

January 20, 1981

LB 245, 452-467

Senator Schmit, I have to close with this, you mentioned surplus of teachers. You had better look at the record today. There is not a surplus, only in a very few fields. In fact, there are shortages developing and by mid 1980's there are going to be very severe shortages for a number of reasons, and the Education Committee does not control the number of people who matriculate in a standing college. That is only controlled by the Regents and you know that. If you want to talk about surpluses, my figures show there are eight hundred and some veterinarians in this state and the veterinarians tell me that is a surplus. So let's get down to the issue. Is it Education or isn't it, and I request that the bill be rereferenced to the Education Committee. Thank you.

CLERK: Mr. President, the motion is that LB 245 be rereferred from the Agriculture and Environment Committee to the Education Committee.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Call the roll, Mr. Clerk.

CLERK: (Roll call vote taken as found on page 287 of the Legislative Journal.)

SPEAKER MARVEL: Legislators, you are still supposed to be in your seats. The Clerk did not announce the vote.

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

SPEAKER MARVEL: Motion lost. I will raise the Call in just a minute. I want to make an announcement to the Chairmen. If you have hearings that are going to be heard next week, you have to get your notices in today. Okay, the Call is raised.

CLERK: Mr. President, new bills. (Read LB 452-467 by title. See pages 287-291 of the Legislative Journal.)

PRESIDENT: Senator Cullan, Public Health and Welfare Committee, Senator Cullan. Senator Cullan, the Public Health and Welfare Committee will meet at two o'clock. Senator Cullan, do you have a place? I can't get his attention. Senator Cullan, where do you want the meeting? I have already announced it at two o'clock. Do you want it underneath the...? Pardon? The Exec Board will meet in Room 1520 at two o'clock. Okay, 1517 for the Exec Board, two o'clock.

PRESIDENT: Okay, the Clerk will continue to read in bills for about ten minutes and then we will recess until about three-thirty.

LB 48, 62, 98, 172, 179,  
226, 239, 266, 299, 304,  
332, 342, 343, 344, 360,  
453, 454, 506, 545

March 24, 1981

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Pastor Wayne Schroeder of the Calvary Lutheran Church and School, 28th and Franklin, Lincoln, Nebraska.

PASTOR SCHROEDER: Prayer offered.

SPEAKER MARVEL: Have you all recorded your presence? Is everybody here or are there still some missing? While we are waiting for the quorum you might be interested in the fact that our Clerk is hobbling around. The problem is that I was teaching him some dirty plays in basketball and got too vigorous. Record the vote.

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

SPEAKER MARVEL: Do you have some items under item #3?

CLERK: Yes, sir, I do, several in fact. Mr. President, I have a series of reports to read in. Your committee on Public Works whose chairman is Senator Kremer to whom was referred LB 98 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 226 to General File with amendments and LB 344 to General File with amendments, (Signed) Senator Kremer. (See pages 1082-1086 of the Legislative Journal.)

Your committee on Revenue whose chairman is Senator Carsten instructs me to report LB 454 to General File; LB 172 General File with amendments; LB 304 General File with amendments; LB 360 to General File with amendments; LB 506 General File with amendments; LB 48 indefinitely postponed; LB 62 indefinitely postponed; LB 299 indefinitely postponed; LB 332 indefinitely postponed; LB 342 indefinitely postponed; LB 343 indefinitely postponed; LB 453 indefinitely postponed, all signed by Senator Carsten as Chair. (See pages 1086-1089 of the Legislative Journal.)

Mr. President, your committee on Administrative Rules and Regs reports, whose chairman is Senator Vard Johnson, reports LB 266 to General File with amendments.

Your committee on Government reports LB 239 to General File with amendments and LB 545 to General File with amendments, signed Senator Kahle as Chair. (See pages 1089-1093.)

Mr. President, LB 179 is reported correctly engrossed.

Mr. President, LR 40, 41 and 42 are ready for your signature.

January 12, 1982

LB 226, 231, 226A,  
454, 592, 798

SPEAKER MARVEL: Senator Fowler, do you wish to close on your bill?

SENATOR FOWLER: Well, there is really I guess nothing else to respond to so I would just move it be advanced and indicate that I will be working with Walt Radcliffe on behalf of the sheriffs for some amendments to be presented to you on Select File.

SPEAKER MARVEL: The motion is the advancement of the bill, LB 231. All those in favor of the motion to advance vote aye, opposed vote no. Have you all voted? Record.

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion carried. The bill is advanced. Is Senator Vickers in the room? Mr. Sergeant at Arms, will you see if Senator Vickers is out in the rotunda? Yes. Okay, we have a notation that he wanted to pass over this bill, so if there is no objection we will continue along this line. Any objections? So ordered. Yes, go ahead.

CLERK: Mr. President, Senator Lamb would like to have a meeting of the Reference Committee underneath the north balcony, the Reference Committee for purposes of referring bills. I believe he wants that as soon as possible.

Mr. President, Senator Lamb would like to print amendments to LB 592 in the Legislative Journal. (See page 251 of the Journal).

Mr. President, new bill, LB 798 offered by Senator Beyer. (Read title). (See page 251 of the Journal).

SPEAKER MARVEL: The next bill is LB 226.

CLERK: Mr. President, I have a request from Senator Haberman to pass over LB 226.

SPEAKER MARVEL: The motion is to pass over 226. Is there any objection? If not, so ordered. What about 226A?

CLERK: Same, pass over 226A, Mr. President.

SPEAKER MARVEL: The motion also includes passing over 226A. Is there any objection? So ordered. The next item of business, LB 454.

CLERK: Mr. President, LB 454 offered by Senator Carsten. (Read title). The bill was read on January 20 of last year.

It was referred to the Revenue Committee for public hearing. The bill was advanced to General File, Mr. President. At this time I have no amendments to the bill.

SPEAKER MARVEL: Senator Carsten, do you wish to explain the bill?

SENATOR CARSTEN: Mr. President and members of the Legislature, LB 454 reduces the increments of the sales tax and the state income tax as it is set by the Board of Equalization. The sales tax and the use tax increment is reduced from a half a percent to a quarter and the individual income tax increment is reduced from one to one-half percent. The basic philosophy behind this is that because of the inflationary situation that has occurred over a period of years now, the present increments raise a tremendous amount of money and that when a change is made even though the requirement may be only for a slight amount of increase, the net result is a considerable increase. The Task Force that the Governor appointed to examine this situation, it was one of the Task Force recommendations that the increments be reduced to the contents of this bill, and so it was put in. We held the hearing and as you can see from the committee statement that there was support for the bill by the Task Force, also from the State Budget Director, Administrator, and also from Mr. Herrington who was then the Director of the Department of Revenue. There was one opponent of the bill, Mr. Fred Stone, representing the Nebraska Retail Merchants, who did object to it for the basic reason I guess as I recall the change that retailers had to make when the changes were made. I can say this, and I think with all fairness and honesty, this is the second time that I am aware of that this proposal has been before the Legislature. And the first time the opposition came in goodly numbers. This time and not knowing for sure but assuming that Mr. Stone represented a goodly number of people was the only one representing those people in the retail field to oppose the bill. It does seem that it is a desirable move and one that could more finely tune the revenue take for the state with these smaller increments. I have had our committee counsel prepare a sheet to be passed out that gives you some explanation of the present increments and also the changes that would occur if the lesser increments were used. You must bear in mind that as nearly as possible equal test as calculated is on a calendar year basis, but while the tax rates must be covered...or must cover appropriations that are made on a fiscal year. So what is done in one part of the calendar year will affect or may have to be addressed in the next fiscal year. But that is the basic concept. It is to more finely tune the



tax rates that would bring the income more proportionately to the requirement that is needed. With that explanation of the bill, Mr. President, I would move for the advancement of LB 454 to E & R Initial.

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

SENATOR KAHLE: Mr. Speaker and members, I also serve on the Revenue Committee and certainly concur with what our Chairman has just said. I guess I do have some concerns along the line that Mr. Stone had and I would hope that we would not use this as a yo-yo sort of thing and change the rates every few months in order to bring in the exact right amount, but I do think we need this fine tuning effect, especially in view of the present economics where we are not sure exactly what will come in and what we will have to do with our tax revenue income. I guess I might have one thing I would like to get on the record, I would hope that this if passed would be used by the Board of Equalization. It doesn't do much good to have that prerogative if it is not used. And I guess I am using for example the last special session we had. I think we could have taken care of that through the Board of Equalization and perhaps if we had had this increment financing, or increment way of figuring our revenue, they would have used it. But I do favor it and I think it will work if we give it a chance. And I certainly would like to see it used and that we not be called in to special session unless we have a drastic change in our income and our economics go really bad. So with that, I do support this issue. Thank you.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman and members of the body, I would have to oppose this issue, as Senator Newell and I both opposed it in the Revenue Committee. There are other implications other than really fine tuning involved with it. If we make this change, we will trigger a quarter of a percent of sales tax while still at a 16 percent income tax rate, 16 percent of the federal liability. The change will do that. Under current law we go to an 18 percent income tax rate before triggering the half percent of sales tax, so it really speeds up the changes on the sales tax system. And I think the retailers of the state have a real legitimate concern in seeing the potential of that sales tax rate being triggered during a year where they have got to change charts from 3, 3%, possibly 3½ percent throughout a year's time, if we have any substantial shifts in the

revenue income of the state throughout that year if sales tax receipts drop out or income tax. Now the way it is now we wait and we make a full half percent jump, and I fully sympathize with the retailers on this that you can't trigger that quarter percent and go through the Mickey Mouse that is going to be...that every retailer, every grocery store, small business is going to have to take and make up that difference, different charts, get their employees used to figuring a different sales tax rate for that quarter of a percent deal. The difference of fine tuning is not all that significant other than the idea that you kick the sales tax in quicker because the difference is only about 20 percent between a quarter percent of sales tax and 1 percent of income tax. I don't see these differences as that significant at all. And as far as trying to maintain zero balance in the state treasury, I am not sure that is good business because we are prohibited by Constitution from issuing warrants if we run out of money, and I think the state should have a little margin there to go on so if the receipts when we operate on a system of projected receipts on a guess of what the economy is going to be, that we should have a little bit of pad there to carry us over if the sales and income tax receipts drop off in a period of months. I think that is only responsible government. The subdivisions, they can go issue warrants when they run short on tax collections, but the state by Constitution cannot. So I think zeroing out that treasury is not responsible government and should not be looked at from that angle. I think it is really a piece of legislation that what it will really accomplish is a Mickey Mouse situation for the grocery stores and I think it was a sad mistake to see it introduced and break the current tax structure in relationship of the sales and income tax with 1 percent increments on income tax and one-half percent on the sales. Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Wesely.

SENATOR WESELY: Senator Burrows made some good comments I think, Mr. Speaker and members of the Legislature, and I have seen through my own experience that when you get too... make things too easy in some of these areas, you forget how hard it is for the guy on the street who has to react to these laws and come up with the actual implementation, and that is something that we don't want to see occur. I think we do want to allow more flexibility and I will probably vote for the bill but I am real concerned about impacts on the retailers. So I would suggest that although this might get back to our retailers and get an idea what the cost is, as I recall in the grocery stores, most of them have computerized systems and any time you have a change in increment on

sales tax it takes a whole reworking of the computer system. And so if the Board of Equalization can fine tune and make those adjustments more quickly, then it is just a greater burden and cost to the local retailer, as Senator Burrows mentioned. So it seems to me a good thing for the state probably to allow this adjustment but at the same time we have to keep in mind local business impact. So I will hesitantly give support to the bill and I ask all of you to check on this because it is a legitimate concern.

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

SENATOR CARSTEN: Mr. President and members, I am closing, is that right? Mr. President and members of the Legislature, I am not going to belabor the point at all. In reference to Senator Burrows and, Senator Burrows, I understand the concerns of the retail area very well. But the Mickey Mouse as you refer to is only the changing of the rate cards as it now operates and they are readily available from the Department of Revenue and they are supplied in goodly numbers to the retail outlet for their use to compute or to punch into their machines the required amount. I don't think... and I will agree there is some inconvenience but I don't believe it is all that critical at this point as it was a few years ago, and would not be hesitant to support it on that basis alone. I think that the bill does have lots of merit and one that has been considered for some time and would hope that you would agree with us and move the bill over to E & R Initial. Thank you, Mr. President.

SENATOR CLARK PRESIDING

SENATOR CLARK: The motion is the advancement of 454 to E & R. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 30 ayes, 1 nay on the motion to advance, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Marsh, your light is on, did you want to be recognized?

SENATOR MARSH: Thank you, Mr. Speaker. I would like to ask permission to have some amendments to LB 69 printed in the Journal for tomorrow.

January 19, 1982

SENATOR CLARK: The motion lost. The next amendment is amendment number two of Senator Vickers to Section one. He wants to read a few things in first.

CLERK: Mr. President, very quickly, new bills: (Read by title for the first time, LBs 895-914 as found on pages 343-347 of the Legislative Journal.)

Mr. President, I have a hearing notice from the Public Works Committee for January 29, February 10, 11 and 17. That is signed by Senator Kremer as Chair.

Mr. President, Retirement sets hearings for Wednesday, January 7 and Revenue sets hearings for January 25, 26 and 27, signed by the respective chairmen.

I have a reference report referring LBs 848 through 880.

Mr. President, your committee on Enrollment and Review reports that 511 be reported to Select File with amendments, 192 Select File with amendments, 231 Select File with amendments, 454 Select File, 304 Select File, 69 Select File with amendments, 139 Select File, 139A Select File, 305 Select File, 239 Select File with amendments, 410 Select File with amendments, 278 Select File with amendments, 126 Select File with amendments, all signed by Senator Kilgarin.

SENATOR CLARK: We are now ready for the second Vickers amendment to Section one.

CLERK: Mr. President, the amendment reads as follows: On page 2, line 13, strike the word "life" and insert "safe yield."

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, since that is more of a technical one there the following amendment on Section two would be more applicable to take up and I think the Clerk has other amendments on Section one so if you would want to skip over this and go to the other amendments that are on Section one, that would be fine with me. You have other amendments and I think Senator Beutler and some other people might have amendments on Section one if you want to go ahead and take those up at this time.

CLERK: So are you withdrawing. . .you don't want this one then, Senator?

SENATOR VICKERS: That one is more of a technical one. It



January 25, 1982

LB 378, 511, 454

PRESIDENT: I have already called for the roll. I have already called for the vote. I gave I think an extraordinary amount of time for people who wanted to call in a vote. I asked you if you wanted a roll call. You said you did not want it and I have asked for the roll call vote. So the vote is called. The decision is made as far as I am concerned. The motion fails. You can appeal my ruling if you want to. I think we had ample time to get everybody in. Okay. The next matter on the agenda, Mr. Clerk, is General File, Special Order, continuation of the Health Care Certificate of Need Act.

CLERK: Mr. President, if I may right before that, Senator Lamb would like to print amendments to LB 511 and Senator Fowler to LB 454. (See page

Mr. President, LB 378 is a bill introduced by the Public Health Committee. (Read title). The bill was first read on January 19 of last year. It was referred to the Public Health Committee for hearing. The bill was advanced to General File, Mr. President. It was considered by the Legislature on January 14 of this year. At that time there was an amendment from Senator Marsh that was adopted. There were also amendments offered by Senator Cullan that were adopted on that date. I now have pending, Mr. President, a series of amendments offered by Senator Wesely. The first amendment offered by Senator Wesely is "on page 12 strike from the word 'other' in line 25 through the word 'section' on line 27."

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Yes. Mr. President and members of the Legislature, I at this time am going to withdraw my amendments, all of them, and replace them with only five in terms to try and focus on the key issue. So I will be going down and withdrawing that amendment and future amendments.

CLERK: Senator, do you want to withdraw all the amendments that you had?

PRESIDENT: All...is he withdrawing all?

CLERK: Yes, sir.

PRESIDENT: All the amendments. They are withdrawn.

CLERK: Mr. President, the next amendment I have is offered by Senator Cullan and Senator Marsh. It reads as follows: "Amend Section 5, line 18, strike 6 and insert 5."

PRESIDENT: The Chair recognizes Senator Cullan.

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

January 27, 1982

LB 347, 198, 454, 592,  
239, 618

want to withdraw yours? All right. Senator Chambers, do you withdraw yours? All right. Those two are withdrawn and we are back to the original amendment as amended. Is there anyone that wants to talk?

SENATOR L. JOHNSON: Mr. President, on behalf of Senator Sieck and myself we would withdraw our amendment at this time.

SENATOR CLARK: Is there any objection to Senator Johnson withdrawing the amendment as amended? If not, so ordered. Now we are back to the original bill. Do you have any further amendments on the original bill?

CLERK: I have nothing further, Mr. President.

SENATOR CLARK: Senator Kilgarin, do you want to move 347? Maybe we will get one bill off of here before noon.

SENATOR KILGARIN: I move to advance LB 347.

SENATOR CLARK: You all heard that. All those in favor say aye, opposed nay. The bill is advanced. Senator Johnson, would you like to adjourn us until tomorrow morning at nine o'clock after the Clerk reads in.

CLERK: Mr. President, committee on Revenue gives notice of hearing for February 1, 2, and 3.

Senator Warner would like to print amendments to LB 198; Senator Carsten and Warner would like to print amendments to LB 454; Senator Lamb to print amendments to LB 592; Senator Vickers would like to print amendments to LB 239; and Senator DeCamp would like to print amendments to LB 618.

That is all that I have, Mr. President.

SENATOR CLARK: Senator Johnson.

SENATOR L. JOHNSON: Mr. President, I move that the body stand adjourned until 9:00 a.m. tomorrow morning.

SENATOR CLARK: You heard the motion, all those in favor say aye, opposed nay. We are adjourned until tomorrow morning at nine o'clock.

Edited by:

Marilyn Zank  
Marilyn Zank

February 5, 1982

LB 274A, 454

PRESIDENT: The motion carries. The DeCamp amendment is adopted. Anything further on the bill?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: Senator DeCamp, do you wish to move...? Motion is to advance LB 274A to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. The bill is advanced to...LB 274A. Your nay shall be noted, Senator Higgins.

CLERK: Mr. President, I have an Attorney General's opinion addressed to Senator Koch regarding LB 789. (See page 568 of the Legislative Journal.)

PRESIDENT: The next bill on Select File is LB 215.

CLERK: Mr. President, I understand that Senator Chronister wishes to lay LB 215 over.

PRESIDENT: Senator Chronister, are you here? The Chair recognizes Senator Chronister, on your request to lay over LB 215, Senator.

SENATOR CHRONISTER: Yes, Mr. Speaker, that is right. I request to lay over until we clear up the amendment. We are going to have a new amendment on the bill.

PRESIDENT: Any objections? So ordered. It will be laid over. Go to the bottom of the heap the Speaker advises. The next bill then is LB 454.

CLERK: Mr. President, the first amendment I have to LB 454 is offered by Senator Fowler. Senator Fowler.

PRESIDENT: Would the Sergeant at Arms see if Senator Fowler is out there? If he is not there well let's proceed with... here he is. Senator Fowler, we're ready for your amendment on LB 454.

CLERK: Senator, your amendment is on page 398 of the Journal.

SENATOR FOWLER: Mr. President, this amendment deals with the question of how often the sales tax could be adjusted. The bill changes our system of adjusting the sales and income tax to provide smaller increments. The problem that has been expressed by retail merchants is that every time they have to adjust to a new sales tax rate that there is considerable expense to the business and, in fact, one of the misconceptions I had is that the disruption would be to those businesses that did not have modern electronic cash registers and what it

turns out is, in fact, it is more expensive to change those than to just simply print up a new card to let the sales person check the price and add it. That you have to bring in a service person, you have to kind of reprogram it when you go to quarter percents, that there seems to be some sort of thing about having to add another digit and so on so it is fairly expensive and somewhat of a nuisance for businesses to have to constantly change the sales tax rate. Now we started moving to tuning the sales tax and income tax on these smaller percentages. We run into a very distinct possibility of a roller coaster type situation because each of the increments is such a small amount of the total amount of state revenue. And as we all know and has been proven to us many times, revenue projection is not an exact science and that there is a range of error, a couple percentage points either way on the projection. Now if we go to a smaller percentage to allow for the adjustment of the rate, maintain the so-called nearly as equal test, it says the sales and income tax rate have to be close in terms of revenue, we may find that simply because of the errors in projection which there is going to be a certain statistical percentage of error, and because that the rates are supposed to be so finely tuned anymore with this bill, that every time the Board of Equalization meets it will raise, have to raise the sales tax or lower it. In fact, one percentage increase right now in the income tax would trigger under this bill, a quarter percent sales tax increase. So you can see that really it gets to a very, very fine tuning situation. What the amendment says is that as far as the sales tax is concerned it is changed only once a year. It used to be that the Board of Equalization only met in formal hearing once a year and then it was decided that they should also meet at the adjournment of the Legislature. So there is at least two required Board of Equalization meetings and there may be as many as three in a year or four, depending on the tax situation. So in order to prevent this sort of burden to the businesses of having to constantly recalibrate, recalculate, reprogram their machines, the suggested amendment is simply that we require the sales tax to be adjusted, if it has to be adjusted, only once a year to try and remove the burden and the cost. If we're going to go to this smaller percentage on the sales and income tax in order to avoid a roller coaster effect for the sales tax because of the changes in income flow in the nearly and equal test, it seems to me reasonable to require that sales tax only be changed once a year. I think to do it more than that creates a burden on Nebraska businesses, confusion with the consumers and a certain amount of frustration with the tax system. So I would move for the adoption of this amendment.

PRESIDENT: The Chair recognizes Senator Carsten.



SENATOR CARSTEN: A question of Senator Fowler, if I may, Mr. President. Senator Fowler, do I understand your amendment to mean that the Board of Equalization could only make the change in the sales tax rate then at the November meeting only?

SENATOR FOWLER: Correct. Once a year.

SENATOR CARSTEN: Once a year. What would the situation be if somewhere in the interim between those meetings the economic situation develops to the point where an adjustment has to be made in order to maintain state revenues?

SENATOR FOWLER: Well if that was the situation the adjustment would have to be made in the income tax until the November meeting when the sales tax could be adjusted upward to start bringing in the revenue then.

SENATOR CARSTEN: But if in the event that the increase in the sales tax or the income tax would necessitate an increase in the sales tax, what would be the situation?

SENATOR FOWLER: The sales tax would be adjusted in November.

SENATOR CARSTEN: But what about the interim?

SENATOR FOWLER: It wouldn't be changed.

SENATOR CARSTEN: I think you are creating some problems here that we're really trying to avoid and if I may, Mr. President, while I am on my feet, would have to say this and this is not the first time that this bill has been before the Legislature. In the past the retail merchants have been very strong in opposition to it and they have been in here in numbers opposing the bill when it was at the hearing. We did have opposition that is true, from Mr. Stone, who represents the retail trade but not in numbers like we have had before and the changes in the systems that are developing very rapidly now with the electronics is becoming less and less of a problem for changes. I would not foresee and do not believe that this is as much of a problem as we are being led to believe. Thank you.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I, too, would rise to oppose the Fowler amendment for a number of reasons. Number one, I certainly agree with Mr. Carsten that there is no question but what computer programs can be easily changed in this day and age. Number two, as far as the very small merchant is concerned, every bank in every community furnishes

those cards. They will continue to furnish them and so from the standpoint of the small merchant there is certainly no problem in terms of getting the new sales tax figures.

PRESIDENT: We are ready, Senator Fowler, for your closing on your amendment on LB 454.

SENATOR FOWLER: The retail merchants have indicated to me that, in fact, with the new technology it is not easier in terms of cost, in terms of burden to change the tax rate, that it is not something that simply someone at the cash register can program in. Rather it means bringing in someone technically trained who obviously would charge to reprogram those cash registers. That is often the case, that new technology may seem simpler but, in fact, often is more complex. If we are moving to the concept of having such a narrow range for adjustment of the sales and income tax rate, we are going to find that simply again, because of the margin of error that exists in the revenue projections, that the sales tax and income tax may have to be adjusted every time just to maintain this nearly as equal test. It is just a factor that if we are going to cut down the margins of the sales and income tax adjustments, that we are going to find the sales tax going up one time and then we find that the projections happened to be in error and we will have to drop it back down and then we will have to raise it back up and drop it back down. I think that is kind of harassment of business to require them to keep changing it every time the Board of Equalization meets. I think the retail merchants have indicated to me that they think that this bill will create a burden on them. They were given assurances at one time that the sales tax wouldn't change every Board of Equalization meeting but now they find that people are not willing to put that in writing and I think that we ought to establish a policy that as far as the sales tax is concerned we change it only once a year and that is November. I think that this amendment is one that is reasonable to business and I would move for its adoption.

PRESIDENT: The question before the House is the adoption of the Fowler amendment to LB 454. All those in favor vote aye, opposed nay. Have you all voted? Senator Fowler, there are two excused.

SENATOR FOWLER: Which two? Which two are excused? Is that an appropriate question?

PRESIDENT: Well I guess we can tell you. Cullan and Wiitala. Well Wiitala is here. Cullan and who else? Is that it then? That is it then. Senator Wiitala is here so just Senator Cullan. What do you want to do?

SENATOR FOWLER: I'll just ask for a record vote.

PRESIDENT: Okay, a record vote has been requested. Record the vote, Mr. Clerk.

CLERK: (Read record vote as found on page 569 of the Legislative Journal.) 13 ayes, 23 nays, Mr. President.

PRESIDENT: The motion fails. The next amendment, Mr. Clerk.

CLERK: Mr. President, the next amendment was offered by Senators Carsten and Warner and is found on page 454 (sic.) of the Journal.

PRESIDENT: Senator Carsten, will you present the amendment?

SENATOR CARSTEN: Mr. President and members of the Legislature, this amendment is a request #2556, does add a new section to LB 454 and changes the provision regarding statutorily required reports by the Department of Revenue to the Legislature on revenue receipts and projections. It is a joint agreement between the Appropriations and the Revenue Committees for this request and under the present law, the Section 77-386, requires the department to report to the Legislature monthly during legislative sessions and during August and November various information on state revenue receipts and projections. However, due to the technical wording of the statute the information is virtually useless to the Legislature because the statutory criteria for these reports are on a different basis than that used when the state board sets the rate. The major provision of this amendment is to repeal Section 77-386 and the above reports and substitutes new language for revenue reports in section 77-2715.02. The new language specifying the criteria for the reports is the same criteria used in the department's reports to the state board for tax rate setting. These reports would be made twice a year, one on December 15 and two on the seventieth legislative day in the long sessions and the fortieth legislative day in the short sessions. The amendment also contains the emergency clause for the amendment portion of this bill. So the Legislature may obtain the benefit of this change yet this session and the department will not have to continue repairing the present reports. The technical wording of the amendment was prepared by the Appropriations and Revenue Committee staff and has been approved by the tax commissioner and the Department of Revenue staff. Other related reports such as the department's monthly report of actual versus projected receipts will not be affected by this change. In addition to this, this amendment has also been okayed by the Policy Research Office and also the Governor's Task Force. With this explanation of the

amendment, Mr. President, I would move for its adoption.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, I just rise to support the amendment and indicate that I think it will be much more useful information for the Legislature as a whole and it would be timely. It will coincide with the rule change that was proposed this year and the Legislature generally will have a most recent available type projections upon receipts at the time that we are dealing with the appropriation bills and I think it would be helpful and secondly, it might be the only amendment I have as a winner today.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President, I have a couple of questions of Senator Carsten. Senator Carsten.

SPEAKER MARVEL: Senator Carsten, do you yield?

SENATOR NEWELL: First of all, I would like to ask, Cal, what page is this on?

CLERK: Senator, I misspoke earlier. It is 442.

SENATOR CARSTEN: 414, yes, I think is right.

SENATOR NEWELL: 442? Well that is the first question. That helps a lot and then after that let me ask you this question while I'm trying to find 442. Will the emergency clause on this section alone, will that necessitate the emergency clause then for the...I mean it still would have to be passed with 30 votes. Would that necessitate the emergency clause for the rest of the sessions?

SENATOR CARSTEN: Yes. But it would give us this report this session, Senator Newell.

SENATOR NEWELL: Okay. So basically we're not just putting it on this session, we are putting it on the bill?

SENATOR CARSTEN: Right.

SENATOR NEWELL: Okay. I'm going to push my light again after I get the page and work some things out.

SPEAKER MARVEL: Senator Haberman, while we are waiting the Chair recognizes you.



SENATOR HABERMAN: I'll pass for now, Mr. President.

SPEAKER MARVEL: Senator Newell, are you ready?

SENATOR NEWELL: Mr. President, members of the Legislature, very briefly, I support the amendment. I've read it now. It is a good proposal. It is one that we should have done a long time ago. With that, I urge adoption of the amendment.

SPEAKER MARVEL: Senator Carsten, are you ready to close on the motion?

SENATOR CARSTEN: Mr. President and members of the Legislature, basically and in a few words I guess maybe I didn't explain it too well. But what this does will give to the Legislature the same form and report on the seventieth legislative day of the long session and the fortieth legislative day of the short session that the Board of Equalization gets when they are presented with information to set tax rates. That basically is what its doing. It makes it available, it is current, we will be able to use it while we are in session to a better advantage. That is the basic principle of the ... reason for the amendment.

SPEAKER MARVEL: That is your closing so, the motion is the adoption of the Carsten amendment as explained by Senator Carsten. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of the Carsten-Warner amendment.

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

CLERK: Mr. President, Senator Warner would now move to amend the bill. I believe copies have been distributed to the membership.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, the amendment as it has been passed out would adjust the individual income tax rate retroactive to January 1 from the current fifteen to a rate for sixteen percent for calendar year 1982. I also have an amendment filed so that you understand that too at this point, that should this amendment be adopted that the bill in its entirety would be sent back to the Revenue Committee for purposes of public hearing and also for the purpose of allowing them to develop as a package in effect, of what revenue adjustments that will be made. Now I raised the point for a number of reasons. One is that by going from fifteen to sixteen, while it

could be deemed a tax increase, what we are really talking about is whether we're going to have a reduction in receipts of \$20 million or \$50 million to the state coffers because of the change in the federal income tax laws. Now in part to make that up we have pending before us a number of measures such as decreasing the reserve, increasing the corporate tax, cigarette tax, a variety of fees which is another option to making up a part or portion of that reduced revenue. Based upon the conversations I've heard though there are some I believe who are reluctant at least to see the reserve reduced down to 2% because of the nature of the economy. I've certainly heard comment or read comment of some concern about adjusting the cigarette tax a full 4%. Yesterday we rather overwhelmingly defeated a proposal that would have shifted a million eight of present general fund cost to the gasoline or motor vehicle user fees and that means we are a million eight short of general fund revenue for that particular program based upon the budget that was presented to us. Then there is a 3.7 million of cash funds that are projected to be lapsed to the general fund. I call your attention that seven hundred thousand of that, however, is from the Bureau of Examining Board and some of you are aware of the concern that a few citizens expressed a day or two ago on taking some cash funds lapsing to the general fund. I will call your attention that this seven hundred thousand comes out....the bulk of it will come out of the funds that have been paid in by cosmetologists, nursing, medical profession and the veterinarians in their examining board licensing fees and I would suggest that that seven hundred thousand as a matter of fact, is not going to be available either by the time the session has adjourned. So we're looking at from based upon and I am assuming that the income tax will go on the corporation. So we're looking at, it seems to me, at the possibility of \$16 million of receipts not being made, at least some portion of \$16 million not being adopted by the Legislature when we get done which means we're \$16 million short of the proposed budget. Now there is some precedence for what I am proposing here. One other session some years ago the Legislature did the reverse in which we lowered the individual income tax rate from fifteen to thirteen. At that time the receipts were building up more rapidly than had been anticipated. This case it is the opposite of course but there certainly is precedence for this to occur. We're talking about revenue maintenance for the state. We are not talking about increasing. The bill will be returned to the Revenue Committee, at least I would propose that so that there will be an opportunity for a public hearing. I have had suggestions that perhaps this is too earlier. I've had suggestions that there are other ways to do this. I certainly thought of early before the bill limit time that I could have introduced a separate bill to do this

but it seems to me that it is significantly important that we determine whether or not the majority of the Legislature even wishes to consider adjustment in the individual income tax rate during this session because it will have a direct effect upon the level of appropriation that...or the number of A bills or any other expenditures that we want to consider. I also would point out, I know there is concern whether or not this will affect the corporate income tax bills that are pending. I would suggest from the conversations I've had with those interested in the corporate income tax adjustments, they are really looking at what might happen next year. I would like to call your attention to the booklet that was passed out yesterday which we will be discussing relative to the resolution some time next week in which the projected revenues and possible expenditures are pointed out particularly on page 24 and page 26 of that and some of you do not have that book with you. I've got some copies of these sheets but included in that is a list of a number of possible appropriations or appropriations request which some of you I'm sure will be interested in, in order that no one suggest that that list is there to intrigue you to vote for sixteen, let me point out that it is proposing possible requests for expenditures far in excess of what is available by going the additional 1%. It also suggests that we could put all of the additional funds in the reserve and maintain a little over 5% reserve which is our historical position except for a couple of times when the economy was bad and that might even be the best thing to do. Between the last twelve months we have reduced our reserve by 2%, the calculations of it because of the economy. That could well happen again as many of you know. So I would suggest that it is an appropriate time. We took a 12.6 million dollar loss in revenue because of the federal change calendar '81. We have the potential for \$50 million in calendar year '82 and a projected additional \$50 million in calendar year '83 as the federal legislation now exists. So I would suggest that if you do not change the rate now you will be changing it the state will be changing it certainly by next year but it is even conceivable that we would for the balance, that sometime during the balance of calendar year 1982. Again I would urge the body accepts the amendment. It is an indication that giving the Revenue Committee a greater flexibility providing public input through a public hearing and then send the bill back to the Revenue Committee as the amendment will indicate. One other reason for doing it, I've heard some concern of what that incremental rate change might cause to happen to particularly the sales tax rate and for that reason again, I think it is important that the whole concept is returned to the Revenue Committee where they can take that aspect into account along with the other projections, that they will be using in arriving at a recommended package for the Legislature. I move adoption of the amendment.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I rise to oppose Senator Warner's amendment. Senator Warner recently offered the Legislature a new rule, Rule 8 on page 51, requiring the Legislature to adopt a resolution which specifically recommends a maximum general fund appropriation and now Senator Warner is offering an amendment to raise the state income tax from fifteen percent to sixteen percent before the Legislature has had the opportunity to discuss the level of general fund appropriation as is called for under our new rule. This amendment is in front of us before we have had time to see how our new rule will work, before we have had time to debate the level of general fund appropriation, before we have had time to develop our spending priorities throughout this session. As I see it, part of the theory behind our new rule was to give guidance to the Appropriations Committee and ultimately the full Legislature. By adopting the Warner amendment we destroy the purpose of the rule. What is to prevent Senator Warner from attempting to raise or lower the sales tax later in this session? What is to prevent Senator Schmit or Haberman or anybody else from attempting to increase or decrease any revenue source the balance of this session if this is consistent with the theory of our new rule? In days past we, the Legislature would develop spending priority and then establish or force tax rates to be set to fund these priorities. Our new rule requires us to determine our level expenditures first and then develop spending priorities within that figure. Adoption of the Warner amendment is a throwback to the old days. We can no longer afford the luxury of that situation given the mood of the country during this time of fiscal conservatism. I believe this is an end run on Senator Warner, the part around the rule. It is a pitch out and he wants to run around it. So I would suggest that we do not adopt Senator Warner's amendment to 454. Thank you, Mr. President.

SPEAKER MARVEL: Okay, there is seven lights on. The Chair recognizes Senator Carsten first.

SENATOR CARSTEN: Mr. President, members of the Legislature, I rise to support Senator Warner's amendment and particularly the promise of a recommendation that if this amendment is adopted that it be rereferred to the committee for another public hearing. I suggest to the body this morning as I have to several different groups that I have talked to in the last two or three months, that we are entering into a new era that we we know not what the outcome is going to be. We have been informed of proposals that have been made on the federal level and to this point they are only proposals. We can only guess what might be the effectiveness



of those proposals and until Congress finally acts we're not going to know the reality which will probably be after we are out of session. We have had presented to us the Governor's proposal for the budget. We have also been given to us a tentative proposal by the Appropriations Committee. We have also been given to the Revenue Committee several different approaches to raise the necessary revenue to meet these proposals and it is going to be, as I understand and foresee, the responsibility of the Revenue Committee to recommend to this body the foundation upon which we build to take care of those requests. I would suggest also that what we do this year, realizing full well that the future is going to be a continuation of what we are now starting in this year with a \$12 million loss to the state which will be increased dramatically in the next few years and that the groundwork we lay this year should be solid, should be well thought out and well adopted. I think the Revenue Committee needs all of the help, recommendations and suggestions that are available for us to consider to be able to give an intelligent and realistic answer to this body. I believe that the individual income tax is one of those areas and that our committee should weigh that along with the increase, the recommended increase in corporate, cigarette and other areas for money. I would hope that you would support Senator Warner with the understanding that this would again have a full airing before the Revenue Committee for the public to respond to this suggestion for this revenue measure. Thank you, Mr. President.

**SPEAKER MARVEL:** The motion before the House is the adoption of the Warner amendment to LB 454. The Chair now recognizes Senator Newell.

**SENATOR NEWELL:** Mr. President, members of the body, I rise to support the Warner amendment and I do so for a number of philosophical reasons and then some very practical reasons. Now first of all, let me deal with the philosophical reasons. I have never liked 454 because I believe it is a policy decision that will make it far too easy for this Legislature to authorize the Board of Equalization an assessment to raise taxes. It allows us inch its way up. So I support this proposal for one very good philosophical reason because with the Warner amendment here it puts the power to raise and levy taxes where it ought to be, with the people who basically spend the money, appropriate those dollars. It puts it with the Legislature and this is another precedent and another step in that direction. I think it is a positive thing. Now that's a philosophical reason. There is another philosophical reason here that we should be doing this and that is because if we are going to set the sales and income taxes we ought to do that legislatively with a public hearing and I would support the next motion. I think

they are one and the same and that is to return this bill to the Revenue Committee so the people of the state can help clarify their feelings about the level of spending appropriations. Secondly, there is a political issue here that I think we ought to discuss and I think it is very clear that what the Governor has proposed with the 4.3% budget, this year we are expecting no revenue increases from the sales and income tax, so our same level of funds will be raised that it was last year, no normal inflation because of the tax cuts and because of the economy. The economy is very, very soft as we all know. And so the Governor has had to propose a corporate income tax, a cigarette tax, a reduction in the overlevy and a couple of other proposals like the one that failed yesterday when Senator Fowler failed to bring the bill that the Governor proposed out of committee. Now let me say that this Legislature seems to be favorably disposed towards the Governor but it certainly is not giving him everything he wants. Now I don't want to say why exactly that is happening but I think there is some honest philosophical differences of opinion and what we have today with those proposals we still have 4.3%. Revenue collections right now are soft. I think it is safe to say that the very dire predictions about revenues coming in from last year were probably more correct than those optimists who have their office in the other corner of this building. Frankly it looks like this is a realistic approach. Now the problem with this simply is this. It may be too early. The other problem is simply this. I'm wondering whether this Legislature, people like myself, really want to take the heat for raising the taxes which it seems inevitable to have happen. Why should we take the heat when for years we've passed it on to the Board of Equalization? For years we've allowed them to raise the taxes even though we created the situation where they had to raise the taxes.

SPEAKER MARVEL: You have one minute left.

SENATOR NEWELL: The answer to that question is very simple. It is honest and this Legislature ought to be dealing with these very difficult issues, not in the traditional gainsmanship that we have but in a very frank and forthright way. For these philosophical reasons and the very practical reason that there is no way that we can hold the present tax rates, I support Senator Warner's attempt to raise the income tax. The philosophical reason is, we ought to be doing it. We ought to be doing it from the day one and for those reasons I think this is not only a good precedent but it is the right thing to do at the right time.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker. Members of the Legislature, I rise to support the chairman of the Appropriations Committee, the chairman of the Revenue Committee, and I think I will add that between those two people we have thirty-two years of combined experience in this Legislature. I support the amendment. I think it is the honest thing to do. I think it is the right thing to do. People realize that the new federalism is sending programs to the states, that we are to evaluate, screen those programs and make decisions on which ones should be continued to be funded. I think many times this Legislature as a whole and individual senators have a tendency to underestimate the public's understanding of the taxing system. I think the public understands that our tax rate is based on the federal rate. I think they understand that the federal cuts affect our tax system, affect our revenues, and I think they realize the need for us to make up some of that lost revenue. We are not making up all of it if we go to 16%. We're still going to lead the public into a \$20 million tax cut. I don't think that by doing this we are abandoning President Reagan's new federalism program or his tax cut theory or philosophy because we are still sending to the public a tax cut but I think we are being realistic. I think we're saying, yes, we want to cut taxes but we can't afford to cut them as much as maybe we would like to at this point especially with these programs coming to the state from the federal level. I think people are also realistic, the general public, in that they recognize that the federal tax cut might have been too much in the first place. They don't like the idea of having over one trillion dollars in debt and deficit. I think if President Reagan was more realistic he might also have not had such a large tax cut. I think in the Nebraska Legislature we need to do the right thing today. We need to give the Appropriations Committee and the Revenue Committee some feeling as to this body's direction on the state income tax rate. I think it is the honest and right thing to do and I would urge your support of Senator Warner's amendment.

SPEAKER MARVEL: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Speaker and members of the Legislature, I would rise to oppose the Warner amendment. It isn't often that I would oppose the chairman of the Revenue Committee and the chairman of the Appropriations Committee but I would say to Senator Warner, I note a distinct difference your committee, a vote of five to four, as you came to the floor with your suggested target figure and I would say that we need to take a good look at what money we are spending, not trying to find more money to spend. We are not in times when people are willing to pay any additional taxes. They are hopeful that they will get the benefit of the 10% reduction as far as the Reagan program is concerned. I want to share with you an experience I had yesterday. I visited with the legislative committee of the Grand Island area

Chamber of Commerce by phone, a sizeable committee. One of the questions we discussed was the income tax as far as corporations are concerned and they are not, of course, all that happy about that increase and I can understand that. But I also said to them, "Now, now about raising the income tax?" And I said, "Have you ever thought what would happen?" I said, "I challenge you to get on the phone and call every tenth name in the Grand Island phone book and see whether people want us to increase the income tax from 15% to 16%." They all said, "Well 99% of them would vote against it." And that is the thing I think everyone in this Legislature needs to understand. Those of you...I'm not going to run for office again but I am just saying to you that those of you who are running this year, if you want to be elected, you'd better think twice before you recommend a 1% increase in income tax on this legislative floor. People are sick and tired of increased taxes. They want us to cut them. They want us to recognize the times. Farmers in this state of course, won't suffer because they aren't going to have income tax next year. I can understand why Cal and Senator Warner would be supporting this kind of a move. They are not going to have that kind of income but there are people who will and I submit to you that it is not a fair approach to the problem. We ought to leave it up to the normal channels that we have for doing this kind of thing and tighten our belts and cut the budgets accordingly.

SPEAKER MARVEL: Senator Wesely. Is Senator Wesely in the room?

SENATOR WESELY: Mr. Speaker, members of the Legislature, I rise to support the amendment Senator Warner is offering contingent upon one thing, that we also support his motion to return this bill to committee. Senator Peterson talks about the fact that the people don't want higher taxes and I think that he is right. The people do not want higher taxes. The question is though, is this Legislature going to be up front about that issue or not and one way or another it appears to me that there is going to be an adjustment in taxes to deal with the revenue shortfall that we have. One way is to do it through fee increases and cigarette tax increases and other increases that are not as up front and obvious as the question before us today dealing with the personal income tax. In other words these taxes that are going to be raised are more hidden from the public's view and so they are easier to adjust and that is what is being proposed during this legislative session. So it appears to me that you can be honest and straightforward and say that there is a revenue shortfall and an adjustment has to be made or we can take another approach and say, well let's do it in a way that the public won't be as knowledgeable about and still take care of the problem that way. So



I think that it is not correct to say that those who would support this motion are for ~~higher~~ taxes because I think those who are opposing this motion would also say that they are making efforts to increase revenues but I would say that those that would support this motion would want to do that and, in effect, that would be more open and more accessible and open to the public and I think that is really what the key question is. There are two things that this amendment and a hearing could accomplish in terms of educating us and educating the public. If the bill is returned to committee there is the opportunity for people to talk about the concept of the Legislature setting tax rates. There was a poll done by the Lincoln Journal and I guess over twenty senators in this body said that they thought the Legislature should play a role in setting tax rates. This bill does not directly address that issue but indirectly does of course because we are saying for the next year what the income tax rate will be. That issue ought to have a public hearing and should be discussed and the concept ought to be explored. So I think the idea should have the chance for a public hearing before the Revenue Committee and that would be valuable. The next issue that I think could be opened up and discussed and I think help educate us and the public concerns the whole question of how we adjust to the new federalism that is being imposed in this country. I think the key question is this. In talking to different groups there is a lack of distinction between adjusting our income and our taxes to make up for the federal cuts versus adjusting our taxes to make up for the slow down in the economy. I think most citizens of this state recognize that if the economy is slowed down and they are tightening their belt, then state government ought to tighten their belt and I think we all agree to that. But why should we let the federal government, Washington, D.C., set our tax policy for the state and not take any sort of leadership on the state level to deal with our old fiscal matters? I think that is the other part of the issue that needs a public hearing and needs to be discussed because there is a distinction. I think that what Senator Warner is trying to do is to recognize the new federal tax cuts impact on Nebraska and say that Nebraska should decide what our own tax policy is and what our own tax revenue should be and I think that is what the new federalism is all about or supposed to be all about. It is supposed to try and give more leadership and responsibility and authority to the states to determine their own destiny and I think what Senator Warner is saying is let's assume that authority and let's take that responsibility and discuss the question of what destiny this state should take in terms of tax revenues. So I think that that discussion would be valuable to be held in committee. And then finally I think that this issue raises the questions that Senator Peterson was discussing again. We

need to find ways to keep taxes down and to eliminate waste, fraud and abuse and the old standards that we hear in the Washington, D.C., talk and I think there are bills that are doing that. I personally, dealing with the treasurer's office and the auditor's office, whistle blowing legislation we heard yesterday and trying to introduce bills that I think will help increase efficiency of government. There are other efforts underway similarly directed toward increasing efficiency of government. I think that is the hallmark of the new age we've entered at the fiscal times that we now encounter and I believe strongly in it. So I think that this discussion will also focus attention on that matter as well. So what I am saying is that this is an important question. It is important enough to be considered by the committee. The public should have a chance to go through a hearing process and that we will all benefit from the discussion that this amendment will create. I think that next week we will be discussing the new rule that Senator Warner introduced that the Rules Committee proposed and that you adopted to consider the budget figures for next year.

SPEAKER MARVEL: You have thirty seconds.

SENATOR WESELY: Thank you, Mr. Speaker. Combining this discussion to this bill in the committee with that discussion on the floor we will all be better aware of this early in the session of the fiscal future of the state for this year and the next year and in the future and I think that is beneficial and I ask your support for it.

SPEAKER MARVEL: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, 16% is an appropriate level for individual income tax rates and I walked out of here at the end of the special session having voted against the Governor's proposal, having offered an amendment to cut taxes by \$25 million and I didn't support the Warner plan at that time and in the intervening months I have thought it over and I figured I was wrong. I should have voted at that time for the Warner amendment and the fact that I created a little way out for myself. It wasn't really the principled action that I would like to be able to say that I continually take here on the floor. So when I came down to the Legislature this year I said to myself, if I am asked to support a tax increase that will make up the shortfall from federal funds I am going to do it. I am not going to look for a way out. I am going to vote for it and I am committed to that idea. The difficulty is this, however. The matter of scheduling, the matter of timing affects a lot of revenue questions and this is what I am afraid of. If we pass this language today what is going to happen to the corporate income tax question? What is going to happen to the cigarette

tax measure? My guess is that the corporations will look at this income tax raise and they will say, "This is it. This is our chance to say that we are covering our bases on revenue shortfalls and now is the time to attack the corporate income tax increases like gangbusters." And I am standing here to tell you one thing. I support 16%. On the sixtieth day I will have been on record in supporting a 16% budget and a revenue measure in the event we are forced to vote on a revenue measure and I am also standing up telling you that I am not going to vote for this motion today because it is going to get the corporations off the hook. We are going to divert our attention to the adequacy and the equality in that measure because we'll have voted on this measure today in the event it is successful. Corporate income taxes in this state are too low. They bear too little of the burden of the public's business and I am afraid that by voting at this time we will perpetuate that inequity. I want that inequity to be solved before I vote for a 16% increase. Senator Peterson tells me that in the event I have any desire to be reelected I should think twice about this and I have thought at least twice and several times more and I don't want to duck the issue. I'm not going to vote against this because I don't support 16%. I do and I will by the time this session is over but I am not going to do it today because there is a bigger fish to fry and that bigger fish happens to be the tax inequity of our current corporate tax rate structure versus the burdens that individuals pay and for that reason I will oppose the Warner measure but hope that before this session is done I will get a chance to reverse my field. I will be able to support a tax increase for the corporations and then support a 16% increase in the individual income tax rate.

SPEAKER MARVEL: We have one more item before we recognize the next speaker. In the North balcony from Bassett, Nebraska, it is my privilege to introduce 4 seventh and eighth graders and this is in Senator Lamb's district and the school is the Pioneer Christian School at Bassett, Nebraska, and Janet Canel (phonetic) is the teacher. So may we welcome the people to the Unicameral. The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker. I would like to ask Senator Carsten a question if I could. Senator Carsten. What we are proposing here today is that we adopt this amendment, then the Revenue Committee will hold a public hearing on it. Is that correct?

SENATOR CARSTEN: Yes, that is my understanding. Senator Warner has promised that if the amendment is adopted he would then move that it be sent back to the Revenue Committee for a public hearing.

SENATOR KOCH: The Revenue Committee has also had a public hearing on the possible increase of corporate taxes, have you not?

SENATOR CARSTEN: Yes.

SENATOR KOCH: The Revenue Committee has so far seen fit not to make any recommendations on that hearing, have you, as of now?

SENATOR CARSTEN: Correct.

SENATOR KOCH: Alright. Now that is where I want to frame the remarks I want to make. What you now have is you have before the people for public testimony the issue of the possibility of income tax and I think that is appropriate. This body last November when we met, many of us had some, I think, anger and we were rather spiteful. We were trying to condemn either the Governor or the Board of Equalization and everyone. Here the Legislature is providing an opportunity for a public hearing, that is, do we believe that income tax is the right way, corporate tax or a combination of both? If I am not incorrect we have a revenue act where they are tied together to a certain extent in terms of the kinds of revenue which will be generated and I don't think we can violate that revenue act at the present time too much. Frankly I feel that we left here last November and made a terrible mistake when only thirteen of us saw fit to say at that time to the public, we do indeed need revenues because of problems that we foresee coming at us because of federal issues. At that time there were some people trying to punish the Governor in here. It was very partisan and even some of the Republicans in here did not see the light. It isn't often we have a chance to mend our fences and do it appropriately and be a nonpartisan Legislature such as we are supposed to be. So I suggest that we adopt Senator Warner's amendment. This is the second time he has tried to lead us out of the wilderness and some of us are probably not going to be willing to follow or we are going to get lost in that wilderness. And to Senator Peterson, he hasn't been here very long but I've heard those intimidations before over abortion and a lot of other things and some of those of us who are seeking reelection will have to take up our chances and I am willing to take a chance because our responsibility is to make certain that this state has the revenue necessary to provide for our problems as they confront us and not cause us to be embarrassed in future years. This is wise planning. It is appropriate. So I would hope this body would approve the Warner amendment, send it to the Revenue Committee for an appropriate hearing. Then we will make a decision later on what kinds of revenue we are going to enact for the next fiscal year. Thank you.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I rise to support the Warner amendment also for many of the same reasons that have been expounded by other speakers but it seems to me that where we're at right now is at a crossroads of sorts. I think we all know that this money is going to be spent. We are trying to be presented as a conservative issue and if you don't raise income taxes you're not going to spend those monies, therefore, you should vote against raising the income tax. Well when you recognize the fact that the income tax is being cut back, not by a decision that we made but by a decision that was made in the federal government since our income tax rate is piggy backed on theirs. When you also recognize the fact that we've got every conceivable idea under the sun to raise funds other than right straight up front where everybody can see it on the income tax, whether it be corporate taxes, fees from various cash funded agencies including some of the commodity checkoff boards, even so searching for funds that were also proposals to do away with any of the per diems paid for many of the commissions and boards in this state, syntaxes, cigarette tax, alcohol tax, anything else we can tax, anything except right straight up front where the citizens know where it is coming from. So I personally don't think that this is an issue of whether or not we're going to spend that money. It is just simply an issue of how we are going to raise the funds where everybody knows where it is coming from or from some way under the table to get it. I personally think that if we adopt the Warner amendment and then send the bill back to the Revenue Committee and let the Revenue Committee hold a public hearing so that the public can come in and tell us whether or not they want those funds to be provided from various sources under the table any way except right up front or whether, in fact, they would prefer having an increase in the income tax so that everybody would know where the money is coming from and it seems to me that is a logical way to do it. Now I admit that many of the decisions that are based in here are based on things that perhaps are not having strictly to do with the issue at hand but I think the issue at hand here is one of enough serious of a nature that the public should be able to respond at a public hearing on this issue. So I would certainly support the Warner amendment and also his following amendment to return the bill to the Revenue Committee for a hearing. Mr. President, if I have any of my time left I would like to give my time to Senator Carsten for some remarks that he might want to make.

SPEAKER MARVEL: Senator Carsten, you have an additional two minutes.

SENATOR CARSTEN: I won't take near that long, Mr. President,

and thank you, Senator Vickers. I think the one thing that we, speaking of increase in the individual income tax, fail to emphasize and that the average person in the State of Nebraska does not realize this is not additional taxes but a shift from the federal to the state and if the state is going to be asked to pick up some of these and not all, I'm sure we're not going to pick them all up, but if we pick up some that has been provided then the shift is going to have to come back to the individuals and the states total responsibility. I think the shift, the word "shift", needs to be emphasized and hopefully when we get to the hearing on this, if this is adopted, that this will be fully brought out. Thank you very much, Mr. President.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I think we're spending a lot of time talking about this but I do think it is important and I just have written up my newsletter that goes out to the papers in my district and I'm not afraid to put my thoughts on the line. I'll read you what I have written. "We in the Revenue Committee have been hearing bills that deal with the maintaining of state revenue by various means. It is hard to predict what will be presented to the full Legislature. I would favor a combination of ideas, perhaps some increase in corporate tax, some increase in cigarette tax and an increase in some of the service fees. I still favor keeping our state income tax at a level that would not cause a reduction of the state's income tax when the federal tax is reduced. We simply cannot provide even minimal services to our citizens in view of the federal funding cuts without sincere fiscal planning by all of us." Now in the special session we argued this issue. I was very disappointed that we perhaps did not win in that case. I was disappointed because I think we have lost between twelve and fourteen million dollars already or will in the rest of this year. I guess Senator Warner would like to put the emergency clause on this issue later on but I can assure those of you that are concerned about not putting a package together in the Revenue Committee if this does come back to the Revenue Committee and we do discuss it, I, for one, will certainly be working to put a package together and not exempt the corporations and put it back on personal property, or the personal income tax in the state. I think it would be wrong though for us to increase the corporate tax and then let our own personal income tax dwindle. I think then they would have a right to complain. Thank you.

SENATOR LAMB: Mr. President, members of the Legislature, I rise to oppose this amendment and I think if you remember back in the special session I was one of that baker's dozen of thirteen that supported the proposal which would have forced the 1% increase in the income tax at that time. But

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I submit that these proposals are completely different. In this amendment we are doing at least two things. One, the Legislature is taking the responsibility for setting the income tax rate and that responsibility has historically been with the State Board of Equalization. I prefer to leave it with that board. It is merely a mechanical function which that board carries out after this body decides how much money shall be spent. I think that is a proper way to do it. The other objection I have to the amendment is it is fixed. It says 16% period. Who knows at this point whether 16% is the proper amount? Maybe it should be 17%. Maybe it should be, if 454 passes, maybe it should be 16½%. Maybe it should be 15½%. I think this is far too inflexible. Another point, the public hearing on the bill, this can be handled without attaching the amendment to this bill and then sending this bill back to committee. The committee can propose a bill and hold a public hearing on this very same issue without holding up this bill. I think that would be the proper way to do it if it is the desire of this body to set this rate at a fixed percentage which I also believe is a mistake. Thank you.



SENATOR DeCAMP: Mr. President and members of the Legislature, every once in awhile we stand up and we say things for the record, especially if we want to get them on the record, and that is what I am doing on this issue and it follows up from the Special Session. I am going to vote against the amendment and my reasons I think are totally separate and different from those spoken so far. Remember once the Legislature votes on this, if they vote and say sixteen percent, the ball game is over, and I hate to use the word "ball game" but that is what it has come to be as it has every year since we have been here, as it has every year in every other state. Once we say an increase is necessary, then it is the Legislature that has voted for a tax increase and the numbers become kind of meaningless, whether it is sixteen, eighteen, twenty. So my reason is this is not the point at which or the time where you can say a tax increase is or is not necessary until you get what a lot of the expenditures are going to be, reason number one. Reason number two is more important to me personally. I am totally satisfied in my own little mind that sixteen percent is not going to cut it either and sixteen percent is merely the device to say the Legislature says we need more money. Now the only reason I can offer that I think the sixteen percent is incorrect and not going to be enough, if you are going to meet the things that we are all talking about, the reasons, every year when I disagreed for the past six or eight years on how much was going to come in or how much was going to be there, I have been right. I am not bragging but it is a simple fact of life. When the Appropriation or the Revenue Department said we were going to have this much money, I said, "No, you are going to have a hundred million more", and indeed they did and we had the famous Christmas bonus. Then when they said, "Well, golly, we are going to have all this money", I said, "No, you are going to be about forty million short and have a Special Session because you wouldn't cut about two and a half percent before", and we did. Well I am saying absolutely that sixteen percent will not be enough. You are going to be wrong and all you have done with the sixteen percent when you vote for it is say the Legislature says we are going to have a tax increase. I am willing at the proper time to do that for the needs but let's do it up front, and if it is seventeen, if it is eighteen, if it is another quarter percent on sales tax, let's be up front about it, let's do it straight. Until that time, until we have what we are going to spend, until we have a little more information on the economy, and I think within another twelve hours you are going to have a lot more information, by the time you get the evening news today, until you get that, I don't think we ought to take this vote that casts us in a particular position. Those are my reasons for

voting against the proposal and not necessarily because I really believe that absolutely no tax increase is going to be necessary. Because I believe ultimately that if we are going to have to do the job we are going to have to have some additional bucks but this just isn't the time to make that decision in this manner.

SPEAKER MARVEL: Chair recognizes Senator Clark.

SENATOR CLARK: Mr. Chairman and members, I think this is probably a landmark thing. I am going to agree with Senator DeCamp and that is one of the few times I could ever do that. You know this is really kind of a simple process. The Legislature spends the money. We send it over to the Governor and he vetoes, line item vetoes or approves it and whatever increase it takes to put that budget into effect is what the Board of Equalization has to do. It is just really that simple I think and I will agree with Senator DeCamp that 16% may be too much, not enough. It looks like that Senator Warner has come out and said 15% is what it is going to take to fund the budget that the Budget Committee is coming out with. That is the way it looks to me. I don't think we can do it that way. I think what we have to do is to go in our normal procedure, have the budget come out, if the budget is too big we can cut it. If it is too big when it gets to the Governor, he can cut it down to where his appropriation is and then they can set the tax. The people of this state have been told by the Governor that 16% is too much. We don't have to have it. His budget came out we do not need a tax increase. That is what the people believe and now you get the liberals in the Legislature saying, "No, we need more money. We want to spend more." I do not believe it and I will not vote for this particular amendment. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Warner amendment to LB 454. Senator Warner, do you wish to close? The Chair recognizes you.

SENATOR WARNER: Yes, Mr. President, it is a strange argument today. I'm not sure after hearing the discussion if I am supposed to address 16 because it is too high or address 16 because it is too low. I get the impression that I could address it either way and be in keeping with some of the sentiment. On the other hand, maybe it is just right since some thinks it is too high and some feel that it is too low. Maybe the middle is the place. Two or three points that have been raised. When we address the resolution on a spending target, an amendment that the majority

of the committee approved to the resolution contemplates the corporate tax, the cigarette tax, the miscellaneous receipts and the individual income tax rate all changing. It is not an either/or. So that argument I don't believe is feasible if you want a level of appropriation as proposed there to do many of the things that many of you have legislation or interest in accomplishing. Secondly, the poll that was taken has been referred to, I was one of the twenty-two to oppose having the Legislature set the rates, but there are exceptions and I pointed one of those out to you in my initial comments where we did make an exception to that rule and reduced them in 1973. Those who are concerned...well, one other point. I have never argued, not in November nor do I now, that we adjust the rates to take up the slack for the slowness in the economy. Well all of us argued then and argue now is that we need to make up a portion and mind you, only a portion of the loss of reduction receipts because of the federal changes. What we are talking about by going to 16 is do we reduce the receipts by \$20 million or \$50 million. That is the two choices as far as the 15 and the 16 is concerned. So either way there is an income tax collection reduction as long as we are piggy backed on the federal tax. Finally the issue of timing. The timing is not the decision today. You will recall amendment, if adopted, the bill will be proposed to go back to the Revenue Committee to get a balance between all of these. If any of you think the corporations are not going to resist the change proposed before them because they are going to ignore what will happen to the individual rates for calendar year '83, you're really kidding yourself, because obviously that is their big concern and they will be less concerned about an increase in the corporate tax. I would suggest if we go to 16 now so that their issue can be dealt with for next year as well but I would suggest the possibility may well be to stay at 16 through next year. You would still talk an exceedingly tight budget but at least that option is there. There is no way under the sun, absolutely no possibility that the individual income tax rate will stay at 15 for calendar year 1983 based upon the changes in the federal government unless they make a change too. Now the only scuttlebutt I have heard is that they may even make more of a reduction that will put us in more difficulty. There are some other things that could be done. If the bill is returned to committee they obviously can adjust it to something other than 16. They could put in not less than 16 to take care of the problems some of you have raised in case there is a future change. I believe that a more orderly process can be accomplished by the adoption of the amendment, returning the bill to the committee and then when we have the budget adopted we will have a total picture on revenue. We will be looking at the '83-'84 budget at the

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same time and then I think there is an orderly presentation for the public as well as for the members of this body. I would hope you would adopt the amendment.

SPEAKER MARVEL: Okay, the motion before the House is the adoption of the Warner amendment to LB 454. All those... Senator Warner.

SENATOR WARNER: I assume I may as well request a Call of the House, Mr. President, to expedite.

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

CLERK: 32 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your desks, indicate your presence. Unauthorized personnel please leave the floor. Senator Goll... Senator Warner, will you please indicate your presence. Senator Kremer, Senator Schmit, here? Senator Labedz, will you please record your presence. Chambers, Higgins and Schmit. Senator Warner.

SENATOR WARNER: Mr. President, why don't we do roll call and see where we're at.

SPEAKER MARVEL: A roll call vote has been requested. Will all legislators please take your seats. Unauthorized personnel leave the floor. The motion is the adoption of the Warner amendment to LB 454. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 570-571 of the Legislative Journal.)

SPEAKER MARVEL: All legislators must be in their seats. The Clerk will cease to call the roll until the legislators are in their seats. Those are according to your own rules. Please return to your seat. Okay, continue.

CLERK: 19 ayes, 27 nays, Mr. President.

SPEAKER MARVEL: The motion lost. So ordered. Senator Warner.

CLERK: You don't want the motion now, do you, Senator, to return?

SENATOR WARNER: Oh, bill back to committee?

CLERK: Yes, sir.

SENATOR WARNER: No, I don't think so.

CLERK: Okay.

SPEAKER MARVEL: Senator Kilgarin, do you want to advance the bill? Senator Carsten, will you make the motion to advance the bill?

SENATOR CARSTEN: I so move, Mr. President.

SPEAKER MARVEL: The motion before the House is the advancement of the bill. Senator Newell, your light is on. Do you wish to be recognized for this purpose?

SENATOR NEWELL: Mr. President and members of the body, I rise to oppose the advancement of LB 454. Let me say that without the Warner amendment which would have sent this back to committee where it should really be and where I would have liked to have kept it in the first place, we now have only one good section and that is the section requiring that we get some updated reports on our receipts and the revenues that are coming in. But basically 454 is a bill to raise taxes and this Legislature said we don't want to do that. We are not going to raise the tax rates and so why should we push through this proposal which allows our tax rates to inch up? Basically if we pass 454 we will have an opportunity to kind of vote for one or two more A bills, add another good amendment here and another good amendment there and we will only trigger just a little bit of an increase because that is what this bill does. It allows us to inch up these sales and income tax rates. Right now those are barriers to spending. Those are barriers because we know that a little inching here and a little inching there and the Governor knows that if he is overridden, if he doesn't fight to keep from being overridden or if he doesn't come in here and try to keep some bills from being tacked on as we tend to do towards the end of the session, that we're going to have to have a substantial increase in the sales tax rate or the income tax rate. But this bill will allow us to kind of do a few more things each and every year, kind of inch our way up. You know, I was talking to a person from the administration and they said, you know there is two philosophies on this proposal. One is that it will allow the sales and income tax rates to be raised more easily and, therefore, it is a bad bill. And then they said that there is another proposal which the administration holds is that it will allow the sales and income tax to inch up more easily and, therefore, it is a good bill. There is no dispute over what it is going to do. The only question is, is this good public policy? And I say that 454 is an opportunity for each and

every one of us to make sure that we continue to see a growth in our tax rates. That is contrary to the Governor's commitment. That is contrary to what this Legislature just said and for that reason 454 should be opposed. I urge the rejection of the motion to advance LB 454.

SPEAKER MARVEL: Underneath the North balcony the Urban Affairs would like to hold a meeting. Meanwhile the Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. President, members of the body, this is a totally unneeded bill in the Nebraska Legislature and I feel just in general terms a harassment bill to the retailers of the State of Nebraska. Simply a harassment to trigger sales tax changes quicker and more often, making them go through their cash register changes more frequently. If a tax system is going to be consistent and equitable, let us have some stability in rates. When we move to a half percent increment on the income tax and we move to a quarter cent increment on sales tax, what we do is just fluctuate tax rates more often. It is all that simple. We are writing into law more frequent changes in the tax rates which are eventually you are going to come out with the same revenue. We are going to have to cover what we spend with revenue from the sales/income tax the way the rest of the law is spelled out and all we do is make a more frequent change on the rates. I think the business community is entitled to some stability and get this work load off their back but instead all we are doing is doubling up the work load of the business community as that it does take a large share of their effort in collecting both the income tax and the sales tax. So now we play the game and we change it on a quarter percent of sales tax and a half percent of income tax. There are no real merits to this bill. We just change rates more often and I don't think anybody in the state wants to be under the situation they are not going to know what the rate is going to be next month or the next month. I urge the body to vote against this bill and get off the backs of the business community which is exactly what it is doing, forcing the retailers to be changing rates at one quarter of a percent and it never makes a bit of difference of how much the total tax take is going to be. Thank you.

SPEAKER MARVEL: Senator Hefner, the motion is to advance the bill.

SENATOR HEFNER: Mr. President, members of the body, I rise to support the bill. We heard it in Revenue Committee and what this bill would do, it would allow us to fine tune our system and Senator Newell and Senator Burrows talking about

it doesn't change it that much, I think it changes it quite a little because with a half a percent sales tax the state receives between 35 and 40 million dollars. If we would cut that in half it would be 18 to 20 million dollars and folks, this is a lot of money. Then on the income tax side a one percent will raise 20-25 million dollars and I think that is a lot of money. A half a percent would raise from 10-12 million dollars. As far as the business community is concerned I don't think it makes much difference to us. I'm in the business community. I don't think that it would be that hard. Certainly we have a lot of computer type cash registers where you program the sales tax in it. But most of these are on a service contract for a year and the men will come in and change this without any additional cost. Therefore I would urge the body to support this bill. I think that it is a fair bill and it would allow us to fine tune our tax receipts a little closer.

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

SENATOR KAHLE: Yes, Mr. Speaker, members, I support the increments that we are talking about in this bill. I do have some misgivings about the Board of Equalization and I think the credibility of the Board of Equalization has been damaged. Especially this last year. I don't know what good it really does to change the increments if they are not going to use them. So, in spite of that I think I still feel that a quarter percent and a half percent are realistic. So I will support LB 454. I hope that the Board of Equalization will then use their prerogative and their power to do what has to be done instead of calling us into session every time something goes wrong. Thank you.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor of that motion vote aye, opposed vote...I'm sorry, do you wish to close Senator Carsten?

SENATOR CARSTEN: Just very briefly Mr. President. I think as I said when we talked about the bill on General File with the present and past inflationary situation as it has arisen the increments were so great that to raise a half or a whole, as the case may be on sales and income, we were talking about a lot of dollars and some of it without question was absolutely unnecessary. The reason for the bill was that it could be more finely tuned, that we could raise it in smaller increments that would be closer to target without being extremely over productive or extremely under productive. With that, Mr. President, I would again urge the Legislature to advance LB 454.



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LB 454, 408, 628, 353,  
LR 216, 217, 218

SPEAKER MARVEL: Senator Carsten has closed, we will now vote on the advancement of the bill. All those in favor of advancing the bill vote aye, opposed vote no.

CLERK: 30 ayes, 6 nays on the motion to advance the bill Mr. President.

SPEAKER MARVEL: The bill is advanced. Clerk has some items on the desk before. . .and after that we will attempt to try to move some bills.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 408 in the Journal. (See pages 571-572).

Mr. President, Senator Howard Peterson would like to print amendments to 628, Senator Fowler to 267 and Senator Nichol to 353. (See pages 572-74).

I have a report of registered lobbyists for January 29th through February 4th. That will be inserted in the Journal. (Page 574).

Committee on Government, Military and Veterans Affairs give notice of cancellation and resetting of public hearings.

Mr. President, I have three new resolutions, LR 216 offered by Senator Cullan, (Read LR 216). That will be laid over. LR 217 by Senator Koch, (Read LR 217). LR 218 by Senator Peterson and Senator Hefner (Read LR 218). That too will be laid over Mr. President.

SPEAKER MARVEL: Okay, I would like to give you a list of bills and then we will proceed to attempt to implement. 402, 525, 255, 255A, 435, 589, 115, 115A, 440, 314, 131, 287, 649, 571, 598, 646. Senator Beutler, your light is on.

SENATOR BEUTLER: Mr. Speaker, I think I would like to make a comment on this procedure. I don't know if others operate the same way I do but, when I come in each day I normally look at the ones on the top of the list first on the assumption that we will be dealing with those and in that manner I can prepare for the day. When we skip around like this and we go down to the bottom of a list it seems like I am often caught unprepared and the result of that, I think, is that I end up occasionally on Final Reading suggesting amendments to bills and I'm sure that others are doing this. I'm not sure in the long run, Mr. Speaker, whether there is anything

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LR 217  
LB 115, 115A, 131, 255A, 274A,  
287, 314, 440, 454, 520, 591, 954

Your committee on Revenue whose Chairman is Senator Carsten reports LB 591 advanced to General File.

Your committee on Education reports LB 520 advanced to General File with committee amendments attached. Those are all signed by the respective Chairmen.

Mr. President, Senator Sieck asks unanimous consent to withdraw his name as co-introducer from LB 954.

SENATOR NICHOL: No objection, so ordered.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 115 and find the same correctly engrossed; 115A correctly engrossed; 131 correctly engrossed; 255A correctly engrossed; 274A correctly engrossed; 287 correctly engrossed; 314 correctly engrossed; 440 correctly engrossed, and LB 454 correctly engrossed, all signed by Senator Kilgarin as Chair.

SENATOR NICHOL: We will go on to LR 217, Mr. Clerk.

CLERK: Mr. President, LR 217 offered by Senator Koch, found on page 576 of the Journal. (Read LR 217).

SENATOR NICHOL: Senator Koch.

SENATOR KOCH: Mr. Chairman and members of the body, this is noncontroversial I hope. This is merely an endorsement of vocational education week and this is the week that we highlight and I don't think it needs a great deal of explanation, and I ask for the adoption of resolution 217.

SENATOR NICHOL: The question is LR 217. All those in favor signify by voting aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Have you all voted? Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of LR 217.

SENATOR NICHOL: Senator Koch.

SENATOR KOCH: Mr. Chairman, I would like to have a record vote on this and I want to see whether we are really loyal or we are just making fun.

February 10, 1982

LB 335, 375, 454, 784

CLERK: 25 ayes, 21 nays, Mr. President.

SENATOR CLARK: Motion passed. The amendment is adopted. We are going to stop the bill at this point being as it is time. We have a few things to read in and then, Senator Barrett, I want you to adjourn us until tomorrow morning. I imagine you are on Medicare now, your birthday was yesterday? Alright.

CLERK: Mr. President, Senator Newell would like to print amendments to LB 454; Senator Hoagland to print amendments to LB 375. (See pages 636-637 of the Legislative Journal.)

Mr. President, your committee on Administrative Rules reports LB 784 advanced to General File. That is signed by Senator Vard Johnson. (See page 636 of the Journal.)

Mr. President, new resolution, LR 219 by Senator Lamb. (Read as found on page 637-638 of the Journal.) That will be laid over pursuant to our rules, Mr. President.

SENATOR CLARK: Senator Barrett, will you adjourn us until tomorrow morning as a senior citizen.

SENATOR BARRETT: I would be happy to, Mr. Chairman. I move that we adjourn until tomorrow morning, February 11 at 9:00 a.m.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. We are adjourned until tomorrow morning at nine o'clock.

Edited by Arleen McCrory.  
Arleen McCrory

February 19, 1982

LB 454

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read LB 454 on Final Reading.

CLERK: Mr. President, I have a series of motions on LB 454. The first motion I have is from Senator Newell. Senator Newell would move to return the bill to Select File for a specific amendment. I also have Senator Schmit, Mr. President, would offer a motion to lay the bill over for two weeks. That is a priority motion and should be considered at this time.

SPEAKER MARVEL: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President, I believe the Newell motion is a drastic departure from the existing legislation and does not in my opinion in any way reflect the present content of LB 454. I would believe that it would be preferable to either vote on the bill as it stands or to lay it over for a couple of weeks. At this time I guess I would withdraw that motion and allow Senator Newell to discuss his motion just a bit, but I would ask to renew it if there is going to be any lengthy discussion because of the fact that time is of the essence and it makes no sense to me that a bill gets to Final Reading and at this time we take drastic measures to alter the complete nature of the bill. I withdraw that motion and allow Senator Newell to explain what he is doing with the reservation that I would re-offer the motion after Senator Newell has introduced his amendment.

CLERK: Mr. President, Senator Newell's motion is printed separately. It is Request 2634. I believe you will find it in your bill books.

SPEAKER MARVEL: Okay, Senator Newell, you are recognized.

SENATOR NEWELL: Mr. President and members of the Legislature, the proposal that I offer to this Legislature is one that would allow the Legislature to set the sales and income tax rates, an issue which I have long felt is important and one that we ought to deal with. But at this time I am going to ask that we withdraw this motion. Senator Carsten, Chairman of the Revenue Committee and the primary sponsor of this legislation, has asked me to do that because he has a motion that he would like to bring up. I will, however, only temporarily withdraw it. As the bill readvances I would like an opportunity to discuss and have a record vote on this proposal. I think it is important, but at this time I would like to withdraw my motion to return to Select File and I will offer it again as the bill readvances...after the bill readvances.

SENATOR CLARK PRESIDING

SENATOR CLARK: It is withdrawn.

SENATOR NEWELL: I am withdrawn.

CLERK: Mr. President, the next motion I have is from Senators Carsten and Warner. The motion is to return the bill to Select File for a specific amendment and it would read as follows: (Read the amendment as found on page 768 of the Journal).

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I would move to return LB 454 for this specific amendment. And this amendment is a commitment that our committee has adopted as a part of the solution to what we understand to be a serious problem in the state relative to revenue measures. We tried to find a bill that was appropriate to do this with and it did appear that this was the one to use. And what the amendment does as our committee agreed to recommend to the body, was to suggest and recommend that the body adopt a 1 percent increase in the individual income tax. However, further realizing after a joint meeting with the Appropriations Committee last week and the Department of Revenue as well as the Governor's office, it did appear there was an extremely amount of uncertainty as far as the future is concerned. So we have drafted this bill with this wording that does give some flexibility, and as such depending upon the events that come down the road, the Board of Equalization could act accordingly as they should anyhow. It does seem appropriate and in our wisdom that this is going to be necessary and while we agree that it is an increase in the individual income tax, we view it in light of those circumstances that have developed from the federal level as well as the local level that it is a shift as opposed to that being an addition. This is part of a package, so to speak, that our committee has, or will be sending to the floor for this body's consideration to address Nebraska's situation as it is today. I would also recommend and suggest that if you agree and that you do support us in bringing this bill back for this specific amendment, and we do adopt the amendment, that we hold this bill in that position until the other three bills that we will have reported catch up with it so that we have them all together for analysis, and that we move with them collectively. With that, Mr. President, I move to return LB 454 to Select File for this specific amendment. Thank you.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I rise to support Senator Carsten's amendment and I joined with him in signing it, and there are three or four things that I want to call your attention to. Number one, as Senator Carsten has indicated, the Revenue projections for the current year are \$10 to \$16 million down. It has...if you have been reading the paper, the prime rate is going back up and I think you can rely upon the probability that the Chase econometric model come end of March will show further deterioration from where we are now. We have to deal with the taxes as they exist today. Secondly, somebody will probably rise up and say, well, we shouldn't do this today because Congress might change. Well, they might change, but I would be willing to bet it will not change while we are in session. But further even if they did, even if Congress does defer the July 1 to the end of the year, based on the short of revenue receipts that we now know of and what any reasonable person will agree has only one probability and that is to go down further, then the 16 rate is still necessary as a minimum because of the deterioration. Now the basic argument, of course, is the one all along, is whether or not the state should absorb reduction in revenue just because of the changes in the federal tax base. That in itself is justification for the 16, but when you add it to the known deterioration in receipts, then it is inevitable. Secondly, there is no way to finance \$758 million which is the target figure in the resolution without this taking place, and as most of you know, that figure requires probably at least another 5 before we adjourn just to cover things that we know are going to occur. The options are few. There is no question but what this action is necessary and if the Legislature will do this today, then I think that I would agree with Senator Carsten that the bill will be held on Final Reading after adoption of the amendment and held at that point until the other revenue measures that the committee has advanced have been advanced so that we have that total picture. But unless we get some stability, unless we give some stability to that revenue picture by recognizing the absolute inevitability of going to 16 then the next few weeks are going to be even more hectic, and I would urge the body to adopt Senator Carsten's amendment to return it to Select File, adopt the amendment, readvanced and then make a motion that it be held until such time as the other Revenue measures advanced by the committee are here. Thank you.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I suppose I should have offered my motion to hold the bill as it is in place rather than to have acquiesced to allowing Senator Newell to discuss his motion. Since I did not do so, I will speak against the motion to adopt the amendment that we adopt a 16 percent rate on the income tax. And I would suggest that we just hold the bill in place on Final Reading for a period of two weeks at which time we will have a better picture of what is going to really take place insofar as this Legislature is concerned in the area of expenditures and insofar as the picture is concerned in the way of revenue for the state. The state has no recourse and no resources except the income we receive from the profits on business and labor and the income taxes that we receive. As Senator Warner has pointed out, those are down. I would ask...I am not going to ask the question but I do not want to surrender my time to either of those two gentlemen who can use up the rest of it very rapidly, but suppose, Senator Warner and Senator Carsten, that we find the projection is down another 30 or 35 million dollars in the next two weeks' time, will we then raise the income tax rate to 18 or 19 percent to compensate for that? I would suggest that, as you have indicated, Senator Warner, the projections at this time are only in one direction insofar as income to the state is concerned and that is down. I would suggest also that the same is true from the standpoint of the income of the people of the state. It is only reflected here in the tax collection. Therefore, I would oppose vigorously the adoption of the Carsten-Warner amendment. I have advocated for many years a much broader approach to the revenue problems of the State of Nebraska, one which I believe can be addressed and will be addressed and should be addressed by this Legislature rather than the one shingle at a time approach which this amendment would be an extension of. I recognize Senator Warner's concern in his attempts to offer to this Legislature some method whereby he can balance revenues with expenditures. I recognize Senator Carsten has the toughest job of any Chairman of any committee on this floor, but I think that at this time we would be just as well off not...we would be better off not to adopt the Carsten-Warner amendment but to reject that amendment, allow the bill, LB 454, to remain in place on Final Reading. In a period of two weeks we will know where we stand at least a little bit better. I am afraid we will not be in any better financial picture.



At that time we may have a solution that would be considered preferable to the 16 percent income tax rate. I just suggest that I have a plan of my own which I think is preferable. I may not have 25 votes, but I would like to have a chance to explain it to the committee, hopefully to this Legislature, and I believe that at some point in time this Legislature will have to face reality and recognize that many of the programs we have adopted cannot be continued, others that need to be continued will need to be funded but will have to be funded perhaps in a different manner. So I would oppose the amendment, ask that you vote against it, and then allow LB 454 to remain in place on Final Reading after we dispose of this amendment, and hopefully we will not adopt it, then I would offer that motion.

SPEAKER MARVEL: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I have been sitting here listening to the discussion and my first inclination was to agree with Senator Warner and Senator Carsten on moving the bill back. After listening to the discussion, it would seem to me that we might be wise just to leave it on Final Reading as is for a two week period until we let the rest of the package from the Revenue Committee catch up and then we would know specifically what we do need to do. I don't think at this point we know absolutely for sure whether we need 16 percent or whether we need 17 percent or whether we need 15 percent, and I would like to be in the position of making that decision when the rest of the Revenue package gets to the point where it is now. So I am inclined to say that we ought to leave the matter on Final Reading and then take our action as has been suggested two weeks from now and then we will know a lot more about the economy of this. This thing in my estimation is getting worse every day. All we need to do is look at the paper today, see what has happened to Ford and see what has happened to the International Harvester, and we all know that the prime rate is going to 17. I think we are in a depression and I think we need to recognize that, and we are going to need to make our decision based on that, and I would hate to put a fixed figure into this thing at a point where we have put something inside a measure that we don't really know what we are going to do to get the rest of the money. So until the Legislature has taken action on the rest of the package, I am inclined to agree with Senator Schmit at this moment.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I have four reasons that I am going to vote against doing anything other than passing the bill on Final in its present form. Number one reason, this is precisely what the Newell amendment is, an issue that has been fought for years here. In other words, with the amendment even though it is indirect, the Legislature now becomes the rate-setter for all practical purposes on taxes. We have taken the authority away and said, you will do this at a minimum. In other words, we are saying, you will increase taxes at a minimum, so on and so forth. And then after that the only amount is how much the increase is. So, number one, the Legislature, even though it is indirect and disguised by means of the amendment, is taking the authority for tax-setting and putting it in the Legislature and, quite frankly, on the basis of information I have been provided, I don't have the information to say what the tax rate should or should not be, as I suggested before, nor do I suspect does any other member of the body. Proof of that... proof of that, approximately one week or ten days ago we were asked to increase from 15 to 16 so that we could have a \$773 million budget. Ten days later we found now supposedly the reason for the increase is a shortfall of \$10 million or so. This happens pretty fast in here. Every week or ten days, you are going to tell me you now have the knowledge to say what these amounts should be with the tax rates. That is reason number one. Reason number two, the first thing you do or should be doing in here is determining what your needs... what your needs are, absolute needs. How much does your University need? How much do your roads need? How much do your social programs need? Deal with that first, then say, and to accomplish these goals which we say are absolutely necessary, we need this much money. If they are really honest, legitimate needs, you do that first, then you raise your money for them. Third reason, in all honesty I believe the 15 versus 16 percent has become identical to Porkchop Hill in Kagsanh. Porkchop Hill, as you know, was a hill over in Korea where the United States for the sake of taking the hill and proving that we could take a hill, sacrificed hundreds of American lives and then a few days later after they had captured the hill they turned around and said, it didn't matter anyway and they turned it back over to the enemy. Kaysann in Vietnam was where the marines to prove they were tough sacrificed hundreds of American lives so that they could prove that we could hold onto this one little rice paddy area and then the day after we had successfully held onto it after weeks of fighting and sacrifice, we turned it over to the

enemy, just abandoned it and officially we stated it didn't matter in the first place. We wanted to prove that we could win. I really believe that is precisely what the 15 to 16 percent has become, a symbolic battle over whether we are going to increase or not increase tax rates, whether Charlie or Jerry, or whoever, Johnny, or whoever, is right or wrong, and the substance has all been lost out of it and we have forgotten to deal with what our needs are, what our bills are and raising cigarette tax or not doing it. Concentrate on those things. These things will all fall into line at the proper time. For those reasons at this point I am going to vote against making the symbolic gesture of saying, oh we are going to increase taxes because nobody...nobody in this room can say 16 percent is or isn't going to be adequate. Thirty-six hours ago nobody in this room, and probably only two people in this state would have been able to say, there is going to be 2000 Safeway employees unemployed. That is how rapidly things are developing. Let's worry right now about some of those fundamental things, what the needs are, some of the bills that have been put out, whether we are going to raise some additional revenue with cigarette tax, or whether we are going to raise some additional revenue with corporate tax, the rest will fall into line, whether through a Board of Equalization proceeding ultimately after we have determined our needs or whatever.

SPEAKER MARVEL: Your time is up. Before we proceed with the next speaker, underneath the south balcony as guests of Senator Nichol are Levi and Pearl Wentz from Scottsbluff, Nebraska. Are you still in the room? If so, would you please hold up your hands so we can see where you are? The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, I rise to oppose the amendment. I see this as sort of a hybrid thing. At present the State Board of Equalization sets the tax rates after the Legislature decides how much money should be spent, and with this amendment we are taking part of that authority but not all of it. I really don't see the purpose of this proposal because it will be obvious after the session is over, after we deal with the various revenue bills whether or not the income tax will have to be raised and by how much. So the whole purpose of this proceeding escapes me. I really don't think it is necessary. I don't think that it adds to the enlightenment of any of us, and it just sort of confuses the issue because it does limit

the options that would be available otherwise. So I would oppose the amendment.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I certainly support the action of the Revenue Committee, part of that committee and part of this whole debate. If you remember last week, we were given that task to come up with some sort of a funding solution to the problem. That is exactly what we tried to do. I am sure that we have as deep a concern for the economy as any of you in this body, those of us on the Revenue Committee, and I have not believed the reports that we have been getting from the so-called experts in the east, and I guess our projections are as good as theirs. But I think this is an honest upright approach to the problem. When Senator DeCamp got up, he said he had four reasons, I had an idea what the four reasons were, and the four reasons were over in the northeast corner of this building. But we were supposed to put together a package. We voted the other day to bring out a cigarette tax measure of 2 cents a pack. Whether that will stick, we don't know. We brought out a measure that would raise the corporate tax. We don't know whether that is going to stick. But in order to come up with anywhere near the amount of funding that is even in the Governor's budget or in the Appropriations Committee budget, there really is no other way to do it but to come up with at least a 1 percent increase in our personal income tax. As you know, we thought about this in the Special Session and I guess I hate to say, I told you so, but exactly what has happened, what we predicted, those of us that were on that side of the issue, just exactly. We are in a bind. We have already lost whatever money that would have brought in had we done something about it in the Special Session, putting us even in a bigger bind, and if we don't face the issue now we are just going to dig ourselves a bigger hole as we go into this recession, depression, whatever it is going to turn out to be. You talk about the Board of Equalization, I think the Board of Equalization advocated its authority when it did face up to the subject last fall. I know it is a political year and I hear political overtones in the speeches that were just made, but I urge you to be realistic and do what is right for the State of Nebraska, and if we do not face up to this issue on an overall basis with several different tax increases or changes, we are just not going to have anywhere near the money it is going to take to run this state, and it is just plain folly not to face up to the

facts. Now if we were sure that we would get an agreement later on that what we're going to do something about the last day of this session, great. And Senator DeCamp has said we should decide we're going to spend first and then figure out where we are going to get the money. I remind you that Senator DeCamp had a bill before us the other day wanting a bonding issue of five hundred million dollars to build a north and south freeway. His economics and mine differ. So I can't do anything else but get up here and plead with you to face the issue as best we can today. We don't know what is going to happen tomorrow but today we've got a problem. Thank you.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER. Mr. President, I would rise to support the statements of the chairman of the Government Committee, the chairman of the Revenue Committee, the chairman of the Appropriations Committee. It seems to me that some initial decisions have to be started to be made by someone. If you picked up today's paper and read that the President had a press conference yesterday and there were three issues he would not answer and one of those is when would the economy start recovering. Now if we're not going to get any clarification from Washington I don't think that two weeks is going to give us any more clarity here in Lincoln with regards to the situation. I think all we can start talking about is the minimum actions that need to be done and as I understand the motion that Senator Carsten and Senator Warner have put in, it is a minimum and it says the rate shall be at least 16%. Now Senator DeCamp has an interesting analogy. He has us charging the enemy, sacrificing lives right and left for a goal that may not be worth attaining. But I think that psychology, and I fall victim to it at times too, must end and that is that some place in this rate setting is an enemy. Perhaps to some people the enemy is the Governor. Perhaps to some people the enemy is another legislator and that somehow that there is lives at stake, our own political lives, in the effort to ~~pass the bill~~ and raise the tax rates. I think the reason that three of our chairmen have stood up and suggested it is time to start taking action is that they are looking beyond political lives and they stop viewing it as friends and enemies and start and try and look at the fiscal situation of the State of Nebraska and the situation of our country and recognize that maybe we ought to stop adding and subtracting political points on this to see who is going to get blamed or stuck with a tax increase that I think everybody is conceding now is inevitable. I would support the effort to return this

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to Select File and I would support adoption of the amendment at that point. It is not the final decision. Obviously its bill will be back on Select File and move to Final Reading so that there is opportunity to plug this tax increase in with the other proposals of the Revenue Committee. But at some point, and I think it might as well be now as in two weeks, we are going to have to recognize that no answers are going to come from Washington as to this current situation, that predictability in the economy is no longer possible and someone in this capitol building ought to start taking some responsibility and we ought to stop worrying about who is friends and who is enemies and whose political lives are at stake. So I would support the motion to return. I think that it is proper that this Legislature in this session finally start going on record on some of these revenue proposals. We really can't afford to delay much longer.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Mr. Speaker and members of the Legislature, I, too, rise in support of the motion to increase our tax rates to 16 percent. I do so reluctantly. I do so because of a number of reasons. I think first off though it is clear that as the discussion has gone on what we are seeing is a breakdown in the system that we have had in this state. I think that there are some real doubts as to whether what has functioned well for the years it has been in effect is now at this time in 1982 working the way it was supposed to. And I point to a number of factors. Number one, is this amendment, this motion to try and increase our tax rates putting the burden on us, those of us in the Legislature, to do what is the responsible thing to do. It is maybe not the popular thing to do. I think I understand that, but at the same we sometimes have to stand up and say, this is the right thing to do and we have to try and explain to the public what we are doing and why we are doing it and hope that they will understand that we are doing what we feel is best for the State of Nebraska. But nevertheless the Legislature is setting tax rates. This is something unusual. Senator Warner tells me it was done about ten years ago or so, but typically the Board of Equalization is to have that responsibility and authority. They are not assuming that authority and taking that responsibility, and it is up to the Legislature now to provide the leadership that should be coming forth from the Board of Equalization. That is a breakdown in the system. That is also reflected in the bill that we have that is out from Revenue Committee which says that when federal cuts result in revenue reductions to the state, there will be an automatic adjustment in our tax rates to make up that lost revenue. It makes sense. It seems as though that is the way things should have been going in the State of Nebraska all along, except for the last year that is the way things had gone along in the State of Nebraska. But again the system broke down and there was a need for this bill. We are taking some unusual steps here in the State of Nebraska in this Legislature today and the rest of this session because what we had become accustomed to as being a pretty good system of handling tax setting for the State of Nebraska isn't working as it should, and I don't think you have to point your finger at the Legislature. I think you should point the finger at the Board of Equalization which is not doing the job they have been assigned to do. So with that sort of reluctance, I still am going to support this but I think it ought to be clear that the step we are

taking is an unusual one. It is a step we shouldn't have to be taking. It is a step that should be a natural one to flow out of the actions that we take on this floor in dealing with the budget matters that are coming up in this Legislature. But recognizing again that the system is not working as it has, we have got to take this unusual action I think to recognize the problem that we have come into realizing this year.

SPEAKER MARVEL: Senator Landis.

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

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?

CLERK: 25 ayes, 9 nays to cease debate, Mr. President.

SPEAKER MARVEL: Senator Carsten, do you wish to close on your motion?

SENATOR CARSTEN: Mr. President and members of the Legislature, I want to assure you that the Revenue Committee in all sincerity and with a great deal of deliberation has brought to you what in their wisdom is a package for your consideration to cover that which has been suggested to us for a budget for the year, and that with the lack of surety down the road we believe that we are at the very bare minimum including the amendment which we are presenting to you today. And these situations are almost daily changing but in our opinion these recommendations are the absolute necessity for the State of Nebraska to be addressing their responsibilities, and it is in that light that I urge you to bring this bill back, adopt the amendment, advance it and hold it until that total package, Senator Schmit, can then be addressed, and it is with that that I would so move and would yield the rest of my time for the closing to Senator Warner who has co-sponsored this with the Revenue Committee. Thank you, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I am going to make a brief comment to a remark that I assume was intended to be somewhat personal, and I seldom ever respond to those, but I will merely state this that if one member of this body believes that my position to going 16 is in any way predicated on who wins, the first day I do that in this body on any issue as important as this, will be the same hour that I resign, and you can bank on that, and I resent that suggestion no end. Now, tow weeks ago the argument was that we do not consider the budget resolution because



we had to wait for Revenue. Today the argument is that we do not consider the revenue because we have got to wait for the budget, and you cannot have it both ways. We all know it is inevitable and I would hope that the body would accept Senator Carsten's and the Revenue's recommendation in the package and I would hope that you would return the bill, adopt the amendment and as Senator Carsten has suggested, hold it on Final Reading until the other Revenue bills come up. Thank you.

SPEAKER MARVEL: The motion is to return the bill for a specific amendment. A record vote is requested. All those in favor of returning the bill for the specific amendment vote aye, opposed vote no. Have you all voted? Once more, have you all voted? Senator Carsten.

SENATOR CARSTEN: Mr. President, how many are absent, excused this morning?

SPEAKER MARVEL: One excused.

SENATOR CARSTEN: I would ask for a Call of the House and a roll call vote then. We are supposed to be in our seats, Mr. President.

SPEAKER MARVEL: Technically we are under Call now so report in. Please record your presence. Senator Howard Peterson, will you please record your presence? Senator Wiitala, will you please record your presence? Senator Kilgarin. Senator Schmit, will you please record your presence? Senator Kilgarin. Mr. Sergeant at Arms, Senator Kilgarin is the only one who is not present at the moment. Senator Carsten. Okay, Clerk will record the roll.

CLERK: (Read the roll call vote as found on page 768 of the Legislative Journal). 24 ayes, 23 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: Motion lost.

CLERK: Senator, do you want to take up yours now? Mr. President, Senator Schmit then would just lay over 454 or lay it over for two weeks, Senator?

SENATOR SCHMIT: Mr. President, I think the Legislature has made a decision and I guess we are ready to vote on the bill. I withdraw the motion.

SPEAKER MARVEL: The Clerk will read the bill. Mr. President....do you want to offer your motion then, Senator?

Senator Newell would move to return LB 454 to Select File for a specific amendment that amendment being Request #2634. The members will find it in their bill books.

SPEAKER MARVEL: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President and members of the Legislature, I will not take a great deal of time on this. However, it is a very important measure. It is a measure of some importance to the people of the State of Nebraska. As many of you know, I have opposed 454 because, in my opinion, it will allow us to raise the tax rates far too easily. It will allow the State Board of Equalization to inch them up year by year and I think that responsibility and the appropriate spending is the responsibility of the Legislature and that we must make these considerations as a full Legislature not passing them on as a mechanical process to the State Board of Equalization, that we will watch our spending, we will set priorities that are of interest to the people of the state when and only if we set the tax rates ourselves. This proposal says that the Legislature shall set the tax rates. It also has a provision that says that the Speaker, Chairman of the Revenue Committee, Chairman of the Appropriations Committee, Chairman of the Committee on Committees, will come together, and the Chairman of the Exec Board, will come together to recommend a Special Session if a Special Session is necessary to adjust the tax rates. This is the preferable way to go on this whole question of setting tax rates, not the mechanical and somewhat too political a process of letting the State Board of Equalization do it. I offer this to the Legislature and the reason I offer it is because this issue must be addressed, should be addressed and the members of this body ought to have an opportunity to be on record, on record on whether they want to fess up to what they actually do, setting tax rates by spending, if they want to be honest about setting the tax rates here on the legislative floor like every other state in the Union does. I urge the adoption of this amendment.

SPEAKER MARVEL: The motion at the moment is to return the bill. Senator DeCamp, do you wish to speak to that motion?

SENATOR DeCAMP: Yes, a little bit, but I need a little information from the Speaker, possibly Senator Newell first. The way you have described this amendment, it is a pretty major concept, completely different from the bill.

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Was this an amendment in the committee or did...was there a separate bill on this?

SENATOR NEWELL: No there was not a separate bill this year. This bill was heard last year.

SENATOR DeCAMP: Okay, there was a bill last year identical to this, or I mean what this is, right?

SENATOR NEWELL: There was a bill to set tax rates, yes.

SENATOR DeCAMP: Yes. I guess I would ask the Chair, I would solicit information or I would ask the Speaker, is this amendment germane particularly considering the intensity with which we discussed germaneness here the last three or four years, since...germane from the standpoint I guess I would ask intent of the legislation and so on and so forth. It seems to me to go off in a whole different direction but maybe I am reading too much into it, I don't know.

SPEAKER MARVEL: Senator DeCamp, you asked for a ruling on germaneness?

SENATOR DeCAMP: Yes.

SPEAKER MARVEL: The amendment and the amending bill both deal with 77-2715, 77-2703. As we have ruled in the past, this goes along that line and therefore it is germane.

SENATOR DeCAMP: Okay, appreciated that, Mr. Speaker. Then basically for germaneness as long as we are in the same chapter we are pretty safe. Okay, appreciate that. Might see that in the future sometime. But anyway, Mr. President, then I would speak on the proposal and I would suggest that maybe Senator Newell has a good idea. Maybe it is an idea whose time has come in another bill, on another day and another hour, but I doubt that this would be the time. And for that reason, I think we ought to just vote on the bill on Final and take this concept up separately.

SPEAKER MARVEL: Senator Schmit. Do you pass? Senator Schmit, do you wish to be heard?

SENATOR SCHMIT: Mr. President and members of the Legislature, I have no problem with voting on Senator Cullan's (sic) amendment if it were here in the form of a bill which had been advanced by the Revenue Committee and was on the floor for discussion in the normal manner. I believe the amendment

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offered by Senator Cullan (sic) is a major one. It is not one...pardon me, Senator Newell. I don't mean to bring Senator Cullan into this. I think that we need to vote on the bill that is before us now, proceed as we expected to do this morning and if Senator Newell is able to bring his bill to the floor, I would be glad to give it a look and I may even support it, Senator Newell, but not at this time in the form of an amendment to LB 454. I ask that the Newell amendment be rejected and that we vote on the bill.

SPEAKER MARVEL: Senator Cullan. We are speaking to a motion to return to Select File.

SENATOR CULLAN: Mr. President and members of the Legislature, particularly Senator Schmit...Senator Schmit, I know I have been on the other side of you on an occasion or two but you don't have to start referring to me as Senator Newell. Thank you.

SPEAKER MARVEL: Senator Haberman. Senator Haberman, the floor is yours.

SENATOR HABERMAN: Thank you, Mr. President. A question of Senator Newell.

SENATOR NEWELL: Senator Haberman.

SENATOR HABERMAN: Senator Newell, does this amendment say that the Legislature will set the sales and income tax?

SENATOR NEWELL: That is correct. The Legislature will set the sales and income tax rates.

SENATOR HABERMAN: Thank you, Senator Newell.

SENATOR NEWELL: At any percentage....

SENATOR HABERMAN: Thank you...thank you, Senator Newell. Thank you, I appreciate the answer to your question. I want to make sure that this body understands the impact of this amendment. If you vote for this amendment, and if you think we are having a problem now on the budget and/or A bills, and/or other fiscal problems on the legislative floor, they will be nothing in comparison if you ask this body to set the sales and income tax rate. If you feel that we are fussing and fighting and feuding over what to do about the budget, just try to think what would happen if we were to do this. First of all, it is being

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said we are stalling, we are using different tactics, we are blaming the Revenue Committee for this, we are blaming the Appropriations Committee for this, the Governor wants that, and we are really having a donnybrook that hasn't even gotten started. Now you throw onto this floor us setting the sales and income tax and we are going to have a Special Session just on that because we won't have enough time to settle the issue. It is too heavy of an issue for us to take up in 15 minutes and vote on. The amendment has been there for four days. Nobody had time to really visit about it, get feel from the constituents, get the feel from anybody else. I think we are being very, very hasty if we pass this amendment, and I would like to ask you to oppose my good friend, Senator Newell's amendment that he has proposed. Thank you, Mr. President.

SENATOR NICHOL PRESIDING

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

SENATOR NEWELL: Mr. President, members of the Legislature, I am very disappointed we did not discuss this issue on its merits. The issue has been discussed instead upon whether or not we ought to be discussing the issue. The issue is germane. It is appropriate. It is an issue that this Legislature has not been willing to address in the past, and I think it is a policy issue that this state should well address, because what Senator Haberman said is correct. If we vote for this proposal, what will happen is simply this, we will have to fess up and be responsible, and I sense that since everyone has discussed this issue not on its merits but on whether or not they will be able to explain it back home that we are not going to get a vote on whether or not this Legislature should be responsible. So with that in mind, it will not serve to accomplish the purpose that I had hoped it would accomplish, so I would request withdrawing the motion. We will deal with the bill, as bad as it is, today.

SENATOR NICHOL: Mr. Clerk, will you read the bill, please?

CLERK: Yes, sir. (Read LB 454 on Final Reading).

SPEAKER MARVEL PRESIDING

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

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LR 225, 226, 227  
LB 454, 378, 440, 623, 645,  
673, 679, 717, 759, 827

clause. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 769 and 770 of the Legislative Journal). 34 ayes, 9 nays, 1 excused and not voting, 5 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk has got some business to read in to the.....

CLERK: Mr. President, I have a motion from Senators Nichol, Wesely, Higgins, Rumery, Kilgarin, L. Johnson, DeCamp, Kahle, Remmers, Koch, and Haberman to advance LB 679 to General File notwithstanding the action of the Judiciary Committee That will be laid over.

I have a lobby registration report for February 11 through February 18.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 759 advanced to General File; 645 indefinitely postponed; 673 indefinitely postponed.

Senator DeCamp would like to print amendments to 623.

Mr. President, I have new resolutions. LR 225 by Senator Nichol calls for a study of considering the legislative solution allowing the Mexican American Commission to provide direct services, assisting both the area service providers, agencies, and organizations. The second study resolution from Senator Nichol calls for a study on the way to improve the older Hispanic's knowledge of and participation in applicable service programs. (LR 226.) Mr. President, LR 227 by Senator Marsh. (Read resolution. See pages 773 and 774, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senator Higgins offers explanation of vote; Senator Haberman offers explanation of vote.

Senator Higgins would like to withdraw her name as co-introducer from 827; and Senator Koch to add his name as co-introducer to 440.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: I have Attorney General opinions, one to Senator Cullan regarding LB 378; and one to Senator DeCamp regarding LB 717.

And Mr. President, I have a hearing notice from the Appropriations Committee.

February 19, 1982

LB 131, 274, 274A, 287,  
314, 402, 440, 454,  
589, 646, 649, 904

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 131, LB 274, LB 274A, LB 287, LB 314, LB 402, LB 440, LB 454, LB 589. The next order of business is Final Reading on LB 646.

CLERK: (Read LB 646 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 646. Have you all voted? This is voting on Final Reading, LB 646. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 786, Legislative Journal.) 46 ayes, 1 nay, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Next bill, LB 649.

CLERK: (Read LB 649 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 649 on Final Reading. Record the vote.

CLERK: (Record vote read. See page 787, Legislative Journal.) 45 ayes, 1 nay, 2 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading.

CLERK: Mr. President, Senator Cullan would like to have an executive session of the Public Health and Welfare Committee Monday morning at nine o'clock in Room 1019. That is Public Health and Welfare Monday morning, nine o'clock in Room 1019.

Urban Affairs instructs me to report LB 904 indefinitely postponed. That is signed by Senator Landis as Chairman.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Beyer, would you like to adjourn us until Monday morning at nine-thirty.

SENATOR BEYER: Mr. Speaker, I move that we be adjourned until Monday morning at nine-thirty.

LR 211, 224  
LB 131, 192, 198, 211, 224, 231,  
239, 263, 270, 274, 274A, 287,  
314, 402, 440, 448, 450, 454,  
465, 511, 547, 589, 592, 634,  
646, 649, 669A, 672, 827

February 22, 1982

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The prayer will be delivered by the Reverend Palmer.

REVEREND PALMER: Prayer offered.

SPEAKER MARVEL: Record your presence, please. While we are waiting for a quorum, underneath the South balcony from Scottsbluff, Nebraska, Audrey Towater is the guest of Senator Nichol. She is the one that has that large object there she is working on. I suggest that at your convenience you take a look at it. It is very interesting. Record, Mr. Clerk.

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

SPEAKER MARVEL: The Clerk has got some items to read into the Journal.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 634 and recommend that same be placed on Select File with amendments; 672 Select File with amendments and LB 827 Select File and 669A Select File, all signed by Senator Kilgarin. (See pages 790-791 of the Journal.)

Your Enrolling Clerk respectfully reports that she has presented to the Governor on February 19 at two-fifty, bills passed on Final Reading that day. (Re: LB 131, 274, 274A, 287, 314, 402, 440, 454 and 589.)

Mr. President, I have communications from the Governor. The first is addressed to the Clerk. (Read communication re: LB 239 as found on page 791 of the Legislative Journal.) The second communication is addressed to the Clerk. (Read re: LB 192, 198, 231, 263, 270, 448, 450, 465, 511, 592, 131, 274, 274A, 287, 314, 402, 454 and 589.)

Mr. President, your committee on Urban Affairs whose chairman is Senator Landis reports LB 904 as indefinitely postponed. That is signed by Senator Landis as Chair.

Senator Schmit would like to print amendments to LB 547 in the Legislative Journal. (See page 792 of the Journal.)

Mr. President, LR 211, 224 and LB 646 and 649 are ready for your signatures.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and do sign LR 211, LR 224, engrossed LB 646, LB 649. (See page