

January 7, 1982

LR 203  
LB 32, 127, 359, 693

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record your presence, please. Senator Dworak, would you like to record your presence. Thank you. Senator Beutler, would you record your presence please. Pat, we have a quorum. Record.

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

SPEAKER MARVEL: Do you have items to read in?

CLERK: Mr. President, just a few brief items. I have a new bill, LB 693 (Read title). (See page 151, Journal.)

Mr. President, Committee on Urban Affairs gives notice of hearing in Room 2230 for consideration of amendments to LB 359.

Mr. President, I have reports to the Legislature from two Natural Resource Districts regarding payment of attorney fees.

Mr. President, your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle to whom we referred LB 127 reports same back to the Legislature as advanced to General File and that is signed by Senator Kahle as Chairman.

Mr. President, I have a new resolution, LR 203 offered by Senator Landis and Senator Chambers. (Read. See pages 152 and 153, Legislative Journal.) Mr. President, under our rules that will be laid over. No, sir, I do not. That is all that I have.

SPEAKER MARVEL: Senator Nichol, for what purpose do you arise? We have a distinguished guest in the Chamber underneath the North balcony. It is my privilege to say "hello" to Senator Ed Zorinsky. Ed, we are glad to see you. Okay, LB 32.

CLERK: Mr. President, LB 32 introduced by Senator Tom Vickers and Senator Von Minden. (Read title). The bill was introduced on January 8 of last year. At that time it was referred to the Judiciary Committee for public hearing. The bill was advanced to General File. Mr. President, there are committee amendments pending by the Judiciary Committee.

SPEAKER MARVEL: The Chair recognizes Senator Nichol.

February 19, 1982

LB 589, 598, 614, 693, 741, 753,  
757, 760, 821, 899, 908, 939

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

CLERK: Mr. President, if I may, I have a report from the Banking Committee on a gubernatorial appointment confirmation hearing.

Mr. President, I have explanation of votes from Senator Marvel and Senator Carsten.

Mr. President, your committee on Revenue whose Chairman is Senator Carsten instructs me to report LB 757 advanced to General File; 693 General File with committee amendments attached; 753 General File with committee amendments attached; 760 General File with committee amendments attached; 614 indefinitely postponed; 741 indefinitely postponed, all signed by Senator Carsten as Chairman.

Your committee on Urban Affairs whose Chairman is Senator Landis instructs me to report LB 899 indefinitely postponed; 939 indefinitely postponed; 821 indefinitely postponed; and 908 indefinitely postponed, all signed by Senator Landis as Chair.

SPEAKER MARVEL: Underneath the South balcony it is my privilege to introduce the daughter and son-in-law of Harry Chronister, Senator Chronister and the two people are Mike and Janet Casuscelli. Would you please indicate where you are so we can wish you "Good morning". And underneath the South balcony is a guest of Senator Barrett, Mr. Dale Kugler of Lexington representing the Northeast Stockgrowers Association. The next bill on Final Reading is LB 598.

CLERK: Mr. President, Senator Koch would move to return LB 598 to Select File for specific amendment, that amendment being to strike the enacting clause.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker, members of the body, occasionally there are certain kinds of bills that move across the Board with considerable ease and fortunately there was enough debate this morning I had a chance to look at what LB 598 intends to do. It appears to be rather innocent but I want to give you the history. Last year you will recall Senator DeCamp, Senator Wesely had a bill in here on weatherization and increasing the severance tax on oil and gas and that bill would have made everyone eligible for weatherization and grants including

March 23, 1982

LB 208, 573, 633, 668, 693,  
739, 751, 766, 790, 816,  
869, 875, 892, 952

Would they also be recognized and welcome to your Nebraska Legislature to you. Yes, the Clerk will now, before we commence Final Reading, read some matters in.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 816; Senator Carsten to 693. (See pages 1368-1369 of the Legislative Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 573 and find the same correctly engrossed; 633, 668, 739, 751, 766, 790, 869, 875, 892 and 952 all correctly engrossed.

PRESIDENT: All right, we're ready then if all the members are at your desks, we're still on Final Reading. Mr. Clerk, will you commence on Final Reading, LB 208.

CLERK: (Read LB 208 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 208 pass. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 1370 of the Legislative Journal.) 30 ayes, 17 nays, 2 excused and not voting, Mr. President.

PRESIDENT: LB 208 passes. The next bill on Final Reading, Mr. Clerk, is LB 383.

ASSISTANT CLERK: (Read LB 383 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 383 pass. All those in favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read record vote as found on page 1371 of the Legislative Journal.) The vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT: LB 383 passes. Before we go to the next bill, I notice that we have some rolls being passed out. If you want to know what that is for, why we'll have to all recognize Senator Howard Peterson's birthday. It was March 22, Howard, and we say "happy birthday" to you and join in. Happy birthday, Howard. The next bill on Final Reading while you're celebrating Senator Peterson's birthday is LB 421.

ASSISTANT CLERK: (Read LB 421 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure hav-

March 29, 1982

LB 208, 693

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

CLERK: 14 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. If all Senators will check in immediately please, all unauthorized personnel will leave the floor, all Senators will take their seats including Senator Haberman. The Sergeant at Arms will chain him into the seat please. I would like to announce 60 students from Centura High School, from Boelus, Dannebrog, and Cairo. It is a consolidated school with Donna Eriksen as the teacher. They are in the North balcony. Would you stand and be recognized please by the Legislature. Welcome to your Unicameral. Senator Schmit, Senator Wesely, Senator Kremer, will you all check in please. Senator Von Minden, Senator Lamb, Senator Newell. Senator Newell, would you check in please. Senator Marsh is the last one here so we are all in. Asked for a roll call vote on returning 208 from the Governor. It takes 25 votes. Roll call vote. The Clerk will call the roll.

CLERK: (Roll call vote taken. See pages 1441 and 1442, Legislative Journal.) 25 ayes, 20 nays, Mr. President, on the motion to direct the Clerk to request the Governor to return the bill to the Legislature.

SENATOR CLARK: The bill is returned. The first thing we have to do is go get the bill. We are going to take up LB 693 at the present time.

CLERK: Mr. President, LB 693 (read title). The bill was read on January 7, referred to the Revenue Committee for public hearing. Mr. President, the bill was advanced to General File. There are Revenue Committee amendments pending.

SENATOR CLARK: Senator Carsten, on the committee amendments. 693.

SENATOR CARSTEN: Mr. President, members of the Legislature, I move for the adoption of the committee amendments. The committee amendments increase first the number of days when a change is made for the Board of Equalization to meet from 15 to 60. It not only gives time for the examination of the impact then for recommendation to be made to the Board of Equalization for action, it changes it from 15 days after that approval by the federal level to 60 days. Then also it reinstates the stricken language that was a drafting error on page 6 and, third, in view of LB 454 that is a

reduction of the tax rate increments, it changes the 1% to a  $\frac{1}{2}$ %. Regarding the income tax, we would add then that this would be in effect when a change is made, that the Board of Equalization then would have or would be required to make appropriate action at the time that that affected the state. And secondly that we would add the emergency clause to the bill also. As you know, basically what this does is when there is a change in the federal income tax laws, and as since we are and continue to be based upon piggybacking on the federal, that it does impact the state when there is a reduction. As you recall, '82-'83 tax year, there is going to be a 50 to 55 million dollar increase which will raise the individual from 15 to 17%. We already are aware of that and that is going to happen. However, for '83-'84 is another reduction that is scheduled to take place July 1, 1983 on the federal level which again will have an affect on the state. This bill and the amendment was brought to us by the Department of Revenue and they feel that it is necessary that we spell this out in statute so that they may proceed in the proper way. I guess the basic question is if the income tax rate is changed that the impact of that as it relates to the sales tax and the 50-50 ratio be maintained and it is the intent of the bill as I understand it and the Department that it only relates to the time when those changes are made. With that, Mr. President, I would move for the adoption of the committee amendments.

SENATOR CLARK: Senator Beutler, on the committee amendments. All right, the question before the House is the adoption of the committee amendments. All those in favor vote aye, opposed vote nay.

ASSISTANT CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. Now on the bill, Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, we have passed out to you a handout of what the present law is and what LB 693 with the committee amendments would be and I think it is pretty well self-explanatory and I would so move that LB 693 as amended be advanced to E & R Initial.

March 29, 1982

LB 693

SENATOR CLARK: There is a motion on the desk, an amendment.

CLERK: Mr. President, Senator Carsten would like to amend the bill and Senator Carsten's amendment is on page 1369 of the Journal. Did you want to do that at this time, Senator?

SENATOR CLARK: Senator Carsten, did you want to take up your amendment on page 1369 of the Journal?

SENATOR CARSTEN: What was that?

CLERK: It is the one, Senator, the new language is "except when a change in the sales and use tax rate or individual income tax rate would be required solely to meet the provisions of this subsection".

SENATOR CARSTEN: Yes. I would move for the adoption of that amendment. That only corresponds to...basically it is clarifying language that corresponds to the amendment.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Was Senator Carsten going to explain the amendment in a little more detail? I don't know if he had a chance to really present the amendment. I don't know what the amendment does and I want to speak on the amendment after he explains it.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: What this, Mr. President and members, what this does, really only says that except when a change in the sales and use tax rate or individual income tax rate would be required solely to meet the provisions of this section and the Board will meet in November to set the rates for the ensuing year and would be changed only if that change was required to meet the 50-50 test. Otherwise the rate would stay the same.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Senator Carsten, when you say this "subsection", do you mean the subsection that requires the 50-50 match or do you mean the subsection that requires the rate be changed because of a federal tax change? Are you saying we will not have a 50-50 match? You say it is required to have a 50-50 match?

SENATOR CARSTEN: Yes, to the subsection that is a 50-50 match.

March 29, 1983

LB 693

SENATOR FOWLER: It sounds to me like we are saying that we won't keep the sales and income tax equal, use the nearly as equal test unless I am misunderstanding what this says.

SENATOR CARSTEN: The intent, Senator Fowler, is to keep the 50-50 test but only if there is a change in the income tax rate, that it would then have to meet the 50-50 test bearing in mind that the income tax would still have to produce more than the sales tax but would need to be as near equal as is possible.

SENATOR FOWLER: Okay, maybe the debate will, I am still confused, but maybe the debate will eliminate that.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: I have a question as I read the amendment and I am not sure I understand it because it says "except where solely" and it goes to the sales and use tax or income tax would be needed and so forth to provide for it. Would this nullify in any way what the intent of the original bill was? I am really asking Senator Carsten because I am not sure I have the criticism of the amendment or not. I can't read it quite.

SENATOR CARSTEN: Senator Burrows, it does not deter from the original intent of the bill whatsoever. It only puts it in perspective as 484 was related and as we anticipate the changes from the federal level coming down to the state level.

SENATOR BURROWS: Thank you.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Senator Carsten, I am going to try to do this with my understanding, and if I am not correct, I would like to have you clarify it. And we are kind of going to do this for the record so we get some legislative intent. But as I understand it, this amendment was brought to you by Mr. Leuenberger, the Tax Commissioner, and the amendment deals with only those situations where there needs to be a change solely due to the 50-50 test. In other words the tax rates would normally be the same because they are producing enough money but only because of some change in the 50-50 tie there might have to be an adjustment, and it is Mr. Leuenberger's intent and desire to prevent a sales tax increase because we now move to the smaller increments. We are now moving up in quarter percent or quarter cent increments and he is not anxious to see the sales tax increased, isn't that correct?

March 29, 1982

LB 693

SENATOR CARSTEN: Yes, Senator Newell, that is correct. As you said, it was that not wanting to increase the sales tax unless it just had to be because of the other but you are absolutely correct.

SENATOR NEWELL: Now further for the record, it is the intent here to continue the 50-50 tie or at least the provisions of the law which require the income tax to raise more money than the sales tax. Could you say that for the record again, Cal. I hate to get you up again.

SENATOR CARSTEN: Yes, Senator Newell, that is correct. It is my understanding and I think you and I talked to Mr. Leuenberger both of us this morning and that is true. It is the intent that the income tax still would be expected to raise more than...not less than the sales tax.

SENATOR NEWELL: Okay, now I am going to further clarify my understanding of the intent of this amendment and that is simply that because of the difficulties that can exist for retailers and everyone else in terms of changing to the new one-quarter percent increase in the sales tax, this amendment is intended to try to lessen the necessity to do that so that it is in the intent or was the reason explained to Senator Carsten and myself, the intent is that the income tax would be increased if there is, you know, a necessary change and that this provision is not to create an automatic increase in the sales tax just to require the meeting of the 50-50 provisions. Now I think it probably could be written a little tighter but that is the legislative intent and for that reason I support the amendment.

SENATOR CLARK: Senator Vard Johnson.

SENATOR VARD JOHNSON: Mr. Speaker, members of the body, I am just going to have a little colloquy with Senator Carsten. Senator Carsten, don't you think this amendment may be a hair miswritten? If I can find my page again, it is on, what, 1362? 1369.

SENATOR CLARK: 1369.

SENATOR VARD JOHNSON: Okay. It says "except when a change in the sales and use tax rate or individual income tax rate would be required solely to meet the provisions of this subsection". Now that is subsection (1). Now I think that this little change we are making with LB 693 is in subsection (2), so shouldn't this...if this amendment is to do as you describe it, Senator Carsten, shouldn't it read "except when a change in the sales and use tax rate or individual income tax rate would be required solely to meet the provisions of subsection (2)"?



March 29, 1982

LB 693

SENATOR CARSTEN: That very well...yes, I would agree that it is not very clear and I certainly would be willing to clarify that with an amendment if you so desire.

SENATOR VARD JOHNSON: I think that would be right. If I have checked (interruption).

SENATOR CARSTEN: That may help Senator Fowler to...that may clear up Senator Fowler's objection also.

SENATOR VARD JOHNSON: I think I will offer an amendment that will clarify that.

SENATOR CARSTEN: That would be fine. I would have no objection.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: My question, Mr. Speaker, had to do with the subsection being referenced to and I guess the question has been answered so I would like to see Senator Johnson's amendment.

SENATOR CLARK: Senator Johnson, do you have an amendment?

SENATOR VARD JOHNSON: Yes, I have got one, just one moment.

SENATOR CLARK: The moment is up. We will wait another moment.

SENATOR VARD JOHNSON: I think I will hold this. I will just hold my amendment to this until Select File and we will get it worked out, if that would be all right.

SENATOR CLARK: All right, Senator Carsten, do you wish to close on your amendment?

SENATOR CARSTEN: No closing. I think the amendment that Senator Johnson will present on Select File will do what we need to have done. We want it clear and I would move that the amendments be adopted.

SENATOR CLARK: The question before the House is the adoption of the Carsten amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 0 nays on adoption of Senator Carsten's amendment.

SENATOR CLARK: Senator Carsten's amendment is adopted. Now on the bill as amended, Senator Carsten.

SENATOR CARSTEN: Mr. President, members, I would now move LB 693 as amended to E & R Initial with the understanding that on Select File we will put that clarifying amendment on which I agree does need to be done. Thank you.

SENATOR CLARK: Senator Burrows, did you want to talk on the advancement of the bill?

SENATOR BURROWS: Yes, Mr. Chairman and members of the Legislature, I urge the body to support LB 693. It really changes very little because it does not require anything that the Governor can't presently do under existing law. The Governor and the State Board can meet and have the authority and really the requirement to meet and adjust rates under present law but this has not been done during the last six months. The State Board has not met and adjusted rates to pick up the loss, the \$50 million really, in total corporate and individual income taxes that is being lost by maintaining the same rate. So I think it is time that the Legislature speak and call for and require responsible action to require the State Board of Equalization meet and do what would be good judgment, common sense, and responsibility for the state by adjusting that rate when a federal tax change comes in and changes the revenue sources of the state. Simply meet the Board and adjust the rates so we maintain a reasonable and stable dollar flow in income for the state to pay its expenditures out of. It is just plain common sense to pass this bill and go a little further in requiring that the State Board of Equalization act responsibly.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I, in my own mind, I guess I have the last two bills we have discussed kind of switched around. In the one case I thought that the flexibility that the Board of Equalization had was sufficient, and in this case, I think that it didn't need change and again I think that there is no need for change. What this bill does basically is take flexibility away from the Board of Equalization. It says that they shall change the rates when certain things happen and I suggest to you that this kind of mandatory language can get us in trouble. Let me suggest one hypothetical to you. Let's say that we project our revenues in April but we are not too sure about them. They may be soft. And let's say right after that comes a federal tax increase. So according to the bill as proposed the Board of Equalization would

meet and make the necessary adjustment in the state tax rates, that is the state tax rates would then be lower because an increase in the federal tax rates would increase our revenues automatically so we would move through the Board of Equalization to automatically lower the Nebraska tax rate. But at the same time that we are doing that, maybe grain prices are dropping off. Maybe we have had some kind of summer disaster in the weather. Maybe we know for one reason or another now that our revenues are going to deteriorate. So why would we want to be in a position where we are forced to cut back on state taxes when we know at the time that we are doing it that our revenues are deteriorating. That hypothetical can happen and it seems to me that it doesn't make sense to take away the Board's flexibility in that kind of a situation and I think there are a number of hypotheticals that you can imagine where the change in the federal tax policy will not correspond to what is happening with the state's revenues and, therefore, it may not make sense to adjust the state's tax rates in looking at the picture overall. I think the Board of Equalization should have additional flexibility or some additional flexibility should be built into this bill. Now this bill doesn't preclude calling a special session but it may complicate a situation. For example, it may be better public policy to call a special session to cut expenditures or to increase taxes other than the income tax, and if that would be the better public policy, then it seems to me that it doesn't make sense to force upon the Governor and the Board of Equalization the action of adjusting the state income tax when really public policy demands either adoption of a number of different tools...

SENATOR CLARK: You have one minute left.

SENATOR BEUTLER: ...instead of simply reacting to the income tax. And a question I would have again finally of those who are proposing this bill, if we had a situation such as bracket creep again, is that a change in the law or does that occur because of the application of the law and, therefore, if we are not taking into account bracket creep, are we forcing an adjustment in one direction but not in the other? There are a whole number, I think, of situations that this bill cannot and does not anticipate and I am not sure it represents good public policy to take away the flexibility of the Board of Equalization. Thank you.

SENATOR CLARK: Senator Newell, did you wish to talk on the advancement of the bill? Senator Fowler, did you want to talk on advancement of the bill? Oh, wait a minute, Senator Newell is here now.

March 29, 1982

LB 693

SENATOR NEWELL: Mr. President, members of the body, I rise to oppose LB 693 and I would urge this body not to advance LB 693. It is absolutely unnecessary. The Governor can do the same thing. I am basically making my arguments along the same lines as Senator Burrows spoke when he spoke in favor of LB 693. I don't think this requires the Governor to do anything. I don't think it requires the State Board of Equalization to do anything. You can't mandate by law people to be responsible. It is absolutely unnecessary. It is a waste of our time and I would urge this body to kill it, to not advance it. I certainly don't believe in it and I will at least understand that it is not going to do what we want it to do or what the proponents want it to do.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, I support LB 693 and commend the Revenue Committee for bringing in a bill to limit the discretion of the Board of Equalization in this circumstance. It seems to me that based on the experience of the last year, and looking at when massive federal tax changes occurred, that in turn seriously impacted our own state revenue situation, that the State Tax Commissioner did not follow what seemed to be the guidance in the statute and that is to convene a meeting of the Board of Equalization to adjust rates upward. Now we have all heard that in six months somehow the public has now been educated that a tax increase and a tax rate increase are different things. It is unfortunate that those in power had to wait for what they perceived to be the education of the public before they would act to maintain the stability of the state revenue situation. I support 693 for the very reason that I supported killing the previous bill and that is that the current Board of Equalization has not really lived up to the discretion that has been given to them and that they have been basing their decisions, which should be more mathematical calculations, they have been basing their decisions on perceptions of the political mood and whether or not and who gets blamed when for a tax increase. Now perhaps as we pass the bills here this year changing the Board of Equalization's structure as we have every few years in tight economic times passed bills dealing with the Board of Equalization structure, we should ask ourselves whether or not this system works at all, that is whether or not the Board of Equalization is in fact the mechanism to be properly responsive to the changes in our economy and the changes in the federal tax law. But before we change the whole system, I think at the very least we should move in the direction of limiting the discretion of the Board, thereby enabling them to adjust our state tax

rates to make up for losses in tax revenue, and if they are worried about the political reprisal that may happen from it, at least we will pass a bill that will enable them to say they were just following the law so they wouldn't have to worry about being attacked for using judgment and discretion. I think the Revenue Committee is right in this situation to limit the Board of Equalization and I think that we should pass this bill along, but again in keeping with the consistent philosophy, as Senator Beutler indicated, we should not balance this bill with something that lowers the reserve and increases the discretion of the Board. We should decide this session as legislative philosophy do we want a Board of Equalization with discretion or one with limits on its discretion. I say given the performance of this Board of Equalization, we should put limits on their discretion.

SENATOR CLARK: Senator Vard Johnson.

SENATOR VARD JOHNSON: Mr. Speaker, members of the body, I have been somewhat torn on this bill because I have been sympathetic to Senator Newell's and Senator Beutler's point of view that in fact we have traditionally given the Board of Equalization and Assessment discretion in this area to determine whether or not to alter tax rates to conform to federal changes. By the same token, I also have tended to view the State Board of Equalization and Assessment by virtue of the kind of statutory language we have established over the long years as being almost an arithmetic body that takes a look at our appropriations, takes a look at revenue projections, applies a reserve requirement, and then ascertains what the tax rates should be. There is not a tremendous amount of flexibility on the part of the State Board of Equalization and Assessment. Now I think one of the tragic things that has occurred in the last year has been the fact that the federal government by virtue of its massive federal tax changes has been able to erode silently the state tax base, and I think that is improper, and it seems to me the State Board of Equalization and Assessment ought to have reacted to that, that it ought to have exercised its independent judgment by increasing our state income tax to counteract the kind of erosion to the state tax base that was done by the federal government but it did not do so. In fact Senator Carsten and I both appeared before the State Board of Equalization in November and urged the State Board of Equalization and Assessment to increase the state income tax rate simply to counteract the erosion in the state tax base caused by the federal government. So in sorting this out as a member of the Revenue Committee, I finally concluded that it would be better to regard the State Board of Equalization and Assessment essentially as an arithmetic

March 29, 1982

LR 271  
LB 693, 488A, 591, 603

body applying our laws and formulating the appropriate tax rates. I do not enjoy the erosion of our state tax base by the federal government. I think it is wrong for us not to respond to the erosion of the state tax base by the federal government and accordingly I have decided to support LB 693 because at least that will tend to ensure to us as a Legislature and to the state that whatever federal changes are made that have an adverse effect on our state tax system can be countered and will be countered by the State Board of Equalization and Assessment by making a countervailing move in terms of our state tax rates. So as long as we piggyback the federal income tax system, I do think this is the appropriate policy to follow, and it is for that reason I decided to support LB 693.

SENATOR CLARK: All right, the question before the House is advancement of the bill. All those in favor vote aye, opposed vote no. Senator Carsten, did you have any closing? All right.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 1 nay, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. The next bill we will take up after the Clerk reads in.

CLERK: Mr. President, Senator Goodrich would like to print amendments to LB 591 in the Legislative Journal.

Mr. President, Senator Chambers offers explanation of vote.

Mr. President, a new resolution, LR 271, (read). (See pages 1443 and 1444, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senator Goodrich would like to print amendments to LB 488A in the Legislative Journal.

SENATOR CLARK: LB 603. Senator Cullan. We are going to start on this bill. We probably can't finish it before noon.

CLERK: Mr. President, LB 603 (read title). The bill was read on January 6 of this year, and at that time it was referred to Judiciary. The bill was advanced to General File with committee amendments attached. Mr. President, the bill was considered by the Legislature on March 17. At that time

March 29, 1982

LB 603, 693, 709, 757, 760,  
761, 966

CLERK: Mr. President, Senator Beyer would move to indefinitely postpone the bill.

SENATOR CLARK: Go ahead and read some things in if you need to.

CLERK: Mr. President, very quickly your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 757 and recommend that same be placed on Select File and 693 Select File with amendments. (See pages 1451 and 1452 of the Journal.)

Mr. President, Senator Hefner would like to print amendments to LB 761. (See page 1452 of the Journal.)

I have a Public Health and Welfare report from Senator Cullan on gubernatorial appointments. (See page 1452 of the Journal.) Explanation of vote from Senator Stoney. (See page 1453 of the Journal.) Special Order item scheduled by Senator Lamb. (Page 1453 of the Journal.) Senator Cullan would like to print amendments to LB 966. (See page 1453 of the Legislative Journal.) Senator Beutler amendments to 709. (See page 1454 of the Legislative Journal.)

Mr. President, Senator Wesely and Clark would like to add their names as co-introducers to the Schmit amendment to LB 760.

SENATOR CLARK: I think Senator Beyer wants to withdraw that. Senator Beyer, do you wish to withdraw that? All right, it is withdrawn. We will take up the bill. Senator Cullan. It has been two hours and five minutes and we have done nothing on it. Senator Cullan.

SENATOR CULLAN: I think we have another motion coming.

CLERK: Mr. President, Senator Landis would move to indefinitely postpone LB 603.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: I believe it is up to the introducer as to whether we take this up at this time.

SENATOR CLARK: Do you want to lay it over?

SENATOR CULLAN: Yes, Mr. President, we will lay it over.

SENATOR CLARK: All right. There is two hours and five minutes gone. Now we are going to take up 208 that we had

April 5, 1982

LB 757, 693

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

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I wish to withdraw it.

SENATOR CLARK: It is withdrawn.

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

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: (No response).

SENATOR CLARK: Senator Warner, do you want to move the bill.

SENATOR WARNER: I move the bill be advanced.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. Number 693 is next.

CLERK: Mr. President, if I may right before that, I have a resolution from Senator Wiitala. Read title of LR 296. That will be referred to the Board. LR 297 by Senator Labedz, (read title). That will be referred to the Board. Mr. President, LR 298 offered by Senator Kremer. (Read title). That will be laid over Mr. President.

Mr. President, with respect to 693, there are E & R amendments pending, Mr. President.

SENATOR CLARK: Senator Kilgarin in the House? Senator Vard Johnson would you want to move the amendment on E & R.

SENATOR MARSH: I'm on my feet, I'll be glad to move the amendments on LB 693.

SENATOR CLARK: The motion is to adopt the E & R amendments on 693. All those in favor say aye, opposed. The amendments are adopted. Do you have an amendment on the bill?

CLERK: Yes sir, I do. Mr. President, first amendment I have is offered by Senator Beutler. Read Beutler amendment.

SENATOR CLARK: Senator Beutler.



SENATOR BEUTLER: Mr. Speaker, members of the Legislature, quickly just to refresh your memory, this is the bill that requires the Board of Equalization to do two things. It requires the Board of Equalization to meet within a certain time period after certain kinds of changes in the federal tax laws have occurred. In addition to requiring them to meet, it also requires them, mandates them that they make the changes when certain conditions are met. I guess I feel, basically, that it may be a good thing to require them to meet and consider those tax changes but that the kinds of situations that can come before them at any particular point in time are so varied that it may not be good and is not good public policy to mandate that they make a particular kind of change when they meet. So what my amendment does is leave the bill as it is in terms of requiring a meeting or mandating the meeting but it says that they may adjust the income tax rate instead of saying they shall change the income tax rate when they do meet. Again, I plead for additional flexibility on behalf of the Board of Equalization so they can anticipate all situations that may come up. For example, the situation may be much different than what it was last year, which was the example that gave empathize or gave rise to this bill. For example, after your revenues are projected in April of any particular year or at the end of a session the federal tax rate may go up. Now that means that the Board of Equalization will have to meet and reduce the state tax rate. But at the same time we may know with the coming of summer and the fall that revenues are going to be dropping and therefore it may not be a good idea to cut our tax rate because we have other information that indicates something is going on at the state level that does not correspond to a federal tax increase. So, the amendment is basically designed to give additional flexibility to the Board of Equalization and I hope that it is acceptable to Senator Carsten and the committee. Thank you.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Senator Clark and members of the Legislature, I rise to oppose the amendment for the following reasons. The intent of the legislation itself is to say then we are anticipating a budget the legislature makes certain decisions. Without that automatic adjustment we can not know what Congress will necessarily do in advance. We should not be put at a disadvantage on the other hand, if Congress would raise it and it would automatically bring in an enormous amount of dollars into the state tax coffers that is not fair to our citizens either. That adjustment needs to be made automatic. It needs to be mandated with the word "shall"

April 5, 1982

LB 693

We are anticipating that there will be reductions, but we do not know what Congress will do. This piece of legislation says when you mandate it this way it does not say we shall either have an increase or a decrease simply because Congress has taken action after we have gone home. It is that simple. Lets not read something else into it. Do not adopt the amendment.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: (No response).

SENATOR CLARK: Senator Beutler, do you wish to close.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I just wish to emphasize one last time that the Board of Equalization is going to need flexibility to anticipate the different situations that may arise. We should not make inflexible what I think would be bad law on the basis of one example that we have had this past year. Again I give you the example of what if the federal tax rate increases at some point and time. That means under this bill an automatic decrease in the Nebraska tax rates. An automatic decrease in Nebraska revenue. At the same time that we get that information we may have a bad farm year, grain prices may go to...or we may have a drought. The revenues that we are projecting may be well down. We may need that additional revenue that would come about by an increase in the federal income tax rate. We may need that. What is happening at the federal level will not always correspond or make sense with what is going on at the local level and we should retain our flexibility at the local level. We should allow the Governor to deal at the local level with the situation that exists. I say in this instance we should give, allow the Governor to retain the authority that he presently has, require that they meet but don't mandate that they make a change in each and every situation. Thank you.

SENATOR CLARK: All those in favor of the Beutler amendment vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: 5 ayes, 17 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CLARK: The motion lost. We are going to stop here

RECESS

SENATOR LAMB: Record your presence. Have you all recorded your presence? Senator Chronister and anyone else that would like to record your presence. Record.

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

SENATOR LAMB: Under the North balcony we have five senior students from Rosalie from Senator Jim Goll's district and Mr. and Mrs. Ken Maden. Welcome to your Legislature. Please rise and be recognized. Mr. Clerk.

CLERK: Mr. President, Senator DeCamp would like to print a motion that he had distributed earlier printed in the Journal. (See page 1625-1626 of the Legislative Journal.)

SENATOR LAMB: We will proceed with LB 693.

CLERK: Mr. President, the next motion I have on 693 is offered by Senator Fowler. I don't believe he has checked in yet. In that event, Mr. President, Senator Beutler would move to amend the bill. (Read Beutler amendment as found on page 1626 of the Legislative Journal.)

SENATOR LAMB: Senator Beutler. Could we have some order so that Senator Beutler may proceed with his amendment.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, back on 693, the bill as you will recall mandates that an adjustment be made in the Nebraska income tax rates, Nebraska tax rates when certain things happen at the federal level with regard to the federal taxes. And the way the bill is set up right now, whether the federal taxes increase or whether they decrease, the adjustment at the Nebraska level is mandated. What my amendment would do would be to mandate the change if the federal income taxes are lowered but leave the government with discretion in the situation where the federal income taxes are increased and by doing this we solve the problems of the people who came before the Revenue Committee this year and were concerned about what happened this last year. It would address the situation that occurred last year just as the bill intended, that is if the government lowers its taxes then at the Nebraska level we will adjust by increasing our tax rate but my amendment would say if it is in the other direction, if the federal taxes are increased we do not necessarily have to adjust the Nebraska rates downward and the reason that I am interested in this or I think that we should make this distinction is because the situation may occur where our revenue projections are soft, where our projected revenues may be too high,

we may need a cushion at the Nebraska level. So by making this distinction in the law it would allow the state to make a cushion and retain some additional revenues in case our revenue projections were soft and the outlook was not good here in Nebraska. So that is basically what the amendment does. It allows a little more flexibility. I would move that it be adopted.

SENATOR LAMB: Is there any other discussion on Senator Beutler's amendment? If not, we will vote on the amendment. Do you care to close, Senator Beutler? Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Senator Beutler asked for a Call of the House. Those in support vote yes, those opposed vote no. Record.

CLERK: 10 ayes, 3 nays to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All senators check in. Please record your presence. The House is under Call. Senator VonMinden, would you care to record your presence. We are looking for Senator Schmit, Senator Howard Peterson, Senator DeCamp, Senator Newell, Senator Fowler, Senator Koch, Senator Marsh, Senator Carsten. We are looking for Senator Howard Peterson, Senator DeCamp, Senator Fowler, Senator Koch, Senator Marsh, Senator Carsten, Senator Higgins, Senator Warner. Senator Beutler, we are missing about seven people. Would you care to start the roll call, Senator Beutler. We still have a few people missing. Senator Beutler, all these people are excused until they arrive.

SENATOR BEUTLER: ...excused until they arrive, Mr. Speaker?

SENATOR LAMB: Proceed with the roll call, Mr. Clerk.

CLERK: (Read roll call vote as found on pages 1626-1627 of the Legislative Journal.) 17 ayes, 20 nays, Mr. President, on adoption of Senator Beutler's amendment.

SENATOR LAMB: The motion fails. The next amendment, please.

CLERK: Mr. President, the next amendment offered by Senator Beutler by adding the following language to the end of Section 1. "The meeting required by subsection (c) in subsection 2 of Section 1 shall not be required to be held as a separate meeting. The meetings required by subsections (a) and (b) of

April 5, 1982

Section 2 of Section 1 will be held within 60 days of the deadline required by subsection (c) of subsection 2 of Section 1.

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I believe I will withdraw that amendment. I don't think this is my day.

SENATOR LAMB: The amendment is withdrawn.

CLERK: Mr. President, the next amendment I have is from Senator Fowler. It is on page 1544.

SENATOR LAMB: Senator Fowler.

SENATOR FOWLER: I would like to withdraw that and the other amendment. These ideas still aren't catching on so we will try another day.

SENATOR LAMB: Thank you, Senator Fowler. The next amendment, please.

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

SENATOR LAMB: Is there any discussion on the bill?  
Senator Kilgarin, on the bill.

SENATOR KILGARIN: I move we advance LB 693.

SENATOR LAMB: Those in support of advancing the bill will signify by saying aye, those opposed no. The bill is advanced. Mr. Clerk.

CLERK: Mr. President, very quickly, a study resolution by the Government, Military and Veterans Affairs Committee... I'm sorry, by Senator Kahle. First, LR 299 calls for a study of the investigation and elimination of fiscal fraud, waste and mismanagement within state agencies. LR 300 by Senator Kahle calls for a study on the property tax system as a means of financing governmental subdivisions. LR 301 by Senator Kahle calls for a study of LB 624 introduced this session regarding the access, use and disclosure of information within the control of state government. LR 302 by Senator Kahle calls for a study vehicle to deter drunk driving. LR 303 by Senator Kahle calls for a study of the methods of financing political campaigns in the State of Nebraska. All those will be referred to the board, Mr. President. (See pages 1627-1629 of the Legislative Journal.) Senator Kahle would like to print amendments to LB 611 in the Journal. (See page 1630 of the Legislative Journal.) Senator Schmit

April 6, 1982

LR 318-324  
LB 933, 378A, 404A, 693, 966

SENATOR KOCH: It doesn't have a date in it.

SENATOR DeCAMP: The last one that passes is the one you believe takes priority?

SENATOR KOCH: We are passing this one and in case we get the money we are going to put it out this way to the schools.

SENATOR DeCAMP: Well, I won't pursue it further.

PRESIDENT: Senator Carsten, did you have a....?

SENATOR CARSTEN: If I may, Mr. President, to answer Senator DeCamp's question, there is no date on distribution of school aid money in it. That is in the school aid statute.

PRESIDENT: Okay, the motion then is to advance LB 933 to E & R for Engrossment. All those in favor signify by saying aye. Opposed nay. LB 933 is advanced to E & R for Engrossment. Now for the next Koch amendment...or return, excuse me. Yes, the Clerk has some matters to read in at this time.

CLERK: Mr. President, very quickly, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 378A and find the same correctly engrossed; 404A correctly engrossed; 693 correctly engrossed, and 966 all correctly engrossed.

Mr. President, a reminder that today is the last day for submission of interim study resolutions. I have a series of interim study resolutions. LR 318 offered by I believe it is the Banking Committee, Mr. President. It calls for a study of the national inflation and high cost of money and how it has affected the state's financial markets. LR 319 offered by the Banking Committee. It calls for study of economic policy decisions made to state and federal levels of government and whether those are inadequate or misdirected and need revision. LR 320 by the Banking, Commerce and Insurance calls for a study of the state's insurance investment code. LR 321 by Senator Haberman calls for a study of the feasibility of establishing a separate Repeat Offender's Court. 322 by Senator Haberman calls for a study of the possibility of allowing the Governor or the appropriate state agency director to declare an emergency and allow higher load limits for trucks. 323 by Senator Haberman. 323 calls for a study on how nursing homes are owned by corporations. 324 calls for a study of the feasibility of requiring criminal

April 13, 1982

LB 378, 378A, 693, 760

pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1850 of the Legislative Journal.) 30 ayes, 18 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 378 passes on Final Reading. The next bill on Final Reading, Mr. Clerk, is LB 378A.

CLERK: (Read LB 378A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 378A pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1850-1851 of the Legislative Journal.) 31 ayes, 17 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 378A passes. The next bill on Final Reading, Mr. Clerk, is LB 693.

CLERK: (Read LB 693 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 693 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1851-1852 of the Legislative Journal.) 44 ayes, 3 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 693 passes with the emergency clause attached. The next bill on Final Reading, Mr. Clerk, is LB 760.

CLERK: (Read LB 760 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 760 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1852 of the Legislative Journal.) 38 ayes, 10 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 760 passes with the emergency clause attached. The next bill is LB 966, Mr. Clerk.

April 13, 1982

LB 378, 378A, 693,  
750, 966, 967

ASSISTANT CLERK: (Read LB 966 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 966 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 1853 of the Legislative Journal.) 30 ayes, 18 nays, Mr. President.

PRESIDENT: The motion fails. The bill fails to receive the sufficient constitutional majority to pass with the emergency clause attached. The question now is, shall LB 966 pass without the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1854 of the Legislative Journal.) 29 ayes, 17 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 966 passes without the emergency clause attached. The next bill on Final Reading, Mr. Clerk, is LB 967.

CLERK: (Read LB 967 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 967 with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1854-1855 of the Legislative Journal.) 44 ayes, 0 nays, 1 excused and not voting, 4 present and not voting, Mr. President.

PRESIDENT: LB 967 passes with the emergency clause attached. Do you have some things to read in at this time, Mr. Clerk?

CLERK: Mr. President, the bills passed on Final Reading are now ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LB 967, LB 378, LB 378A, LB 693, LB 760.

SENATOR CLARK PRESIDING

SENATOR CLARK: We are now ready for item #5, Select File, special order # 816.



LR 212, 266, 268, 269, 272, 274, 277,  
278, 287, 292, 293, 295, 298, 304,  
313, 316, 331, 359, 380, 388, 389  
LB 278, 378, 378A, 480, 568, 602A,  
604, 629, 629A, 669A, 688, 693, 708, 760,  
835, 909, 967, 522, 212, 212A, 255, 255A

April 16, 1982

RECESS

PRESIDENT LUEDTKI PRESIDING

PRESIDENT: Has everybody recorded your presence?  
Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President. Mr. President, I have a reference report from the Executive Board referring a gubernatorial appointment. (Page 1971 of the Legislative Journal.)

Mr. President, new resolutions. LR 388 offered by Senators Cullan and Newell. (Read LR 388 as found on pages 1973 and 1974 of the Legislative Journal.) Mr. President, 389 offered by Senator Wesely. (Read LR 389 as found on page 1974 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Koch. That will be inserted in the Journal. (See pages 1974 through 1976 of the Legislative Journal regarding LB 602A.) That is on LB....Bingo, that is right, senator.

Mr. President, I have a message from the Governor addressed to the Legislature. (Read message. Pages 1976-77 of the Journal regarding LB 669A.)

Mr. President, two other communications from the Governor addressed to the Clerk. (Read communications regarding LBs 278, 378, 378A, 480, 568, 604, 629, 629A, 688, 693, 708, 760, 835, 909, 967. Page 1977 of the Journal.) A second letter to the Clerk, Mr. President. (Read letter regarding LBs 609, 609A, 669, 714, 714A, 854, 854A. Page 177 of the Journal.)

Mr. President, I have a gubernatorial appointment of Mr. Robert Borgmann to the Motor Vehicle Industry Licensing Board. (See page 1978 of the Journal.)

Mr. President, the bills that we have read on Final Reading this morning are now ready for your signature as well as the resolutions that were passed Wednesday of this week by the Legislature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LR 212, LR 266 and LR 268, 269, 272, 274, 277, 278, 287, 292, 293, 295, 298, 304, 313, 316, 331, 359, and 380. And the LBs are engrossed legislative bills 522, 212, 212A, 255, and 255A. Okay, as I understand it we