days after the end of the month. But during the last year a lot of the customers have delayed this payment an additional ten or fifteen days. They have waited to the fifteenth and now the last six months, some of them have waited until towards the end of the month and so small business does have a cash flow. I was also concerned that this might be the straw that breaks the camel's back because as you read in the bankruptcy reports of our daily papers and of our Sunday papers, we find that many small businesses are taking out bankruptcy. So I think we need to be very, very careful. Most of the states that have a sales tax sets around Nebraska do have a due date at the end of the month. I think there is only one exception and that is Colorado and

their due date is the twentieth. So, like I said before, I'll reluctantly go along with this change and support this amendment to pay it the twenty-fifth instead of the fifteenth.

SENATOR LAMB: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, members of the Legislature, I would likewise say that I would reluctantly go along with this change. I personally would oppose the whole matter of moving the date up at all because I think that really what we are doing is hurting the small businessmen. I have heard from a number of retailers in Grand Island and when you start to think about collection of accounts receivable in relation to the dates of when we ask them to make these reports, I think we have got to recognize that we are just adding to the burden of the retailer and that it will certainly affect some to the point where it may cause some to even fold. But I would reluctantly go along with this change of dates. If we change to this date I would go along, if not, then I'll vote against the whole bill.

SENATOR LAMB: The Chair recognizes Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, I serve on the Revenue Committee and I was one of the committee members that heard this bill and I'm not particularly happy about it but with the way the situation is, I think it is best that we do adopt it and go to the twenty-fifth. There is no way that I could go along with the date of the twentieth. So that is my purpose in supporting it, trying to help us through this as much as possible so I do support the Chairman on that amendment.

SENATOR LAMB: Senator Kahle.

SENATOR KAHLE: Mr. President, members, it sounds like the Revenue Committee is unanimous on this. They are really not. I don't know whether the members that oppose it are here or not but I spent from eight to almost nine o'clock on the telephone this morning with constituents of mine and most of them were concerned about this situation and after explaining what we are attempting to do, to move it from what was originally the fifteenth to the twenty-fifth and then explaining the cash flow problem that Senator Carsten and others have explained, that this money will be coming into the state early enough so that when the state pays out to subdivisions of government, they would have the money in hand where now there is a lapse of time. Money comes in either the very last days of the month or the first of the next month and I believe they explained that in October for instance, being the weekend was...or the end of the month was over the weekend that there was some six or seven million dollars came in the first few days of November that probably should have been in the last days of October. In looking at other states we find that they have adjusted to this type of problem to help their cash flow and also it was brought out, no one has mentioned and I don't think any of us want to change it

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but our merchants do get 3 percent for collecting the funds which is a little bit more than most states get and after explaining this all to the merchants that I talked to, they're not all that happy but they can live with it. So I certainly support this compromise if you want to call it that.

SENATOR LAMB: There are no more speakers on our list. Senator Carsten, would you care to close on your amendment?

SENATOR CARSTEN: Mr. President, members, I don't think I need to say anything more. I think it has all been said. The only thing is I think there are two things that we need to look at. First of all, is the impact that it will have of 13.8 or nearly 14 million to help the coffers in this fiscal year. Secondly, that it is not only a temporary thing but a long range thing that the cash flow problem will be addressed for down the road. It is not just temporary but is a long-range approach to that cash flow problem also. With that, concludes my closing and would move for the adoption.

SENATOR LAMB: The motion is the adoption of the Carsten amendment. Those in support vote aye, those opposed vote no, 25 votes.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted? Record.

CLERK: 30 ayes, 1 nay, Mr. President, on the adoption of the first Revenue Committee amendment.

SENATOR LAMB: The motion is adopted. The amendment is adopted.

CLERK: Mr. President, the second amendment I have to the bill is also offered by the Revenue Committee. It would read as follows: (Read amendment as found on page 47 of the Legislative Journal.)

SENATOR LAMB: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, I move for the adoption of the amendment. The change from January to April was recommended and suggested by the Department of Revenue for two basis reasons. First of all, the impact of the bill itself will come in this fiscal year and that is one of the main reasons. Secondly, that there is a multitude of reporting that needs to be done by various groups, industry and so forth, in January and it would add an added burden in January and as much as it can be...the same answer be done with a later date, the Department recommended that the effective date of this be April first instead of January first for those reasons. With that explanation I move for the adoption.

SENATOR LAMB: At this time I would like to introduce a couple of dignitaries

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we have under the North balcony. We have former Governor Burney. Would you stand and be recognized, Governor. We also have newly elected Lieutenant Governor McGinley with him. Don. The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. Chairman, members of the Legislature, I want to add to Senator Carsten's remarks just a little bit and I'll keep my remarks brief. Changing the date from January first to April first will give the small businesses in Nebraska a little more time to adopt to this new collection timetable and I think this is real important. Also by implementing it April first it would be, instead of April fifteenth like some of us talked about, it would be at the start of a new quarter and so this would certainly help. So I would strongly urge this body to change the effective date from January 1, 1983, to April 1, 1983.

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I'm going to be voting...I voted for the first amendment and I'll vote for the second amendment but I think we should call a spade a spade. One of the reasons that the April date is on here of course is because we don't need the emergency clause and we only need 25 votes and we can get this done. This whole operation occurs to me as much like the cash fund transfer bills that we passed last year. We are tinkering with a system that is and was a good system because we have an immediate need and this is an easy solution to a serious problem. But it seems to me that we should be doing things the right way and the right way is not to tinker with the mechanisms of the system which are good mechanisms, conservative mechanisms, thoughtful mechanisms that have been in place for long periods of time and have stood to the test of time but rather we should be simply cutting expenditures or raising the taxes. Let's face the problem. This is not a problem facing solution. This is a kind of tinkering that is in the long run, detrimental to the system. No one is standing up here today and arguing on the merits of whether it is good or bad for our small businessmen to be making this change. Instead we are all assuming that government should be accommodated, that the people should accommodate the government rather than the government accommodating the people. So I am going to vote against LB 2 in the end but I will vote for these amendments because for the wrong reasons, they would make the whole thing more palatable to me. Thank you.

SENATOR LAMB: Senator Carsten, would you care to close?. Oh, excuse me, Senator Koch does have his light on. I'm sorry, Senator Koch.

SENATOR KOCH: Mr. President, members of the body, I'll excuse you, Senator Lamb since I'm a lame duck but that is not unusual. When I was here in regular session I occasionally was not given my shot at the floor. Senator Carsten, I have a question if you would yield.

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SENATOR CARSTEN: Yes.

SENATOR KOCH: In this informational hearing which you had late yesterday afternoon, how many businessmen were there to speak to this issue? Were there some lobbyists there representing the Association of Industry and Commerce?

SENATOR CARSTEN: Yes.

SENATOR KOCH: Now in all fairness to the general public do you think it is fair when we come down here and we start applying band-aids one more time, which we have been doing for the last year and a half, to suddenly say to businessmen out there in the field, that guess what we're going to do to you? We're going to apply a new system that has never been properly heard in a public sector outside of the fact there were a few people there yesterday afternoon speaking. Senator Carsten, in your own judgment as a long time member and man of integrity, do you think this is fair for us to whip that on those people and try to doctor it up so April is the magic day instead of January, the twenty-fifth day of the month is magic instead of the last day of the month, is that being fair with the businessman which we all proclaim to want to support and protect in our political rhetoric?

SENATOR CARSTEN: Senator Koch, let me answer that by saying that there were some businessmen in the audience at the hearing, not an overflow crowd of them. There were representatives of commerce and industry that did speak to the bill in opposition to the bill in its original form. Following the hearing we did make contacts, many contacts, across the state to business people explaining what the alternatives to the original bill were and while, as I said in my opening remarks, they did not wholeheartedly agree to it, they did for the most part, say that they could live with it. As far as fairness is concerned, I'm not sure that any changes, any additions, whether it be taxwise, exemptions or what it is, there is some inequity in most everything that we do. In all seriousness we tried to be as....listening as we could to the objections, and yet try to, as I said before, attempt to make some improvement in that which we already have.

SENATOR KOCH: Senator Carsten, if you would yield to one more question.

SENATOR CARSTEN: Yes.

SENATOR KOCH: Now what will be the beneficial effect of this to the State of Nebraska? I'm talking about state government. Is this really going to solve a lot of problems for us or is it just another momentary fix where maybe it will bail us out of one serious plight or is it really going to solve a lot of things for us in the future and be there forever?

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SENATOR CARSTEN: Senator Koch, in my opinion, it is in two parts. First of all, there is only a one shot help financially to the economic situation of the state and that is that 13.8 or possibly 14, only one shot that will come out of this bill. From there on it will not have the impact on the total economic picture. The other part of it is, as I said before, we have from time to time had a cash flow problem because of a lack of returns coming in in time to take care of the payouts. This, by setting it on the twenty-fifth, will then be able to have that money there when those payouts are required. And as I also said, we're going to have to address that date of payout to governmental subdivisions to coincide because this check high thing is not good business in my business or in the state's, either one but it will, in my opinion, help that cash flow problem that from time to time we do have. That is the long range effect.

SENATOR KOCH: One final question, Senator Carsten. I understand that Mr. Leuenberger spoke to the committee yesterday and was giving you projections in terms of how critical the cash problem is in this state. I'm talking about shortfall. What was the figure he gave you, the highest and the lowest in terms of this state's financial problems?

SENATOR CARSTEN: From \$38 to \$67, that was the range.

SENATOR KOCH: Fromn \$38 million to \$67 million?

SENATOR CARSTEN: Depending upon whether you took the low or the high, yes.

SENATOR KOCH: That is absolutely it, right?

SENATOR CARSTEN: According to the Department of Revenue and his latest information that he gave us.

SENATOR KOCH: Well it sounds like they applied the Jesus factor one more time, didn't they? Thank you, Senator Carsten.

SENATOR LAMB: Senator Howard Peterson.

SENATOR H. PETERSON: I think there is one argument, Mr. Chairman, that has not been given for the change of date. I believe the Legislature needs to consider this. As far as the retailer is concerned, that if he had to make this report at the earlier date in January, the returned goods problem from Christmas sales is one that really enters in and this is the reason why the argument from the retailers was that that particular date was not a good date as far as they are concerned and that is the reason why the committee recommends the change to April 1.

SENATOR LAMB: Senator Carsten, would you care to close on the amendment?

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SENATOR CARSTEN: No, no closing.

SENATOR LAMB: There is no closing on the amendment. The motion is to adopt the Revenue Committee amendment as explained by Senator Carsten. Those in favor vote aye, those opposed vote no, 25 votes required.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted? Record.

CLERK: 30 ayes, 2 nays, Mr. President, on adoption of the second Revenue Committee amendment.

SENATOR LAMB: The amendment has been adopted.

CLERK: Mr. President, I now have an amendment offered by Senator DeCamp. I believe copies are being distributed, Mr. President.

SENATOR LAMB: Senator DeCamp.

SENATOR DeCAMP: This is my amendment for extension of sales tax on services and I know the Chair has some difficulty with that and wants to make a ruling. Is that right?

SENATOR LAMB: I would suggest, Senator DeCamp, if you want to introduce the amendment and then we will take it from there and if you have any words of explanation you would like to make at this point.

SENATOR DeCAMP: Okay, I move adoption of the amendment and then what, give an explanation and then you can make a ruling?

SENATOR LAMB: The next speaker is Senator Carsten.

SENATOR DeCAMP: I kind of figured he'd be there. Okay, I'll give my little talk, why I think... Is that okay? Got you.

SENATOR LAMB: I'll recognize Senator Carsten at this point.

SENATOR DeCAMP: Okay.

SENATOR CARSTEN: Mr. President and members of the Legislature, I only have a question and I think we do need a ruling from the Chair of whether this amendment is within the call of this special session and I guess it is my request that the Chair rule whether it is within that realm.

SENATOR LAMB: Senator Haberman. Okay, the ruling of the Chair is that it is not within the Call. Senator DeCamp.

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SENATOR DeCAMP: Mr. President, I'd challenge the ruling of the Chair and then I would go on to explain the amendment and try to justify why I think it is within the call.

SENATOR LAMB: Please proceed.

SENATOR DeCAMP: Mr. President, members of the Legislature, we have been called here for what has been identified as a fiscal crisis. As most of you know the Chinese language uses pictures to describe words. The two pictures that are some four thousand years old that describe crisis are these pictures, one that means danger and one that means opportunity because that is what a crisis is, a dangerous opportunity, and I believe that is what we are here for, to address a dangerous situation and also to have the opportunity to really address it and solve at this time. Last year you may recall, I pretty much tried to handle the Governor's proposals and in my final talk to the Legislature, after doing every single thing the Governor asked and pushing those things through in record time, the shortest special session ever, I did give this warning and I think it is important today. I said I sincerely hope the proposals that we would pass if we advance this, the bills last year, I hope it works and I mean that in all sincerity. However, I do want to say I expressed grave personal reservations about the analysis of the economy of Nebraska, now and in the future by the officials, I regretfully believe that we may be entering something more akin to a depression than a mild recession and if that does indeed occur, we will know it pretty well by February, March, et cetera, and we may have to take some pretty dramatic action. And I would submit to you, gentlemen, that that is what we should probably be doing here, is taking that bold, yes, action that has to be done overall to address this true crisis. Here is what I am afraid of. I'm afraid that we're going to simply shift to property taxes which are already incredibly high, the expenditures that we are going to be cutting or in the alternative on those things that affect the state, the University, et cetera, we're going to make massive cuts now which will simply show up in the form of hemorrhaging arteries and double trouble come next January, February, March when we are here in session. I don't believe that if we go to a straight tax increase it makes sense anymore because we are talking astronomical numbers completely different than what was originally anticipated. So I would suggest that it is time to consider a bold, new approach, an approach the other states have used and to recognize reality. Reality is if you have ten people in a room and only five of them are paying taxes and you have to raise more money for all ten and you place the additional tax strictly on the five, it is going to hurt them. The other solution is to try to bring all ten people into the taxpaying process. That is what a sales tax on services is, on legal fees, on accounting fees, yes, on barbering and some of those things, on automobile repairs. And I think it is particularly appropriate in the economy of the 1982 to the 1990s when the economy has so much shifted to a service type industry in many cases as opposed to the 1970s when everything was a new purchase, the new car, the new combine, the new tractor. Now there is a tendency to take that money that normally would be

used to purchase something new and to get it repaired and that money that normally was paying a tax is now free of paying a tax. So I would say we also have to recognize the era of the 1980s which is different. It is a service era. The bill has two other things in it. It eliminates or repeals the sales tax on food, something the Legislature has fought over at least twelve years and it repeals and eliminates the sales tax on private utilities, the gas and electricity used to heat the home. Now is this proper, is this reasonable? Well we already eliminated the sales tax on utilities for business and agriculture. We've only maintained it on the individual homeowner. The necessities of life, food and energy to keep warm in the winter, those are things we're taxing heavily at the same time that the prices of them are going up astronomically otherwise. History has shown that anytime a nation or a state, a country taxes too heavily and abusively the absolute necessities of life, you injure your citizens, you destroy your state. History is full of cases of kings, emperors who used taxes on salt which was a necessity of life as a way to control the citizenry and it did topple the kings. I know this sounds a little bit nonsensical talking about kings and so on and so forth but it is a fact that when you abuse your populous by taxing the absolute necessities for their survival, you injure that state. Now, yes, when somebody does go and get their car repaired, they do have some flexibility. It is an optional thing. They do have some control over what the costs are going to be, but when you get your utilities and your food, you do not have that. This would eliminate the sales tax on food. It would eliminate the sales tax on utilities, thereby living up to a few promises all of us have made to our senior citizens, particularly, and it would accomplish broadening of the tax base so that we would not have to make the massive cuts and so that we could, in fact, have the most important thing that I would like to walk away from here with, an actual tax rate cut. You could walk away with a tax rate cut. And I think that is what the Governor called us here for, to address the fiscal crisis by dealing with the sales tax and I believe this is a proper mode of dealing with the sales tax, dealing with the whole system, and I believe it certainly should be within the call and is within the call. Let me simply close by suggesting one thing. If we miss this dangerous opportunity to solve this crisis, the crisis you will reap in January and March will be two or three times as severe. It will hurt more. It will cause more damage and disrupt this state more and take away our ability to address the other problems. Now I hope that you would at least give the benefit of the doubt and try this idea, try it now. Why do I say now rather than January? Because many of you have come to me and said, if you would do this in January, we would support it. I pretend and like to believe that I know a little bit about political reality, and political reality is this is the kind of proposal come January can't make it around the track. It can't make it around the track because there will be too many special interests, too many individuals, groups, mobilizing to oppose it. They will stall it off for the first three, four months with one study or another. They will then make it carry over until the 1984 session. In 1984 we will be in election year and they will have enough to kill it then one way or another. I just don't believe it is one of the proposals that can be passed

reasonably and efficiently in a general long session. It is one of those things that can be passed in a crisis situation which we have now and I think what this is is seizing this opportunity to solve the problem, and if we fail to do it, if we fail to provide some relief to our senior citizens, to our homeowners, to those people, may God forgive us because I doubt they will. I urge you to overrule the Chair and I realize how painful that is.

SENATOR LAMB: Senator Beutler

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I just wanted to speak briefly in support of the Chair's ruling. I would preface my remarks by saying that I support Senator DeCamp's concept. I think that he will find me a good righthand man when the proper time comes to address the issue. Among other things, of course, I don't consider it equitable to tax the consumers of products and not the consumers of services but that it seems to me is an argument for another day. The basic principle that we are arguing about now in my mind is whether it is not good public policy or whether it is good public policy for the Governor to be able to limit a special session to the subjects of his choice, and I think that is what the people originally decided when they framed the Constitution that he should have that prerogative. I think if you think about it awhile, it is a wise decision. Probably even from our point of view, I doubt if we would participate in as many decisions if the Governor did not have that prerogative. More likely the Governor would choose not to call us into special session to help solve problems. So by and large in the long run, I think that the policy of allowing a limited proclamation is a wise one. I think there is no doubt but that the words of the present proclamation preclude what Senator DeCamp is suggesting which brings me finally to the practical argument that there is such a thing as judicial reality as well as political reality, and that reality is that if we would go ahead and address Senator DeCamp's proposal this Special Session, there is no doubt in my mind but that the courts would strike whatever we do anyway as being in violation of the law. Therefore, I think with our experience with 816 and this being a much clearer case than LB 816, we certainly want to avoid the confusion, the ensuing confusion, that would result by ignoring the Governor's decision, ignoring the Speaker's decision, and proceeding with this kind of a matter at this time. So, again, I am supporting the Speaker's decision.

SENATOR LAMB: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, this is a major tax change in our whole system. We have had no public hearing, no public input. This is no time to be laying a new tax onto the citizens. That is what we are doing. We are laying a new tax on. I have yet to see a tax taken off. Senator DeCamp says it will take a tax off, reduce taxes. I haven't seen any of this happen ever. When you put a new tax on, it stays on. Farmers are going broke. Now when they take their tractors in to have them fixed, it cost \$5,000 to repair it, it is going to cost 3, 3 1/2 percent, another \$150, now is

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not the time to do that. So I just don't feel that in a day and a half that we are down here that we should take this drastic of a step and I don't think it falls in the call and is germane and I would like to support the Chair. Thank you, Mr. President.

SENATOR LAMB: Senator Carsten.

SENATOR CARSTEN: I think everything has been said that I really wanted to say or I think needs to be said. And, Senator DeCamp, I want you to know that I am not attacking the proposal at all. I agree that the base needs to be examined and perhaps overhauled. I do disagree, that this time is not the proper time for consideration of this amendment because of the call and it being as narrow as it is. I am sympathetic to your move and certainly would give it and will give it consideration when the proper time comes as I think most all of our Revenue Committee is well aware of the problem that does exist and that we do need to address it at some point, but not with it jeopardizing the action as it relates to this specific call. For that I would hope that the body would support the Chair in overruling the motion to adopt the amendment. Thank you.

SENATOR LAMB: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would just rise to support the Chair. I would like to say this, that as far as I am concerned, I am one of those that said to John, it is the wrong time. I personally believe we need to broaden the tax base. I think the approach is right but I think the timing is wrong. I do not think it is within the call. I do want the body to know that I did ask the Attorney General for an opinion yesterday afternoon. I haven't received that opinion yet but I am quite confident it will be exactly the same as if we supported the Chair.

SENATOR LAMB: The Chair recognizes Senator Higgins.

SENATOR HIGGINS: Mr. President, colleagues, I would address just one segment of this, not the amendment that Senator DeCamp has proposed, but several speakers have said the purpose of this Special Session is to deal with the budget, the shortfall, if you will. Certainly Senator DeCamp has brought forth an idea that would help the budget but what has been repeated over and over again is that all we were to consider was the budget, and that the Governor did not include anything except budgetary matters. I would remind the body that Governor Thone stated publicly and was repeated in the news media as saying, if a compromise can be worked out, he would put the Faith Christian Baptist schools on our agenda. Evidently the compromise wasn't worked out, it is not on the agenda, but you cannot stand up here and say that the Governor does not want us to deal with anything except budget items when he did consider bringing up another item that is totally and completely irrelevant to the budget. At least Senator DeCamp's amendment is relevant to the fiscal crisis that we were called here to solve. And so for that reason I would urge that the body show

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the people of Nebraska that we are a little more creative than we have been suggested to be, and that when one Senator comes up with another alternative, at least let's give him a chance and let's vote and see what the people, because we represent the people, see what the people would like us to do. Maybe the people would like services taxed equally and to do away with the sales tax on food and utilities. But let us not say that this Special Session was always intended to deal with nothing but the budget when we already have had Governor Thone saying Faith Christian Baptist schools would be considered. So I consider those arguments null and void when they try to tell us what the Governor's intention was. He told us beforehand he would deal with the budget and anything else that he thought was pertinent, if he could get the compromise on the Baptist schools. I don't like the term "overrule the Chair", so I would rather urge you to give Senator DeCamp's amendment a chance to be voted upon by we who represent the people and I don't think you can argue in any way, shape, or form that his amendment does not deal with the fiscal crisis. Thank you, colleagues.

SENATOR LAMB: Senator DeCamp, would you care to close on your motion to overrule the Chair?

SENATOR DeCAMP: Mr. President and members of the Legislature, just a couple of quick points. Senator Von Minden said he did not want me to give the impression that farmers do not pay taxes on utilities. I did not want to give that impression. Farmers pay on their home utilities the same as anybody else, me, Bernice, whatever, on their home utilities. Business and agricultural fuel, however, and energy, the irrigation, is exempt. What I am suggesting is the real exemption probably should be for the necessity for the homeowner. This twelve or fifteen million that it would cost would be more than covered by the hundred million that would be raised by this particular proposal. Additionally, the special bonus in this particular plan that I think should be mentioned is that even though it would raise \$98 million to \$100 million, it would in fact raise about \$140 million the first year because of a particular provision I have in there which you should be aware of. When I eliminate the sales tax on food, I eliminate the reimbursement. Yes, it is something they would have to give up that first year. It is a windfall to the state then of I don't know whether it is thirty or forty million but it would be something that would make us really able to survive next year and have some efficiency in government. Now, what about overruling the Chair? Here is my suggestion to you, in all sincerity. If you believe the concept is sound, if you believe the concept is sound, that we should be doing something like this, I would submit it might be to all our advantage to vote to overrule the Chair for the simple purpose, if it did occur, if we did overrule the Chair, of then going to the Governor and saying, "Look, Governor, it is obvious a majority here want to take this up. Give us the approval now to go ahead if there is any doubt." And so that would be the clearest way we could maybe get this rolling. Do you understand what I am saying? You would simple vote to overrule the Chair on the basis that you are telling the Legislature and the Governor, "Ya, we want

to do this, and if there is a problem, Governor, please open her up and let's address it." Yes, he could do that. So it is a suggestion. I know I haven't lobbied one person here for a vote but I do think it is so important and I don't know how you are ever going to get these things done. If twelve years in a row we couldn't repeal the sales tax on food, don't think it is going to happen magically next year. If twelve years in a row we haven't been able to do anything on the taxing of utilities, somehow I don't think it is going to happen. I think this is your chance to say we are ready to meet the dangerous opportunity and do the responsible thing. Now, I repeat, I know there probably aren't anywhere near enough votes but maybe a few of you ought to vote just to signal to the Governor and to each other that we do want to address this in a more responsible way than simply astronomical tax rates. We would rather have a tax decrease in the rates, so on and so forth.

SENATOR LAMB: The question is, shall the Chair be overruled? This requires a majority of those present to overrule the Chair. The Clerk informs me that nine Senators are excused which leaves 40, therefore, it takes 21 votes to overrule the Chair. Those in support of overruling the Chair will vote aye, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Have you all voted? Record.

CLERK: Mr. President, Senator DeCamp requests record vote. (Record vote read. See page 47, Legislative Journal.) 10 ayes, 29 nays, Mr. President, on the motion to overrule the Chair.

SENATOR LAMB: The motion fails.

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

SENATOR LAMB: Senator Carsten, do you care to move to advance the bill?

SENATOR CARSTEN: Mr. President, members, I move that LB 2 be advanced to E & R Initial.

SENATOR LAMB: The motion is to advance the bill. Those in support vote aye, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted? Record.

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

SENATOR LAMB: The bill is advanced. Next on the agenda is LB 1. Mr. Clerk.

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LB 1,2

SENATOR LAMB PRESIDING

SENATOR LAMB: Good morning, ladies and gentlemen. Shall we please come to order. This morning we are pleased to have Dr. Lee Wigert from the Faith United Methodist Church on North 33rd Street in Lincoln to offer the prayer. Dr. Wigert.

DR. WIGERT: (Prayer offered).

SENATOR LAMB: Thank you, Dr. Wigert. Roll call.

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

SENATOR LAMB: Have you all recorded your presence? Record.

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

SENATOR LAMB: Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LAMB: Messages, reports, and announcements, Mr. Clerk.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 2 and recommend the same be placed on Select File; LB 1 Select File with E & R amendments attached.

Mr. President, an announcement for Executive Board members, there will be an Executive Board meeting tomorrow upon adjournment in Room 2102, that is Executive Board upon adjournment tomorrow in 2102.

SENATOR LAMB: The next item is LB 2 on Select File.

CLERK: Mr. President, I have no amendments to LB 2.

SENATOR LAMB: Senator Kilgarin, would you care to advance the bill to E & R.

SENATOR KILGARIN: I move we advance LB 2.

SENATOR LAMB: The motion is to advance LB 2 to E & R engrossment. Any discussion? We have no lights on. Senator Dworak.

SENATOR DWORAK: Mr. President, I would like a question of Senator Carsten before this bill be advanced if he would yield please.

SENATOR LAMB: Senator Carsten please.

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LB 1, 2

SENATOR CARSTEN: Yes.

SENATOR DWORAK: Senator Carsten, has the committee looked into the possibility of excluding small businesses that would send in receipts say less than \$100?

SENATOR CARSTEN: Yes, that was in the discussion, Senator Dworak, and for the most part those small payers that are behind or in default on the final day, those penalties have been waived by the Department for the most part. We did not specifically specify that but the Department informed us that they had been doing that quite regularly. The small ones were the ones we were concerned about.

SENATOR DWORAK: Yes, Senator Carsten, I would like to broaden my question, my question wasn't only those delinquent but just generally small operations of less than \$100. Several of them have approached me indicating that this would create extra bookwork, would create a hardship for them. It is my understanding that the administration from the Tax Commissioner's perspective in these smaller businesses might be burdensome to the Department of Revenue, maybe more so than what we are going to gain from the accelerated collection. Would it be prudent to consider an amendment excluding businesses that remit less than \$100?

SENATOR CARSTEN: I think, Senator Dworak, and we get into a pretty fine line and maybe some technicalities but that may very well be beyond the call.

SENATOR DWORAK: To exclude businesses from remitting at this time. I am not suggesting that we exclude them from remitting but just to allow them to remit when they normally remit rather than the accelerated remittance.

SENATOR CARSTEN: As I understand, what I said was and it covers what your question is, that in the event that they are late that the penalty has been generally waived on those small ones anyhow. As far as the work is concerned, I don't believe as my understanding is there is no additional work in the reporting process that they now do.

SENATOR DWORAK: Okay, I am not going to belabor the point. I haven't had an opportunity to visit with him, been tied up in the Appropriations Committee. I have talked to people on the outside about it. I certainly can't understand why it would be more work to remit at a certain time of the month than another time of the month so I accept that premise. If there is no additional administrative load to the Department of Revenue, I am not going to belabor the point. Thank you, Senator Carsten.

SENATOR LAMB: The motion is to advance LB 2 to E & R engrossing. Those in support vote aye, those opposed no. The bill is advanced. The next bill is LB 1.

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LB 1, 2

SENATOR LAMB PRESIDING

SENATOR LAMB: Have you recorded your presence? Record.

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

SENATOR LAMB: Do you have some items to read in, Mr. Clerk?

CLERK: Mr. President, once again a reminder that the Executive Board will meet tomorrow upon adjournment in Room #2102, the Executive Board upon adjournment tomorrow in Room #2102.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 2 and find the same correctly engrossed. That is signed by Senator Kilgarin as Chair.

SENATOR LAMB: Proceed to the next amendment.

CLERK: Mr. President, the next amendment I have is offered by Senator Haberman. (See page 56 of the Legislative Journal.)

SENATOR LAMB: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I would like to start out by saying that on your desk is a passout that I have dated October 30, prices paid to farmers take a 5.1% nosedive in October. It also says that the commodity prices or food prices to the consumer which was expected to rise was the smallest annual increase in six years. So the farmer is getting less and the consumer is buying his food cheaper. I personally have a bin of popcorn that I would be glad to sell anybody here on the floor for a little bit of nothing because it isn't worth anything. So when I rise to talk about cutting our great University, which it is and I am proud of it, I do it because the people are really financially strapped and are really hurting. I talked to one senator and he said, "Rex, you have a good idea. On some of these, the Alumni Association, I wouldn't touch that with a ten foot pole due to the political repercussions." So I guess politically this isn't very smart but right now politics don't enter into what I am trying to do or what this body is trying to do. What my amendment will do is this. The University of Nebraska at Lincoln and Omaha each have an ombudsman and this costs us \$93,539. Now the ombudsman deals with problems raised by students, the staff and the faculty. Now if we didn't have the ombudsmen, what could they do? Well the students could go to the Administration Office, they could go to their faculty advisor or the attorney on the campus. The faculty could talk to the Dean of the Colleges and bring up the problems to the faculty senate. The employees could go to the administration or the Personnel Services Offices. They also have a manager for fringe benefits, a manager of compensation and classification and a manager of employment. So if we did not have the ombudsmen at these two

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facilities I am sure that the quality of the education would not suffer. We also have at the University of Omaha, a Center for Afghanistan Studies, general funds of \$42,784. I understand that the federal government also pumps some money into this and that it is important, so I say if it is that important, I'm sure the federal government will come up with another \$42,000. But it is mostly, as I understand it, a resource center which contains library material for information about this country. This could possibly be handled by the library and the library people. The last one is the Alumni Association at the University of Lincoln and Omaha. The University of Lincoln we're paying \$66,400 general fund money into that and \$70,865 of general fund into that for a total of \$137,000 and this amount is given to the Alumni Association by the Board of Regents to support the Association's cost of compiling and maintaining records on all graduates. Well of all the people that have graduated from the University of Nebraska, I'm sure if they sent out a fund raising letter they could raise that money to do that. The Foundation could possibly take care of it and I don't think we should use tax dollars to support the Alumni Mailing Association. So if you adopt this amendment we would save \$273,592. Now that may not seem like very much money when you compare the total budget but out where I come from that would keep a farmer from going broke. That would keep a small businessman going. So I would like to ask that you do support this. What will happen is the regents will have to go somewhere on the ombudsman program if they want to keep it to find that money because we give it to them in a lump sum. But that is the story that I have behind my proposed cut to the budget. I will probably hear from some people who don't want to cut it so I will be quiet for a while and listen to what they have to say. Thank you, Mr. President.

SENATOR LAMB: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I would just merely comment this. One of the things the Appropriations Committee discussed to a considerable extent was the ability to provide every agency or any agency the kind of flexibility that they could best and most effectively absorb any reduction in a way that would be least harmful to the overall services that they provide. And, again, I would think that inasmuch as the University system already has a \$3,563,000 reduction in their general fund appropriation, that perhaps the kind of thing that Senator Haberman has proposed should be done. I do not think believe it should be, but if you felt that it was, it would seem to me that that might be one of the components of the adjustments that they are going to already have to make to make room for that significant reduction in the budget. So I would hope that you would not adopt the amendment in order to provide the University if that is an appropriate thing to be reduced and I do not agree that it is, but if that is how you feel, let it be a part of their

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with, the question is, shall the bill pass with the emergency clause attached? It takes 33 votes. All in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted? Record.

CLERK: (Record vote read. See pages 71 and 72, Legislative Journal.) 40 ayes, 1 nay, 8 excused and not voting, Mr. President.

SENATOR LAMB: The bill passes with the emergency clause attached.

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

SENATOR LAMB: Please read the message, Mr. Clerk.

CLERK: Mr. President, it is a communication from the Governor. (Read. See pages 72 and 73, Legislative Journal.)

SENATOR LAMB: The next item on the agenda is to read LB 2 on Final Reading.

CLERK: (Read LB 2 on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached. It takes 33 votes. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote read. See Page 73, Legislative Journal.) 41 ayes, 1 nay, 7 excused and not voting, Mr. President.

SENATOR LAMB: LB 2 passes on Final Reading. One correction, it does not have the emergency clause.

CLERK: Mr. President, while we are waiting I have an explanation of vote offered by Senator Haberman.

SENATOR LAMB: Senator Landis, for what purpose do you rise?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I would move to suspend the rules to permit the introduction of a resolution, and I would like to be permitted to read that resolution and make some comments on it, if I could, Mr. Speaker.

SENATOR LAMB: Proceed, Senator.

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LR 2

SENATOR HIGGINS: Mr. President, I would like to rise on a point of personal privilege.

SENATOR LAMB: Please state your point.

SENATOR HIGGINS: I did not vote for Senator Landis' resolution and I would like to explain that when I campaigned for office, the promise I made to the people of my district was I will always vote with you and never against you. The people in my district did not support Governor Thone and, therefore, I could not sign the resolution as Senator Landis and other Senators...I beg your pardon. Does somebody else have the floor? This was my reason for not supporting the resolution because the people in my district did not support the Governor's record. I could not then go against the people in my district and vote against them when I promised to always vote with them, and there is nothing personal in it.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign engrossed LB 1 and engrossed LB 2.

CLERK: Mr. President, I have a motion from Senator Dworak to suspend Rule 4, Section 6, so as to permit consideration of LR 2 today.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. Lieutenant Governor, I move that we suspend the rules to insert the following resolution and I would read the resolution now. (Read LR 2. See pages 76 and 77, Legislative Journal.) I move the adoption of that resolution.

SENATOR LAMB PRESIDING

SENATOR LAMB: Senator Higgins.

SENATOR HIGGINS: Mr. President and colleagues, I would second this resolution. I have not had the privilege and the pleasure of serving with Lieutenant Governor Luedtke for more than two years but I do think he has been a very fair President of this legislative body. Can I have a little quiet please.

SENATOR LAMB: Yes, could we come to order. Senator Higgins....we are having difficulty hearing Senator Higgins and we would appreciate it if you would hold it a little quieter.

SENATOR HIGGINS: I will repeat, though we are of opposite political parties, I think Lieutenant Governor Roland Luedtke has been the most ethical President of this legislative body that I have ever read about and I have ever had the

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the door, a little bitty tear let me down." Paraphrase that. When I walk out of this chamber for the last time as a member of your staff and again when I walk out of the east door of this building for the last time as a member of your staff, I'm not sure it will be only a little bitty tear that will let me down. I might go out bawling. I won't say goodbye. That is too final a word for me. I wish that the English language had something like the Japanese, sayonara; or the Spanish, hasta luego; the German, auf wiedersehen; the French, au revoir, till we meet again because we certainly shall meet again. I've already alerted my brother, his wife, his son, his daughter and his son-in-law that my first full retirement winter will be spent in Honolulu. About the day that the next session starts, now Karen wants to go with me. I believe she is the ninth woman scheduled to go with me on that trip and my brother, I know, has ample accommodation. He has a one bedroom apartment. I will be back in late March. I'm not yet going to start drawing state retirement. That will probably be done the first in July but somehow or other somebody told me that once you retire you still have to pay income tax so I have to be back to take care of that. It has been wonderful years here. The primary challenge for many, many years was mental. Today it is physical. I love a mental challenge. I don't like the twelve, fourteen, sixteen hour days including Saturdays and Sundays so I leave you. My thoughts will always be with you. Continue to serve the state as you have. The state should be very happy to have the dedicated people that have been in this Legislature and will continue to be here. In conclusion, may God bless you and keep you. You will be forever in my thoughts. Thank you.

PRESIDENT: The Chair would like to say while Emory is still here that since my beginning in the many, many years ago in this body as E & R chairman, there is the guy that gives you the lead as to how to carry on in this body so, Emory, thank you, and I think I can say for all of us to you, well done, well done and God's blessings to you wherever you go, whatever you do. The Clerk has some matters to read in. Go ahead.

CLERK: Mr. President, your Enrolling Clerk respectfully reports that he has on this day at 9:50 a.m. presented to the Governor for his approval the following bills: LB 1 and 2.

PRESIDENT: All right, we will now have our usual motions for bringing this session to a close. Senator Dworak, I am going to ask you to make the first motion. You don't have it on your desk so I will have the Clerk read it. Then if you would just move the...go ahead, Mr. Clerk.

CLERK: Mr. President, Senator Dworak would move that all bills not otherwise disposed of, excluding vetoed or line-item vetoed bills on this date, be indefinitely postponed.

SENATOR DWORAK: So moved.

PRESIDENT: All right, motion is made. Any discussion? All those in favor