EASE

PRESIDENT: The Chair recognizes Sergeant at Arms Ray Wilson.

SERGEANT AT ARMS WILSON: Mr. President, your committee now escorting his excellency the Governor of the Great State of Nebraska.

PRESIDENT: The committee will escort the Governor. The Governor of the State of Nebraska, Charles Thone.

GOVERNOR THONE: (Gave State of the State and budget address as found on pages 192-206 of the Legislative Journal.)

PRESIDENT: The committee will reescort the Governor out of the Chamber. The Speaker has recommended that we stand at ease for about ten minutes at this time. Then we will re-assume our deliberation.

EASE

PRESIDENT: The Legislature will come back to order. The Clerk will read some matters into the record at this point.

CLERK: Mr. President, we've received some Attorney General's opinions, four to be exact. The first is from Attorney General's office addressed to Senator Haberman; the second addressed to Senator Beyer; a third addressed to Senator Haberman and a fourth to Senator Sieck. All four will be inserted in the Legislative Journal. (See pages 206-212 of the Legislative Journal.)

Mr. President, I have a report of registered lobbyists for the week of November 4 through January 8. (See pages 212-214 of the Legislative Journal.)

Mr. President, LR 201 is ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LR 201.

CLERK: Mr. President, I have new bills. (Read by title for the first time LBs 753-763 as found on pages 214-217 of the Legislative Journal.)

PRESIDENT: We are ready to take up agenda item #6 which involves motions to suspend rules on some revisor bills and I am advised by the Clerk that there is one additional bill if you will add to your agenda, LB 592 after 664. Senator Lamb, are you going to make a motion to....

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

LR 270
LB 127, 259, 601, 611, 623, 642, 644, 647, 651-2, 659, 678, 696-7, 700, 716, 724, 757, 767-7A, 774-776, 779, 784, 792, 816, 828, 839, 845, 877, 931, 941, 951, 961-2, 705

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Mr. President, three communications from the Governor addressed to the Clerk. (Read. Re: LBs 775, 776, 601, 623, 651, 659, 697, 705, 716, 724, 774, 779, 784, 792, 839, 877, 931, 941, 951, 961, 962, 259, 642, 644, 678, 696, 828, 845, 767, 767A. See pages 1415 and 1416, Legislative Journal.)

Mr. President, I have a series of Attorney General's opinions. The first is to Senator Vickers regarding LB 647; one to Senator Wesely regarding LB 700; a third to Senator Hefner regarding LB 611; a fourth to Senator Haberman regarding LB 127; and a fifth to Senator Carsten regarding LB 816. All of those will be inserted in the Legislative Journal.

Mr. President, a new resolution, LR 270 offered by Senator Newell. (Read. See pages 1424 and 1425, Legislative Journal.) That will be laid over pursuant to our rules, Mr. President.

Finally, Mr. President, Senator Wiitala asks unanimous consent to remove his name as cosponsor from an amendment to LB 652, Request 2652.

SENATOR CLARK: Is there any objection? So ordered.

CLERK: That is all that I have, Mr. President.

SENATOR CLARK: All right, is Senator Koch here? I think we will go ahead and pass over Senator Koch's request here until he arrives. We will go to item #5 on General File, the priority bills, the revenue priorities, 757 is the first bill.

CLERK: Mr. President, LB 757 introduced by the Speaker at the request of the Governor. (Read title.) The bill was read on January 11 of this year, referred to the Revenue Committee for public hearing. The bill was advanced to General File, Mr. President.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, in the absence of Senator Marvel I suspect that I should take the bill. The bill is very straightforward. There is no committee amendment. It is in its original form to reduce the minimum of the overlevy or cushion from 3% to 2%. It was a recommendation from the Governor in a bill that he had introduced by Senator Marvel and I would move that it be moved from General File to E & R Initial.

SENATOR CLARK: We have a motion on the desk.

CLERK: Mr. President, Senator Beutler would move to indefinitely postpone LB 757.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, obviously I believe that this bill represents poor public policy. As Senator Carsten stated, the purpose of the bill is to allow the state to have a 2% reserve instead of a minimum 3% reserve. The purpose of the rule, of course, has been to protect against deficits and against cash flow problems. It is a prudent fiscal device that has served this state well in its present form I think for a number of years. What is ironic to me about the introduction of this bill at this period of time is that this is a period of time when we should in fact be thinking about a higher reserve rather than a lower reserve. Think about it for a minute. If the purpose of the reserve is to avoid deficits and to avoid cash flow problems, then in a period of times such as the present period of time when you have plummeting revenues where the danger is a severe drop off in revenues, then what you want to do logically is anticipate that drop off by having a high reserve, that is, by having a reserve that is five or six or seven percent. But instead of that we are doing just the opposite. At a time when our revenues are clearly in danger of dropping off, we are about to pass a bill suggesting a lower reserve. What I am saying is that we would be doing just the opposite of what we should be doing. The time when you want to lower the reserve is when you are anticipating if anything tremendous increases in your revenues. If the trend and the economic of the trend of the time tells you that revenues may be in fact more than what you are projecting, then you don't have to be concerned about a high reserve and you can stay to the low side of the reserve requirement at three or two percent but again this is exactly the wrong situation in which to be decreasing the reserve. What has happened right now? Right now our unobligated balance at the end of this year is going to be $3.9 million according to the latest figures that I saw. That is around one-half of one percent reserve that we ended up with. Now that is operating under present law, and even at that, we are assuming a retroactive income tax increase to 17%. The point is using the old law which required a minimum of 3%, we didn't come close to having the kind of reserve that we needed. So why are we about to change the law? Why would we even be considering changing the law to make the reserve requirement less when we missed it by such a wide mark with the old law? It makes no sense whatsoever. The information that we were given less than two weeks ago indicated that there would be no cash flow problems in the state until October at least and not even

then in the event that we adjusted the state aid payments in education. Now not only is it admitted that we may have a cash flow problem in October, but now we all know that the cash flow problem is upon us this month. We have got ourselves into this bad situation for a number of reasons but remember that we got ourselves into this situation operating with a reserve requirement of 3%. If we have a lower reserve requirement, if the Governor had operated on a 2% reserve requirement, we would be in even more trouble today than we are in. The economic situation that we are facing today more likely than not will continue. The revenues more likely than not will be less than we projected. In that kind of a situation, the only thing that makes sense is to guard against it with an increased reserve requirement and not by being fiscally irresponsible, in my opinion, and lowering the reserve requirement. Putting it in individual terms, if an individual for example had an income of $20,000, the state's reserve requirement would be equivalent to that person saying I am going to put $600 in a savings account just in case we have some kind of trouble. Now $600 out of $20,000 isn't much in a savings account and the 3% reserve requirement for the state isn't much in dollar terms especially as demonstrated by recent economic events. So if anything, we should have a bill that increases the minimum reserve to 4% and not one that drops it to 2%. For those reasons I would ask you to indefinitely postpone the bill and so move, Mr. Speaker. Thank you.

SENATOR CLARK: The Appropriations Committee is going to meet under the North balcony at 9:50 a.m., right now. Senator Burrows on the indefinite postponement.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I support the indefinite postponement of this bill. I believe it is one of the most ill-thought moves of the Governor when he came in with a measure to simply bleed the Treasury dry when it is already going dry to allow it to go a little closer. What we need right now is a quick meeting of the State Board of Equalization to move the rates upward, to reduce a peak that will be caused by the delay in raising the income tax rate to that rate that is simply necessary to maintain state government. I cannot really understand with the projections we have had for months why such a measure was ever introduced, and I agree fully with Senator Beutler that if we move any direction that it should be upwards by at least 1% but I do not believe the body would support such a measure at this time. Our State Constitution prohibits the State of Nebraska from borrowing money and no businessman or farmer would try to

operate with a 3% reserve. If they were prohibited from going to the bank to pay their bills when they came due, it would be ridiculous. It is contrary to all simple arithmetic and simple logical business procedure to go on a guesstimate tax, a tax system that is purely operating on a guesstimate of what the income tax and the sales tax will produce for the following year, and to reduce the reserve from 3% to 2% in the most hazardous economic times since the 1930s. Our agriculture price structure, the major industry of this state, is comparable in parity levels to the mid-1930s and it is going to have serious impacts on the revenues of this state. This is part of the game that started four years ago, a shell game to run a low tax rate during an election year. Four years ago the three Republican members of the State Board of Equalization outvoted then Governor Jim Exon and then Tax Commissioner Bill Peters three to two to raise the state income tax rate to 18%. Now that would compare with 20% income tax rate today with the federal deductions that are coming along. But that vote came to start with a cushion of a good reserve in then an economic stable time. Now the game plan was to hold a rate through election year which has obviously been impossible for the last six months with anyone that has followed the revenue take, the revenue directions, and the national economic policies. I think it is high time this Legislature take the responsible action of either indefinitely postponing this bill or raising the reserves which will place our Treasury in a position where we pay back the subdivisions on time, we give the income tax returns, we refund the money that is owed to the income taxpayer that has a return coming. We do not delay that. We pay him back on time. And that we have funds in the State Treasury to assure state employees who have chosen to work for generally minimum salaries, that they get paid on time and that they have stable employment. It is really hard for me to believe that this game can continue right on through this session...

SENATOR CLARK: You have one minute left.

SENATOR BURROWS: ...with the obvious shortages that are developing today in state government, with the obvious farm failures and business failures that are happening at one of the fastest rates in our history, and to continue a game to evade what has to be done in taking responsible actions and raising the rate to what is responsible and will meet the needs of the state. I urge the body at this point to indefinitely postpone, and if not, to keep in their consideration the idea of raising the reserve from 3 to 4 or 5% where we are a solid state

government and that this would make us responsible in state government, not playing a tax year gimmmick.

SENATOR CLARK: Senator Carsten, did you want to talk?

SENATOR CARSTEN: Mr. President, members of the Legislature, I don't quite know where I am at to be real truthful about it but I notice on the Appropriations Committee's recommendation to the Legislature that they do have built in a 3% reserve so that when you look at the $742 million proposal by the Appropriations Committee it does include a 3% reserve. I am only trying to defend the bill as it was introduced and I guess it is the judgment of this body that will decide whether we have two or three as you vote your conscience relative to this matter. In its original form I think the Governor was trying to keep to a very minimum the absolute necessary dollars to suggest and recommend for the state for '82-'83. It was in this light that he made this recommendation and I suspect that I have to defend that as best I can even though Senator Marvel was the introducer of the bill. So use your judgment as to what you think the state should have I think is the only thing I can say to you. Thank you.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: I would call for the question, Mr. Chairman.

SENATOR CLARK: The question has been called for, do I see five hands? I do. Shall debate now cease is the question? All those in favor vote aye, opposed vote nay. Have you all voted on ceasing debate? Senator Clark voting aye. Once more, have you all voted on ceasing debate?

CLERK: Senator Clark voting yes.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Well, in order to expedite things, I believe we need those other 26 people in here to make some of these decisions so I will ask for a Call of the House.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Didn't we call to record that vote?

SENATOR CLARK: Call what?

SENATOR DWORAK: Wasn't the call to record the vote made? Wasn't the Board shut off?

SENATOR CLARK: He hadn't announced it.

SENATOR DWORAK: I think he did.

SENATOR CLARK: No. Not that I know of. Did you announce it?

CLERK: No, sir, I didn't.

SENATOR CLARK: No, I just asked him to record the vote. A Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed will vote nay. Record the vote.

CLERK: 13 ayes, 2 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All legislators will take their seats. The Sergeant at Arms will see that they are checked in. If everyone sitting in their seats will check in please. Senator Lowell Johnson, could you check in please. Senator Labedz. Senator Von Minden. We are waiting for Senator Newell, Senator Higgins, Senator Sieck. Senator Lamb, do you want to authorize call ins or do you want a roll call?

SENATOR LAMB: Just call ins.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Could we have an explanation of what we are voting on please?

SENATOR CLARK: Yes, we are voting on ceasing debate on the kill motion on 757.

SENATOR DWORAK: How many people have spoken on it?

SENATOR CLARK: We have four people excused, five people.

SENATOR DWORAK: How many lights are left, Senator Clark?

SENATOR CLARK: We have got three lights left.

SENATOR DWORAK: And how many people have spoken on the bill?

SENATOR CLARK: Three.

SENATOR DWORAK: Only three people?

SENATOR CLARK: Three.

SENATOR DWORAK: Thank you.

SENATOR CLARK: Senator Koch, will you check in please? All right, they are all here. We are authorizing call ins on ceasing debate on the indefinite postponement of 757. Does anyone wish to vote?

CLERK: Senator Marsh voting yes. Senator Stoney voting no. Senator Vickers voting no. Senator Sieck voting yes. Senator Duda voting yes. Senator Warner and Kremer voting no.

SENATOR CLARK: Any further votes?

CLERK: Senator Lowell Johnson voting yes. Senator Newell voting no. Senator Cope and Koch voting no. Senator Chambers voting no. Senator Schmit voting no.

SENATOR CLARK: The Clerk will record the vote.

CLERK: 20 ayes, 17 nays, Mr. President, to cease debate.

SENATOR CLARK: Debate has not ceased. Senator Dworak is next. The Call is raised.

SENATOR DWORAK: Mr. President and colleagues, I think this is a pretty significant piece of legislation to move across this floor with only three people talking on it. This reserve is vitally important to the State of Nebraska because the state cannot borrow money and the state cannot carry a surplus, and because of that, we need some cushion as has been very adequately explained by Senator Beutler. Now we had another Governor prior to this Governor that wanted to do the same thing, that was Governor Exon, and I opposed him as I will oppose Governor Thone in cutting the reserve. You know we get into these crazy situations in the state if we don't have adequate cash flow where we are paying our bills late and that is really tacky for the State of Nebraska, and the next thing we will be doing is sending checks out unsigned so that we gain three or four more days of cash flow, all kinds of little tricks we are going to have to be forced to do to keep the books balanced. Lo and behold, we may even come up with an idea of withholding tax refunds or delaying them to make the cash flow situation work out. I can't believe anybody conceiving of keeping people's money away from them but it is that kind of a possibility that we could get into if we diminish these cash flow balances. We might even come up with an idea of borrowing from cash funds just to keep the books balanced which...and all these things are negative. All of these things do not speak well of the State of Nebraska. It'd speak poorly of any business trying to operate that way and it speaks poorly of the State of Nebraska trying to

operate that way. It is just gross mismanagement. And where does that happen? Right here, right here what is before us right now. We maintain an adequate overlevy and we don't have to worry about getting involved in all of these other kinds of schemes and vehicles to balance our books. So I think we ought to think very carefully and I agree a hundred percent with Senator Beutler. If anything, if anything, we ought to be looking to increase our cash overlevy rather than decrease it. When we are looking at tight times, when we are looking at diminishing revenues, the time is to become a little bit more conservative, a little bit more careful, just like we would operate our own personal budgets, our own personal bank accounts, just the way we would operate our own business and farm accounts. The time is to build in cushions, not to diminish reserves, not to diminish balances. This is a serious bill. This is an important concept. This is something that is essential to the operation of the State of Nebraska, and to vote to decrease that reserve from 3 to 2% would be irresponsible. It is not prudent. It is not fiscally conservative. In fact it is reckless and it is a direction we don't want to take.

SENATOR CLARK: Senator Wesely. Senator Kahle. Senator Wesely first.

SENATOR WESELY: Yes, I am sorry. Mr. President, members of the Legislature, I, too, would rise in support of the Beutler kill motion. I think Senator Dworak, Senator Burrows, and Senator Beutler have done a good job of outlining the reasons why we should kill this bill. I do recognize the cash flow problems that we have in this state but I think we also have to recognize the long term policy change that we are talking about with this legislation. I think in the interest of keeping the policy that has worked well for the state we should not at this time advance this bill and pass it into law. As I talked to the fiscal office about this situation this past year, you recall that I believe in our budget that we passed last session was about a five percent reserve. The slowdown in the economy brought that down to just about three percent, just barely, it was that we were able to get by with that. Now we are in a situation where cash flow is even worse so with a budget that started off with five percent, we are ending up with a situation where we are not going to have enough money to meet our obligations. So with that we are talking about reducing that from three to two percent the reserve that we are going to require. Really I think it is very questionable considering the economic times we are in. You have all heard that before. I think that in looking at the legislation you will see language in there about the fact that in

1976 we set it at from not less than two but no more than 3 percent and I understand that at that time, which was before I was in the Legislature, we had quite a cash flow problem as well. So I think the way to deal with cash flow problems is to increase the revenues to cover the monies that we need, and at the same time where we can trying to cut back on some expenditures if possible. That is the solution to the problem, not adjusting the reserve requirement that has worked so well and which I think is a good policy, a policy which says we don't go into the red, a policy that says we try to anticipate our obligations and meet those obligations without having the sort of problems that we are having this year. Unfortunately, that is the case anyway. That we don't have too much, that we don't have too little in our reserve by having a 7% maximum which was a cause of concern just a couple of years ago in the good old days when we talked about having too much money in our Treasury rather than too little. That has changed but, nevertheless, at that time we didn't increase the reserve from 7% to a higher figure because we had too much money, we adjusted. Similarly we should not now decrease the minimum that we have in our reserve. We should just adjust our revenue question and deal with it in that manner. So I would urge your support for the Beutler amendment, the Beutler motion to kill this bill.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, most everything has been said that I need to say but I do favor the kill motion and I think in these times we need to plan for larger reserves in order to keep up with the changing economy. I think it is foolish to change now after it has gone through the good years and when we get in the bad years we want to cut down on our reserves when we really need them. And you all know what shape the state is in right now with its ability to pay its bills, at least its refunds. I kind of hate to say this because I think it will be construed as being political, and maybe it is, but we have Reaganomics which none of us are sure are going to work. We have Thonenomics which we had last fall and didn't work and I guess we have got to the place now where we have Thonecomics that wasn't so sericus.

SENATOR CLARK: Senator Vickers. Is Senator Vickers in the room?

SENATOR VICKERS: Mr. President and members, I rise to support Senator Beutler in his kill motion for many of the same

reasons that have already been given but it seems to me that when we are in a situation that we are in right now that now would be a poor time to have less money stuck away in the sock. Obviously those of us that are in private business in agriculture right now don't have that option in order to stick more in the sock but by the same token we don't have the prohibition, thank god, against us going and borrowing money since we do it all the time. But I really think that we definitely could be making a serious mistake if we lower the reserve ratio that the state operates under right now. When you consider that, as Senator Dworak pointed out, the state cannot go into debt and that the state does have the obligation to meet its requirements as far as financial needs are concerned that I certainly support Senator Beutler in his motion to kill LB 757 and leave the 3% ratio there.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Thank you, Mr. Chairman and members of the Legislature, there have not been as many special sessions of the Legislature since we did go to annual sessions, but if 757 were passed, and I do not think it will be, but if it were, it certainly is an invitation to a special session again in 1982. I believe this bill should be indefinitely postponed for I think prudent management is an important tool to use and to look the other way when finances are slow coming in is not the way to handle the problem.

SENATOR CLARK: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I wonder if I could ask Senator Warner a question or two to try to get some information.

SENATOR CLARK: Senator Warner, would you yield?

SENATOR H. PETERSON: Senator Warner, could you tell me in round figures about what the appropriation bill was like in 1974, how many million dollars did we spend in '74 in this Legislature?

SENATOR WARNER: I can get that in a second. I don't have that book and I don't remember the exact figure, Senator Peterson.

SENATOR H. PETERSON: Was it somewhere in the neighborhood of $300 million or $350 million?

SENATOR WARNER: That is possible. I don't want to say. I...

SENATOR H. PETERSON: While you are looking, let me just put before this Legislature the figure of $350 million and if that is wrong, why then we can correct it. But if we took 3% at that time, that would be $1,050,000 in reserve. If we have 742 this year and we go to 2%, that is $1,484,000. In other words we are going to have better than 400 and some thousand more reserve this year with 2% than we had in '74 during the last recession. It just appears to me that we ought to be talking about what the dollars are not what the percentage is. I firmly believe that we can get along with a 2% reserve on the basis of our present budget as well as we could back in the '74 period when our budget was about half of what it is now and it just seems to me that as you listen to the debate this morning you need to recognize that this has been purely a debate on the part of the Democrats in this body to try to embarrass the Governor of this state. I think the Governor carefully looked at this matter and decided on the basis of the dollars that he was talking about when he came to this Legislature that a 2% reserve was enough. I say rather than being conservative, as Senator Dworak is saying, we are being conservative if we cut down on the reserve and then face the situation that we have got to cut down on the amount of money we spend. I just think we are talking out of both sides of our mouths when we say we are being conservative by increasing reserve. That is not real management and I, for that reason, would oppose the Beutler amendment.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, and members of the body, as a member of the Revenue Committee, I voted to advance LB 757 to the floor of the Legislature and I did not vote to advance the bill solely to allow legislative discussion. I voted to advance the bill because I felt it was a fair and just bill and I didn't have the same kind of misgivings about LB 757 that a number of the other Senators have voiced today and I will tell you why. At least two reasons for it, the first reason is that the statute that directs the State Board of Equalization and Assessment to set the income and sales tax rates merely says that in setting the rates the State Board of Equalization and Assessment shall provide a reserve not less than 3% and not more than 7%. So that means the State Board of Equalization and Assessment can provide a reserve at 4%, at 5%, at 6%, or even 7%. It has flexibility. Now we reduce that statutory figure from 3% to 2%. That just means the State Board of Equalization and Assessment has flexibility. It is going to reserve at 2%, 3%, 4%, 5%, 6%, or 7%. They are given

flexibility to act. I don't have any problem with giving the State Board of Equalization and Assessment flexibility. Secondly, the reserve itself in no way assures that we are not going to have a cash flow or a cash fund problem or that we are going to have any surplus at the end of the year. It is merely a statutory formula used to fix the tax rates in November of each year and that is the basic function of the reserve. We have got a cash flow problem today, don't we? I keep reading about it in the newspaper. I hear about it in the rotunda. We have a cash flow problem today and we got that with a 3% reserve. Now if the 3% reserve were the magic, then we shouldn't have a cash flow problem but it is not the magic. The truth of the matter is all we have is a simple statutory target figure that the State Board of Equalization and Assessment can look at and apply its best judgment and its best judgment may be a 2% reserve, it may be a 5% reserve. I don't know what it is going to be. It applies its best judgment and the rate is based on that, and then how the state fares in subsequent months does depend on the state of the economy, the state of the revenue receipts, and a variety of other conditions, and if necessary the State Board of Equalization and Assessment can meet again and readjust the rate. But I think that this is a discussion that is far more symbolic than it is of substance and it strikes me that it doesn't make substantially a lot of difference to go from a 3% to a 2% reserve. I think it is good policy to give the State Board of Equalization and Assessment a little greater flexibility in establishing the reserve. Now finally, let me tell you what it does mean to taxpayers to have a high reserve. You know most taxes are paid through a withholding system and the higher the reserve that we have in our state operations, it means the more monies we are taking out of the pockets of taxpayers to put in our own savings accounts to meet our own needs as opposed to allowing those taxpayers to have their money to spend or to save as they see fit. And the real question is, to what extent should we affect enforced savings for state purposes from our taxpayers? And it strikes me that we should be very careful, we should be very careful in affecting enforced savings and we should give the State Board of Equalization the flexibility it needs. If it makes a mistake, if it truly makes a mistake, the State Board of Equalization and Assessment consists of elected people...

SENATOR CLARK: You have one minute left.

SENATOR VARD JOHNSON: ...from the Governor on down and they can be roasted and lambasted and they can be, you know, harpooned and every other thing and they can be

defeated but all we do is give them the necessary flexibility. I do not think this is an evil piece of legislation. It is a decent piece of legislation and I think it should be supported.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, aside from the argument of what the reserve ought to be, and I suppose I am certainly on the side of not spending below that 3%, but I am not in the mood to kill this bill today in any event. It is open to a good section of law that we may want to deal with for some purpose and that in itself is reason enough not to kill the bill and to advance it or I can see, and I don't know if Senator Carsten indicated in his comments, but I can see the possibility of developing some language, which I do not have, but I can see the possibility of developing some language that under some set of circumstances one could go lower than the three although I would certainly want that to be a unique situation spelled out. But in any event, I think it would be inappropriate to indefinitely postpone the bill and I think it ought to be advanced in the event that it can be utilized to resolve some of these problems.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President and colleagues, I rise to oppose the kill motion. I don't know why we have to kill this bill this morning. I think that we ought to debate it and then advance it and get another chance to debate. What we are doing, it says that the minimum requirement can be as low as 2% but it doesn't say it has to be and I believe that when a person has $1 in his pocket that he will be a little more careful of how he spends that $1. If he has $20 in his pocket, he will become a little more reckless. I think many constituents of mine have told me this that if you have the money there, you are going to find a place to spend it and, therefore, I would urge this body not to kill this bill this morning. And on the high end, we leave that there and so I believe that we need to let our State Board of Equalization have the flexibility. Our budget has gone up dramatically in the last six or seven years and, of course, as the budget goes up and as this percentage stays the same, it means that there are a lot of tax dollars sitting in this fund. Therefore, I would urge you to oppose the kill motion.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Thank you, Mr. Chairman and members, I oppose

the motion to kill LB 757. Numerous reasons have been given and I support most of them. I really think this has taken a political turn which is unfortunate. For years we have discussed in this body who should have the responsibility of setting sales and income tax, should it be this body or should it be the Board of Equalization? And always we have come right back to the same place, the Board of Equalization should have that responsibility. Here, too, the Board of Equalization should have the responsibility of setting the reserve. I wish I had more reserve in our operations. There comes a time once in awhile you have to get along with a little less security just because of cash flow. The Governor is on the Board of Equalization and I feel strongly it is their responsibility. I just feel this is a simple bill. All we are doing is striking some old language that says it can't be less than three or it has to operate within a narrow margin of three to five or three to seven. Let's give the Board this responsibility. They can handle it. I think it is improper for us to do at this time. We are living in a little different time. I do not feel that strong that we are headed for a crisis. I think we are going to come through this and let's give it a little time. We have to maybe adjust some of these things that we have been used to doing. I think we can afford to take that risk and I think we will prove it is going to be okay.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, I would argue against lowering the reserve. First of all, I think the argument that there is a range here, practical experience would seem to indicate that the minimum reserve is all that politically the Board of Equalization seems willing to go with. Senator Vard Johnson appeared before the Board of Equalization after the special session and on behalf of himself and Senator Carsten I recall he said raise the tax rates so we can have a higher reserve. The fiscal situation is cloudy. It is hard to project. I would say that Senator Carsten and Senator Johnson were not there on a partisan basis, they were there on the prudent basis of saying that a 3% reserve itself was too low. The five member Board of Equalization did not feel that after a special session it could raise the tax rates in order to have ample funds just simply to have the reserve because of the changing economic times. Now we know what happened. The reserve was at 3% and yet even then that was not adequate. If we then would have had a 2% minimum, I think the same thing would have happened, the Board of Equalization would have found themselves that politically it was not willing to assume the responsibility

to go higher than the minimum. So I think the minimum in fact becomes the reserve, and although perhaps we would like to see in an ideal world a Board of Equalization that would have the political courage to accept the suggestions of people like Senator Johnson and Senator Carsten and raise the rates in order to provide a higher reserve, such a thing does not happen. As far as the argument that we need this bill for amendment purposes, the next bill, I believe, covers the same section of law, and in fact I think there are several bills floating around dealing with this Board of Equalization section. It might be better in fact, in order for us to have a coherent policy, to try and put everything in one bill rather than scatter it about. So I think that in fact we could remove this bill from consideration and still have 693 that deals with the identical sections of state law. Finally I would say that as many people have said, revenue projection is a shaky business. In fact it has got so shaky these days that in a two week period we cannot tell what is going to happen. Revenue projections change constantly. We are assured one week that there is no cash flow problem until October. We find out that the next week refund checks are held and that a new concept of borrowing from ourselves must be introduced into the statutes. So given the uncertainty of revenue projections now, given the fact that federal tax changes are incomprehensible to us as far as their impact on state cash flow and as far as state income, it would seem to me that this is exactly the wrong time to lower the reserve, and anyone that claims that the Board of Equalization, this Board or any other Board, would if the reserve is only 2% suggest that we raise taxes and have a 5 or a 6% reserve is simply not dealing with the political reality. This Legislature should establish a minimum in statute so that the Board of Equalization cannot play political games and push the state into the cash flow situation that we have. What is the impact if we do not have that type of reserve? It is things like the citizens of the State of Nebraska do not get their tax refunds. It is that the state budgeting becomes so tight that we change our state spending policies on a monthly basis or perhaps in the next few weeks on a weekly basis. It is that we move ourselves in such a tight fiscal situation that we have bad fiscal management. I think that us, as the Legislature, should indicate a standard to the Board of Equalization for reserves.

SENATOR CLARK: You have one minute left, Senator Fowler.

SENATOR FOWLER: Gosh, time goes fast. At one time 5% was the reserve that we used to have and we had a special session and then we established a range. I think if we go down to two and establish the concept of borrowing from ourselves,

we could argue in fact that there is no need for any reserve at all. If we run low, we simply borrow and I think that is the type of fiscal thinking that we are leaning towards and it is one that I think we should oppose.

SENATOR CLARK: That is all the speakers I have that have spoken the first time. Senator Burrows, do you want to speak a second time?

SENATOR BURROWS: Yes, Mr. Chairman, members of the Legislature, I would like to remind the body that this is not a new record on reserves for me, that historically this has been my position that the state should keep adequate reserves because of its guesstimate in the area of taxation, that we are projecting against future revenues that are not sound. The local subdivisions have historically kept 5% reserves and they have a totally different situation. I even question the merits of this because they have the abilities to issue warrants in times of shortages at lower rates than what they are receiving on the calculated due property tax bills. It is a totally different situation and in this state we are operating it absolutely in reverse. They really don't need that 5% reserve when they can borrow money at a lower rate than the due bill is going to bring them in. They don't need 5% but the state system is operating on a projected guesstimate, and when you had a stable economy for about ten or eleven years, you could have drawn a ruler across the page, picked up inflation, and we hit within 1 or 2% all the time on projections. But the last four or five months have brought all reality out on this. We have a very unstable collection system. It is obvious, anybody that looks at it, the situation has changed. And at this time it would be the most irresponsible action we could do to reduce those reserves when it appears the present Governor is unwilling to meet the State Board unless he has to to adjust the rates to meet the obligations of the state. When we give him more room, it appears that he is going to move down and bleed that Treasury drier and drier. I certainly urge the body to indefinitely postpone this bill because I feel it would be from simple business management one of the most irresponsible actions this state could take. Thank you.

SENATOR CLARK: Before I call on Senator Beutler to close, I would like to announce guests of Senator Cope, his brother, Paul Cope, wife, Eileen, and niece, Jerry Weldon, and children, Josh and Christine, all from North Platte, and his sister, Betty Ayres from Lincoln is also here. Will you stand and be recognized please? Welcome to the Legislature. Senator Beutler, would you like to close?

SENATOR BEUTLER: I would just like to make a short closing, Mr. Speaker. The arguments pro and con have basically been made but simply let me point out to you that the present law now says that it shall be no lower than 3% or higher than 7%. The Legislature over time has developed a range of percentages that represents in its opinion good policy, good public policy, and it made sense to give some flexibility because sometimes you are facing a situation where the revenues, the projected revenues, are soft on the high side or when they are soft on the low side. Now obviously if you want to give complete flexibility to the Board of Equalization you can do that but I think that would be abrogating the responsibility of the Legislature to do that as Senator Johnson seems to be suggesting. The range that the Legislature has set 3 to 7% as far as I know has worked well so the question you ask yourself is why are we changing the law? What is the recent evidence that has come to our minds that causes us to think it is not a wise policy? That recent evidence is that the Board of Equalization established a 3% reserve in November, that the projected reserve of unobligated balance that will be here at the end of this fiscal year is less than one-half of 1% and it will be that only because...only assuming that the individual income tax rate is raised to 17% and made retroactive. So the evidence is not, the irony of this whole situation is that the evidence is not that we need a lower reserve but in fact that a 3% reserve was too low, that what we really needed in these economic times was a higher reserve, and yet fantastically somehow the response is let's pass a law that says we can have a lower reserve, even when the higher percentage missed the mark so badly this year. It is almost Alice in Wonderland. I really do not see any logic whatsoever in what this bill proposes and I urge you again to indefinitely postpone it.

SENATOR CLARK: The question before the House is to indefinitely postpone 757. This only takes a simple majority. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Senator Beutler, I am going to call the vote.

SENATOR BEUTLER: Mr. Speaker, how many people are excused?

SENATOR CLARK: I think we have four excused. Apking, Marvel, Wagner, and DeCamp are excused.

SENATOR BEUTLER: Mr. Speaker, I know there are a couple of people out of the Chamber who would vote for the kill motion so I would ask for a Call of the House and a roll call vote.

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

CLERK: 20 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor, all Senators will take their seats and check in please. Will everyone please check in? Senator Hefner, Senator Schmit, Senator Burrows, Senator Wiitala, Senator Cullan, Senator Haberman, Senator Goodrich, Senator Remmers. We are looking for Senator Labedz, Senator Higgins. Senator Labedz and Senator Chambers. Here is Senator Chambers. Now if we can get Senator Labedz, we are all right. Senator Beutler, did you want to start the roll call?

SENATOR BEUTLER: Who is missing, Mr. Speaker?

SENATOR CLARK: We are short Senator Labedz. Here she is. The Clerk will call the roll. Let's tell them what we are voting on. We are voting on the indefinite postponement of 757. It takes a simple majority. Call the roll.

CLERK: (Roll call vote taken. See pages 1425 and 1426, Legislative Journal.) 15 ayes, 30 nays on the motion to indefinitely postpone, Mr. President.

SENATOR CLARK: Motion fails. The bill is not indefinitely postponed. Senator Carsten on the bill. The Call is raised.

SENATOR CARSTEN: Mr. President and members of the Legislature, I think Senator Johnson pointed out the key thing to this bill as it relates to the Board of Equalization and the so-called cushion that we use for the protection of our State Treasury. The 2% is only a minimum and it still can be used up to 7 as the Board of Equalization sees fit and I think that I will not say any more other than to move that it be advanced from General File to E & R Initial. I believe that it does give that latitude for the Board to work with and will not jeopardize this. It is not a mandate. It is only a little wider range. So I so move.

SENATOR CLARK: Senator Kahle, your light is on.

SENATOR KAHLE: Mr. President and members, I want to bring out one point. That is all I am going to say. We have talked about the reserve and how much larger it is today because of our large budget than what it was perhaps in 1975 or whenever you are talking about. I don't believe that is relative at all to what we are doing. Just because more

money comes in, more money also goes out. So the turnover is greater than it was in '75 so I don't believe that is a good argument. I think we need just as big a reserve by percentage as we did in 1975 especially now with the fast moving economy that we have. Now there has been some talk here this morning about using that bill for some other purpose and I have an idea what that purpose is all about and that will come up later but I think if we want to really be honest about it we would come up front with that legislation rather than hiding it in another bill. Thank you.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I feel it is unfortunate that this bill has really developed into what appears to me a rather partisan issue in this Legislature with the domination of it because I think the first thing that this Legislature should look at is the responsibility of state government and to proceed in a responsible manner disregarding and not regarding party lines. I think that to strip out the reserves and run what is such a simple issue, to run that Treasury drier and closer to really hazardous situations where we may be pulling many games of delaying payment, and one bill is in here to delay payment to subdivisions, that is just a way of putting off part of a year in funding from sales-income tax for turning it to the real estate tax system. I think it is responsible that we vote out this bill and vote it down and I think the taxpayers of this state would accept the responsibility for covering the cost of state government rather than running the other risks that are involved by coming too close and then missing on a guess in a very hazardous economic time. I think that people of this state in Nebraska believe that the state should pay its bills on time as the first obligation of the state, pay back tax refunds on time, pay the subdivisions the money they have on time, and these are the games that potentially confront us if the Treasury runs out and the cash flow drops. I would urge the body to oppose this bill and leave it where it should have been, not on the Board at all.

SENATOR CLARK: The Chair would like to announce that there are six cub scouts from Pack 29, Lincoln, Den 2 with Brenda Wright and Elaine Brokofsky, the two leaders. Will you stand and be recognized please? They are over here in the North balcony. Also we have 100 Nebraska High School Youth Group students, Mr. Chris Grosshans and Miss Monica Grossenkopf, Chairpersons. They are in the South balcony. Will you stand and be recognized please. All Senators are invited to lunch at the First Baptist Church at 14th and K, also those not having sent in their acceptance, so I guess they are going

to feed all the Senators. Welcome to the Legislature. The next speaker is Senator Cope.

SENATOR COPE: Mr. President, members, I was going to call the question.

SENATOR CLARK: Well, you won't have to do that. You were the last speaker. Senator Carsten, do you wish to close? No closing. The question before the House is the advancement of 757. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: A record vote, Mr. President. (Read record vote. See page 1426, Legislative Journal.) 26 ayes, 13 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. We will now come back to #4 with the motions. Senator Koch. Yes, the Clerk would like to read in first, Senator Koch.

CLERK: Mr. President, very quickly, Senator Chambers has amendments to LB 568 and 948 to be printed in the Journal.

Your committee on Appropriations whose Chairman is Senator Warner instructs me to report LB 928 advanced to General File with committee amendments attached, Mr. President.

SENATOR CLARK: Senator Koch, on your motion, a time limit of fifteen minutes on this.

SENATOR KOCH: Would the Clerk please read the motion.

CLERK: Mr. President, the motion offered by Senator Koch is to direct the Clerk...Senator Koch would move that the Clerk be directed to request the Governor to return LB 208 to the Legislature for further consideration.

SENATOR KOCH: Thank you, Mr. Chairman. Mr. Chairman and members of the body, last week we passed LB 208 after considerable discussion and amending procedures. My motion is to return it from the Governor for some technical amendments to clarify some problems that have been brought to our attention and you all have handouts on your desks, particularly the one from the attorney who represents freeholders of a number of years, and we feel as though if we are going to put a bill to the Governor that is going to try to correct some of the problems with freeholding, it is important we bring it back for technical amendments and that is my motion.

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

is. It isn't that complex. The question only is do you want to vote on it or do you want to spend another day on it and never get to nursing homes and studded tires and ADC bills of Von Minden and everybody else. All I am suggesting is in one minute we will be to the time we normally adjourn and I thought that is about all this bill should take today.

SENATOR LAMB: One minute, Senator.

SENATOR DeCAMP: So I put a motion up that when we got to the last minute we would have a vote or attempt it and that is all the motion is to suspend the rules and vote on it one way or the other.

SENATOR LAMB: The motion is to suspend the rules. Those in favor vote yes, those opposed vote no. It takes 30 votes.

CLERK: Senator Lamb voting yes.

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

SENATOR DeCAMP: Beings we are here and this close I would like to have a Call of the House and take some call ins if anybody wants to call in.

SENATOR LAMB: The request is for a Call of the House. Those in support vote yes, those opposed vote no. Record.

CLERK: 22 ayes, 0 nays to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All Senators record your presence. We are looking for Senator Warner, Senator Goodrich, Vickers, Senator Marsh, Senator Hoagland, Senator Beutler, Senator Higgins Begin the roll call on the motion to suspend the rules.

CLERK: (Roll call vote taken. See page 1496, Legislative Journal.) 27 ayes, 17 nays, Mr. President.

SENATOR LAMB: The rules are not suspended. The Call is raised. Please read in the material, Mr. Clerk.

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 966; Senator Koch and Nichol to LB 761; Senator Kahle to LB 942.

Mr. President, a new resolution by Senator Wesely, LR 279, (read). That will be laid over, Mr. President.

Mr. President, Senator Warner would like to print amendments to LB 966, LB 757, LB 928.

CLERK: Mr. President, if I may, right before that I have a series of amendments to 757 to be printed in the Journal. Mr. President, the next amendment is offered by the Appropriations Committee.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, we are taking these one at a time, Pat, right?

CLERK: However you want to handle it, Senator.

SENATOR WARNER: We had better take them one at a time.

CLERK: In that case, amendment number one, Senator.

SENATOR WARNER: Yes, amendment number one I think was passed out. This amendment is, I can say it is a technical adjustment, because that is what it is. You may want to argue the concept on another amendment to take it all out or something, but the amendment I am offering deals with the cap that was adopted the other day on the percentage increase that vendors or their services would have and the wording, I believe it was passed out, is wording which is the identical concept but the Department of Welfare felt would be more easily administered by them than the wording that we had specifically used and the principle difference rests in the fact that the adjustment would be based upon the fees that they had allowed for on April 1 of this year. It gives it a fixed point in time to make their calculations. So I would move its adoption. If you want to argue the whole concept that should be done on a motion either to take out or not, but this will make the concept more workable from the Department's standpoint. So I move its adoption.

SENATOR CLARK: Is there any discussion on the first part of the Warner amendment? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The first part of the amendment is adopted. Now number two.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Voting on the Chambers amendment. Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President on the adoption of Senator Chambers amendment.

SENATOR CLARK: The amendment is adopted. The next amendment.

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

SENATOR CLARK: Senator Kilgarin. Do you wish to move the bill.

SENATOR KILGARIN: I move we advance LB 753.

SENATOR CLARK: The motion is to advance LB 753. All those in favor say aye, opposed. The bill is advanced. The next bill is 575 and that is a mistake. It should be 757.

CLERK: Mr. President, I have no E & R to 757. The first amendment I have offered to the bill is by Senator Beutler.

SENATOR CLARK: Is Senator Beutler in the room? There he is. You have an amendment on this bill. The amendment is withdrawn. The next amendment.

CLERK: Mr. President, the next motion I have is from Senator Beutler to indefinitely postpone the bill. That would lay it over unless the introducer would agree to take it up this morning.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I wish to withdraw that one also.

SENATOR CLARK: All right, that is withdrawn.

CLERK: Mr. President, the next amendment I have is from Senator Warner. That is on page 1500 of the Journal.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Amendment on 757. Which one? Which one is it?

CLERK: On page 1500, Senator. Its the one that says (Read Warner amendment).

SENATOR WARNER: Mr. President, what page is it on?

CLERK: 1500.

SENATOR WARNER: Mr. President, members of the Legislature, the purpose of this amendment, if you will read it, it very simply says that neither the Governor nor the Legislature in preparing a budget would presume a reserved requirement of less than 3%. The effect of that is that the Board of Equalization, when they were meeting in November could conceivably, if the times required or dictated, at least for the purposes of submitting budgets and acting on budgets we would not be appropriating money based upon less than a 3% reserve equivalent of a 3% reserve in dollars. I think that at least is somewhat of a compromise between going to two and using the money which I think almost everyone is opposed to, to at least given the flexibility to go lower, the times dictate it, but most certainly not spending or approving appropriations at a level that would force the rate down to 2%. I'd hope the body would approve it.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, Senator Warner, would you go over that again? You have got me confused.

SENATOR WARNER: All the amendment does Senator Kahle, it says neither the Legislature or the Governor, when we approve budgets would use less than a 3% reserve. For example if you look on the back of the green sheet where [illegible] are, you see that we show a 3% reserve and that would be what would be required of both us and the Governor at the time these budgets are being approved. Now that does not preclude the Board of Equalization going to 2% next November if the subsequently the economy would dictate that that might be necessary, but at least we wouldn't be forcing it by a higher level of appropriations.

SENATOR KAHLE: So what you are doing is you are saying that we budget for 3% reserve but the Board of Equalization can decide that 2% is enough.

SENATOR WARNER: It leaves that flexibility that...the obvious purpose of the amendment is to ensure that we do not appropriate nor does the Governor recommend a level of funding that would force a 2% reserve.

SENATOR KAHLE: That does make some changes in our thinking,

I guess, but we still would be lowering the reserve or allowing the Board of Equalization to lower the reserve to 2%, which I oppose. I think that we are going in the wrong direction at this time in our economy, that we may have to make some adjustments but I don't think we should plan to reduce that reserve when we are making, when we are making the plans to collect taxes. So I would oppose that part of it. The first part is hard to oppose because that is what we are doing now. The part that we are not talking about is the one, I guess I disagree with.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, a question of Senator Warner. Does 757 now say 2%?

SENATOR WARNER: No, Senator Haberman, the pending legislation proposes 2%. I'm merely stating that for purposes of setting the budget we use a, we anticipate the use of a 3% reserve factor.

SENATOR HABERMAN: Does this amendment change the 2%?

SENATOR WARNER: No, if you want to do that, that is a part of the bill. I'm not changing the bill, basic purpose of permitting the 2%. What I am saying is that by dropping to 2%, you do not, the Legislature does not spend or the Governor does not spend that additional 1%. They do not appropriate it.

SENATOR HABERMAN: They could not appropriate it.

SENATOR WARNER: Could not.

SENATOR HABERMAN: Then why drop it?

SENATOR WARNER: Because the economy, well, that is the purpose of the bill originally. I'm not arguing the merits of the bill originally what I am arguing is that if it is to be dropped to two, for the Board of Equalization to use, in no event, do we appropriate a level that forces it down to 2%. We should. . .

SENATOR HABERMAN: All right, in other words what you are saying is we shall not make appropriations that force it to two, but if necessary to run the state the Board of Equalization has the authority to take it down to two.

SENATOR WARNER: Yes.

SENATOR HABERMAN: Thank you. I support the amendment under those conditions.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I would like to ask Senator Warner a question.

SENATOR CLARK: Senator Warner.

SENATOR HIGGINS: Senator Warner, to the best of your knowledge, is the Governor going to stand by his previous statement that any senators bills that come before him with an appropriation bills he will veto?

SENATOR WARNER: I wasn't aware he made a statement one way or the other Senator, I do not know.

SENATOR HIGGINS: I read it in the paper that he had said any of the bills that come before him that have an appropriations with, he would veto. But you have not had word from him whether he is going to stand by that or not.

SENATOR WARNER: No, I would know. I would only comment Senator Higgins that there isn't any question in my own mind that there will not be funds available for very few A bills.

SENATOR HIGGINS: Thank you Senator.

SENATOR WARNER: Within existing tax rates.

SENATOR HIGGINS: Thank you.

SENATOR CLARK: I would like to introduce Mr. and Mrs. Marvin Nelson from North Platte, Nebraska, they are guests of Senator Rumery. They are under the north balcony. Will you stand and be welcomed please. Also Mr. Eli Votaw from Welfleet. He is under the south balcony. Will you stand. Welcome to the Legislature, all of you. Senator Warner, did you wish to close on your amendment? Did you wish to close on your amendment? The question before the House is the adoption of the Warner amendment. All in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 30 ayes, 1 nay, Mr. President on the adoption of Senator Warner's amendment.

SENATOR CLARK: The Warner amendment is adopted. The next amendment please.

CLERK: Mr. President, Senator Warner would now move to amendmend the bill. That amendment is also on page 1500 of the Journal.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, this amendment does two things effecting the Board of Equalization. It is proposed to give them a better opportunity to manage the cash flow or the income receipts for the state. What it does, it will mandate a Board of Equalization meeting to review receipts at the end of any quarter in which receipts are 95% of what was anticipated or estimated at the November Board of Equalization. The reason, current law says that they may meet when it is 90% less, 90% of what was anticipated. This would make it mandatory that they would meet whenever they are at 95%. Now the reason for doing that is that if the trend of the economy at any given period is going down, this would give them an opportunity a better opportunity to sit and reivew the future where now it really has to get bad before they are even authorized to meet. I think that this can give them that authority to review. It doesn't mean that they have to change anything but they would be reviewing it. The other portion is pure and simple, it just allows the Board of Equalization to meet upon call of the Governor at any time in order to respond to either cash flow projections or other changes in the economy. Now at that portion I would not anticipate would be used very often, but we tend to want to give them criticism sometimes for not acting under existing law they do not have all of the abilities by statute at least to meet as often as they should. But I think that it is essential at the end of a quarter that they would meet to review the anticipated receipts when they are on the downhill side. That is the purpose of the amendment.

SENATOR CLARK: Senator Haberman. Senator Kahle.

SENATOR KAHLE: Mr. President and members, just a...I hope this works because I think we, as legislators, are involved way too much in our discussion and in our thoughts in what we are trying to do to control what the Board of Equalization should be doing, or should have been doing and should do

in the future. So, I hope that this helps them do their job. It is awfully easy to criticize after the fact but in my estimation, they haven't, we haven't, done our job very well in keeping up with the times. So I hope that this will give them a tool to work with so they will be able to keep up. Otherwise, I think we are going to be in special session every month or two. So with that I can support what Senator Warner is trying to do this time. Thank you.

SENATOR CLARK: Senator Higgins. For what purpose do you rise?

SENATOR HABERMAN: A point of order.

SENATOR CLARK: Yes.

SENATOR HABERMAN: Is this amendment printed in the Journal?

SENATOR CLARK: On page 1500, I don't know.

SENATOR HABERMAN: I can not find it on page 1500. Has there been a passout?

SENATOR CLARK: The Clerk will show you where it is.

SENATOR HABERMAN: The amendment the Clerk pointed out has to do with raising the sales tax. Senator Warner was talking about the Board of Equaliziation meeting on 90 or 95% of the receipts. So what are we talking about Mr. President?

SENATOR CLARK: Do you want to ask Senator Warner the question?

SENATOR HABMERMAN: Yes, I would please.

SENATOR CLARK: This is on page 1541, the Clerk tells me, that he is referring too.

SENATOR WARNER: Yes, 1541.

CLERK: 1541, Senator then it is. . . okay.

SENATOR HABERMAN: May we have a minute to look at it beings we couldn't find it?

SENATOR CLARK: Yes.

SENATOR WARNER: The one on 15. . .

SENATOR CLARK: Senator Beutler, for what purpose do you rise?

SENATOR BEUTLER: Since the debate has been on the wrong issue could we ask Senator Warner to reintroduce, to allow him to introduce his amendment again. Are we talking about the sales tax amendment now?

SENATOR CLARK: We are talking about the one on 1541, evidentally.

SENATOR BEUTLER: Is that the amendment before us Mr. Clerk?

SENATOR CLARK: That is the one he has been talking about, as I understand it.

SENATOR BEUTLER: I know, but is that the amendment before us?

SENATOR CLARK: Yes.

CLERK: It is now, yes sir.

SENATOR BEUTLER: Thank you.

SENATOR CLARK: Do you want to ask Senator Warner a question?

SENATOR HABERMAN: Yes. Senator Warner, Senator Warner, the amendment is permissive language, is it not that they may call the meeting?

SENATOR WARNER: There is two parts to the amendment Senator Haberman, it is permissive that the Governor could call one whenever they felt that it was appropriate or necessary. It is mandatory that any time the receipts were at 95% of what was expected at the end of a quarter that they would then meet to review what might be anticipated the rest of the year. The reason for doing that under existing law has got to be down 10%. You get a 10% at the 70 million dollar budget but the kind they are even permitted by law to meet receipts would have deteriorated so far that you have to make a substantially higher adjustment just for cash flow purposes and would be required had they been required to meet sooner. It is an attempt to be able to meet on the...when the economy is deteriorating sooner than what the current law permits them to do.

SENATOR HABERMAN: Senator Warner, thank you for your explanation and Mr. President, thank you for the point of order.

SENATOR CLARK: Is there any further debate on the Warner amendment? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 29 ayes, 0 nays, Mr. President on the adoption of Senator Warner's amendment.

SENATOR CLARK: The Warner amendment is adopted. The next amendment.

CLERK: Senator Warner would now move to amend the bill Mr. President, and this is the amendment that is on page 1500 of the Journal.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Is this the half cent?

CLERK: Yes sir, it is.

SENATOR WARNER: Mr. President, members of the Legislature, I'm going to withdraw this temporarily, but not until I make a couple of comments. Based on what I understand and we all read, I think, in the media, we will get revised receipts, anticipated receipts, sometimes today or late afternoon and based upon what at least I have been following on what was deposited it would appear that there could again be significant reductions in anticipated receipts even going to 17%. It may well be that adjustment depending upon how much the shortfall is, an adjustment in sales tax rates at least for this calendar year through December 31st is going to be necessary for cash flow. If we see the seriousness of the reduced receipts and if they are substantial then cutting the budget will not do it, you can not cut the of this year of the kind of a cut that you are talking about through the first six months of the fiscal year, well I guess you can do it but I doubt, that means you are going to have substantial reduction in aid programs, substantial reduction or elimination of program which we may, there may be some who want to do that, but every program that I have been involved with at least will be eliminated or reduced has not flown well. I assume that that is not likely to occur. So I will withdraw the amendment Mr. President now, but may well ask to have it...the bill brought back after it gets to Final Reading or E & R Engrossment depending again

what we see as the financial situation of the state.

SENATOR CLARK: The amendment is withdrawn. Next amendment.

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

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, the amendment does simply one thing and it is the same thing that I objected to last time and I'm offering it again because we now have the Warner amendments which makes the bill constructive and positive, in my opinion, so what the amendment does is leave the Board of Equalization with the same flexibility it had before this bill was introduced into the Legislature. It changes the minimum reserve requirements from the 2% proposed in the bill back to the 3% that has always, that has been the law in Nebraska for several years. We have now adopted the Warner amendment which says basically we are going to use a 3% figure for setting our budget and this year for example without that amendment we have used the 3% in setting our budget. Now if we are going to use a 3% figure in setting our budget it seems to me that it only makes sense to use a 3% figure in figuring our revenue projections, a minimum 3% figure. That is, it doesn't make any sense to me to use a 3% for budget requirements but only 2% for the purpose of the Board of Equalization projections. So, what I am saying is lets adopt the Warner amendment which is consistent with our present law on the Board of Equalization, both Warner amendments, delete out of the bill the reduction to the 2% reserve and then our law will be consistent and will make sense. Again I point out to you that our current experience is that 3% was not enough of a reserve. That is what we had last year when the Board of Equalization met, we came around April of this year and we don't have enough money. We have a cash flow problem and we are going to have to take some extraordinary means to solve that problem. So, in light of that experience, in light that 3% was not enough, again, obviously it doesn't make sense to reduce the reserve to 2%. So, now that we have the Warner amendments I would like to ask you to think once again about the advisability and the wisdom of a 2% reserve. Thank you.

SENATOR CLARK: Is there any discussion on the Beutler amendment? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted on the Beutler amendment? Senator Beutler I'm going to call the vote. Record the vote.

SENATOR BEUTLER: I would like to request a roll call vote, a Call of the House and a roll call vote.

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

CLERK: 13 ayes, 0 nays, to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will return to their seats and check in please. Mr. Sergeant at Arms could you keep them in their seats? Get them all checked in. Senator Marvel and Senator Burrows are the only ones excused. Senator Warner, Senator Wesely, Senator Sieck, Senator Duda, Senator Cullan, Senator Goodrich, Senator Chronister, Senator Newell, would you check in please. Senator Ward Johnson. We should have 47 of them checked in. Senator Beyer hasn't checked in. We have 41 fifth graders from Hebron grade school in Hebron, Nebraska, Mrs. Anne Baden is the teacher. Will you stand and be recognized please. They are in Senator Apking's district. Welcome to the Legislature. Everyone is here. Roll call vote. The Clerk will call the roll if everyone will keep quiet please.

CLERK: Roll call vote. 19 ayes, 27 nays, 3 excused and not voting. Vote appears on page 1622 of the Legislative Journal.

SENATOR CLARK: The motion lost. The next amendment.

CLERK: Mr. President, the next amendment I have is by Senator Fowler. It is on page 1542 of the Journal.

SENATOR CLARK: Senator Fowler. The Call is raised.

SENATOR FOWLER: I would ask to withdraw the one on 1542. There doesn't seem any interest in that one. So just withdraw that one.

SENATOR CLARK: The amendment is withdrawn. Next amendment.

CLERK: Mr. President, the next amendment is by Senator Fowler on 1543.

SENATOR FOWLER: I'll try this one. This amendment deals with the concept of interfund transfers which has not been introduced as such or written into law, but it is certainly rumored to be afoot. All this amendment would say is that if there is an interfund transfer, that is if cash funds are used to replinish the general fund that when the Board of Equalization meets that it take into account as an encumberance or obligation of the state that that money was transferred. In so doing, that would mean that when the rates were set for the taxes for the General Fund that enough revenue would be raised and not just meet the obligations but also to repay what is borrowed. Simply says that...recognizes the fact that if we have to borrow to get ourselves through a cash flow situation it seems eminent that certainly we have to take into account that borrowing when we set tax rates in order that we can repay it. So I would move for its adoption.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I rise to oppose the change at this point, I think it is printed in the Journal, I do have an amendment I believe for 928 which will address the issue of interfund transfer as it is necessary and under the provisions of that it has a sunset on it till June 30th of the end of the fiscal year June 30, 1983, it does have an interest provisions, if funds are kept over 30 days and it does also require that those funds are placed back in the funds from which they were taken. I think the intent of Senator Fowler's motion is included, if not the comparable wording in the amendment that will be offered on 928. In any event it all ought to be dealt with at one time, rather than two different bills.

SENATOR CLARK: Senator Kahle. Senator Fowler, for what reason do you rise?

SENATOR FOWLER: I'll be glad to offer it to 928 to make sure that if we do adopt interfund transfers as long as it is germane to 928 was one of my concerns.

SENATOR CLARK: Do you want to withdraw it now?

SENATOR FOWLER: If it is germane to the subject matter in 928, as Senator Warner indicates it is, then I'll withdraw it now so we can guarantee that if we allow interfund transfer with his amendment that it be taken into account with the tax rates.

SENATOR CLARK: All right, it is withdrawn. Next amendment.

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.

able to pass a number of bills yet this evening. I intend to make that motion in a little while, but if you want to discuss it, I don't want to foreclose that by making the motion now since a motion to recess is nondebatable.

SENATOR CLARK: All right, next motion. He has got some things to read in first.

CLERK: Mr. President, Senator Warner would like to print amendments to LB 753, LB 757, LB 933.

Mr. President, a series of study resolutions, LR 362 by Senator Wesely calls for examination of the possible establishment of uniform licensing, taxes, and weight/size restrictions. LR 363 by Senator Wesely calls for the Department of Roads base the design life of roads on the amount of heavy truck traffic. LR 364 by Senator Fowler calls for a study of the quality of education offered by the University of Nebraska. LR 365 by Senator Wesely calls for a study of the feasibility of developing a waste rubber processing plant. LR 366 offered by Senators Wesely, Landis, Fowler, and Beutler, a study of the feasibility of providing authority for the Nebraska Public Service Commission to regulate natural gas rates. (See pages 1727 - 1731, Legislative Journal.)

Senator Nichol and DeCamp would like to print amendments to LB 708; Senator Warner to LB 928; and Senator Warner to 928, second set, Mr. President.

Mr. President, Senator Chambers would move to return the bill to Select File for a specific amendment.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I can state what this amendment would do. It is to restore the renovation money for the Legislative hearing rooms. I am not going to repeat all of the things that I have said several times but I have got to make a generalized statement about why I am doing this. It will benefit the building as I said before but what I would like to see us do just one time this session, and if we don't do it again next year, I will have had what I think the Legislature should give me as a member of the Legislature, that is to see it one time over the opposition of what you might feel the public's inclination is take a vote for something in behalf of the Legislative branch. Don't think of it in terms of your colleagues. Look at the Legislature, what I am trying...

SENATOR WARNER: Mr. President and members of the Legislature, that is the one to two?

CLERK: Yes, sir.

SENATOR WARNER: The other day on 753 you will recall we extended the sunset for two years and I wrote the amendment here at my desk striking and I missed one place and there was one other one that should have been made two, meaning two years, and this makes that correction so that it is consistent throughout the bill where I missed the one.

PRESIDENT: Any discussion on Senator Warner's motion to return for that correction? Seeing none, Senator Warner, the motion then is to return LB 753 for that specific amendment. All those in favor vote aye, opposed nay. Voting on LB 753, a motion to return for a correction amendment as explained by Senator Warner. Record the vote.

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

PRESIDENT: Motion carries. LB 753 is returned. Senator Warner, you may go ahead with your motion to adopt.

SENATOR WARNER: Mr. President, I move that the bill be... or the amendment be adopted. As indicated, it corrects one of the numbers that I left out on when the sunset was to occur.

PRESIDENT: All right, motion is to adopt the Warner amendment as explained by Senator Warner. Any discussion? Hearing none, all those in favor will vote aye, opposed nay, on adoption of the Warner amendment. Record the vote.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Warner's amendment.

PRESIDENT: Motion carries. The Warner amendment is adopted. Senator Warner, do you want to just move to readvance the bill?

SENATOR WARNER: I move 753 be readvanced, Mr. President.

PRESIDENT: Motion is to readvance LB 753 to E & R for Engrossment. Any discussion? If not, all those in favor signify by saying aye. Opposed nay. LB 753 is readvanced to E & R for Engrossment. The next bill, Mr. Clerk is LB 757.

CLERK: Mr. President, I have one motion on 757, Senator Warner for purposes of...we need to withdraw the one that was in the Journal.

PRESIDENT: Senator Warner, do you wish to withdraw the one in the....this is 757, you withdraw one?

SENATOR WARNER: Yes.

PRESIDENT: The one in the Journal....

SENATOR WARNER: The one is as good as the other.

PRESIDENT: ....is to be withdrawn. That is withdrawn. Now, Mr. Clerk, read the....

CLERK: Senator Warner would move to return LB 757 to Select File for a specific amendment. (Read the Warner amendment as found on page 1761 of the Legislative Journal.)

SENATOR WARNER: I still didn't change it enough. Through December 31st, doesn't that read?

CLERK: Okay.

PRESIDENT: Senator Warner, did you get that changed? Did you get that, Mr. Clerk?

CLERK: Okay.

SENATOR WARNER: May 1 through December 31st.

PRESIDENT: Okay, Senator Warner, go ahead.

SENATOR WARNER: Mr. President and members of the Legislature, Nebraska has had a tax base of sales and income tax now going on 15 years and we have discovered in that period of time that sales and income tax are extremely responsive to the economy. There was a period through the seventies primarily because of inflation that without changing rates substantial additional funds were being raised for appropriations. Then we had one experience in '75-'76 when there was a recession in the economy and then we saw what happens then because of that responsiveness. Today we are again experiencing the similar situation only obviously a deeper recession or perhaps even a stronger word which so directly affects receipts from this tax. Most of us grew up being used to property tax which obviously has great stability, stability in the fact that if you do not pay it, the government can sell your property.

But under sales and income tax it is different. So what we are experiencing today is the necessity of adjusting rates which by the way is exactly how our system was intended. Nebraska has the unique system of adjusting rates to raise the amount necessary for a budget. Many states, as you know, where they have a fixed rate they run substantial and large surpluses and to some extent are better able then to respond to at least short shortfalls in revenue. But that too is not working for other states and they are in a similar situation of making cuts as we have done, increasing receipts as we are doing in order to provide the stability of revenue that the state government needs. I can stand up here and I assume there will be comments made that this is not necessary to offer, and I would agree that the Board of Equalization set the rate that is necessary based on cash flow, not on appropriations. But I am also willing to cast a vote in support of adjusting that tax rate by half a percent come May 1 because I recognize that there is no alternative. We are going to end up in the vicinity of a $50 million shortfall by June 30th and even if state government was to go out of existence on June 30th, we would be faced with the requirement of finding $50 million to come out even. So it is not a budget issue. It is totally a revenue issue in response to the economy and the type of tax system we established in 1967. We could argue that the models that are used for predictions or those who have done the work are wrong, and strangely enough the models apparently still indicate that we should not be experiencing the shortfall that we are, and that is based on the national economy, but it is ocurring, with that there is no question. We could argue that something different should have been done earlier. I certainly could argue that had the body adopted a motion in the Special Session that the problem would not be as bad as it is today and many of you supported that. But we were wrong too. That would not have been enough. It is true it would probably not been as deep today or as bad but the problem would have still existed and the solution would have been the same today even though we would have acted somewhat differently in November. Again, as I indicated in '75-'76 we had the same occurrence, a Special Session in '75, reduced the budget by 3 percent in select places, in May and June that year we were transferring funds between... transferring money between funds which is well documented and those that were on the Appropriations Committee which I was not in '76 there are on file reports that were made then documenting those transfers that had to occur and it was necessary in order to pay bills. Then by August of '76 with further deterioration, the Board of Equalization because rates were down, receipts were below 10 percent of estimates, they had to raise the sales and income tax both

in order to have the necessary cash flow. And as a matter of fact it wasn't until the 1977 session in which we then increased state aid to schools those of you who remember in which another half percent of sales tax was added because of the passage of that bill which was subsequently at the referendum repealed but nevertheless that additional half a percent is all that really saved the state from going into the same economic problems in 1977 that was occurring in '76. So again the precedent is ample, at least twice before, the sales tax once directly, secondly because of passage of legislation, but in both cases an increase in sales tax on a temporary basis was necessary in order to maintain cash flows for the state. Again we find ourselves in that position. The motion is through the end of the year. The Board of Equalization then when it meets in November, should the economy recover enough, then that rate can again be rolled back to the current 3 percent, but again it is going to depend on the economy. Again, for one I know that we can argue that this body does not need to do this, but I only will take the position for myself as an elected state officer who has the responsibility both for budgets as well as revenue that I understand that there is no option. I think the whole body understands there is no option and I am perfectly willing to cast a vote to do what I believe and know, in fact, as I am sure everyone knows is necessary and that is to increase the sales tax by one half percent commencing May 1.

PRESIDENT: The Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Chairman and members of the Legislature, this is unnecessary and I think it is being used as a substitute for taking the general revenue system up which first triggers a 3 percent income tax. The State Board of Equalization headed by the Governor has the responsibility to adjust these rates. All we need is a legislative resolution and I think all the members of this body know that these rates have to be adjusted. This is an amendment that is a substitute for sound and reasonable administration of state government. We are going to have to have an 18 percent income tax rate and a half percent increase in sales tax, and the faster we get it the less the rate will eventually have to be to make up the shortages that have been growing for a year and a half. We have lost... we spent $9 million a month more for the last twelve months and the pattern goes back six months prior to that. It has been simple arithmetic. It is easy to see but it is not the Legislature's job to adjust the rate. We have given that to the State Board of Equalization headed by the Governor and it is time he adjust the rates. I will not support this

bail out of the lack of administration of state government. That is all this amendment is, is a bail out of the administration of state government which has the duty. They may argue that they are not authorized...that the Governor is not authorized to meet the State Board in emergency session. I do not read the law that way. There are four reasons for giving and I think it is easy and plain to see that the Governor can call the State Board, no problems exist with it, and adjust the rates, and should have done so six months ago because it was obvious six months ago that we were spending, had authorized and planned the spending of more dollars than what the revenue system would take in. The only reason anyone could expect something else to happen was a complete...a complete belief in trickle down economics, that giving tax breaks to the wealthy was going to stimulate the economy. It didn't work that way in the thirties when it was tried before and it is not working that way now, and it is not going to work that way until national policies are turned around. I oppose this amendment and I would support any resolution to require the Governor to do his job. I think it is time that the Legislature come out with a resolution and demand the administration of state government do its job. Thank you.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise in support of Senator Warner's amendment. Senator Warner has pointed out the precedent that we have for legislative setting of the sales tax rate. Senator Warner has noted how the Legislature has conducted itself in comparable periods when we have faced a significant economic downturn, how we have in effect allowed interfund borrowing, how we have increased the sales tax rate either through other appropriational matters or else just done it directly. It strikes me that one of the principal functions of this body is a function of true leadership. True leadership means taking tough action and also it means going to the public and explaining tough decisions. I have had no reticence at any time to vote to increase the tax rates knowing the fiscal condition that we were in and knowing that I would have ample opportunity during the course of my reelection campaign to explain to the public why it was necessary for the Legislature to increase the corporate tax, the cigarette tax, to understand that an increase would occur in the income tax and also increase the sales tax. We have done a yoeman's job in my opinion in reducing the budget, in getting our budget into a very tolerable level for these economic times, and I think that we now need to explain to the people and the people will

accept explanation because they are good, why it is necessary for us to increase the sales tax. We have an enormous cash problem not really of our own making, a product to some extent of some shortsightedness but that is behind us, but more to the extent of an economic downturn, and in those times it is important for us to respond responsibly. I think Senator Warner is trying to effect an appropriate response and I certainly will support his action, and I would encourage each of you to do the same.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President and members of the Legislature, I rise to oppose the proposed increase in the sales tax, and I oppose it for very simple and philosophical reasons. You know, I have served in this Legislature for six years and as a member of the Revenue Committee I have sponsored, pushed, tried to amend various bills, proposals to have the Legislature set the sales and income tax rates because I believe that the Legislature has that responsibility. It does in the other 48 states, it ought to in this state. But this Legislature has consistently and solidly made it clear that we like the little game that says that we spend the money, we appropriate, we cause the rates to be increased but we allow that function, that political function to be the State Board of Equalization's political function. But, you know, we have been very strong and strident in our belief that that should be a political function that somebody else should do. We have been solidly behind that premise since before I got here. On the other hand, Senator Warner indicates that there have been times that we have raised the sales tax. There has been times when we have raised the income tax. There have been times when we have lowered the income tax. So what the Legislature has consistently said throughout that period of time is that we want to hide from our basic responsibilities and functions and we want to provide that little game...we want to continue the little game which says that when there is bad news we let the State Board of Equalization do it. When there is good news or if we want to have some other political purpose, we do it ourselves. That has been totally inconsistent. That has been totally wrong and that has been unfair, but that has been the Legislature. And now we are proposed...we are asked to change that whole process, not in an honest philosophical sense where we say, yes, that is our responsibility, yes, we accept that responsibility, yes, we cause those rates to increase because we set the spending levels, etcetera, or the economy is bad. There is a lot of other reasons for those kinds of things. We are not saying that in a philosophical sense. We are

saying that in election year we think we ought to raise the sales tax. Now that really bothers me. I want to say that I have tried not to be very partisan this year, but, you know, if the Governor was a Democrat, I wonder if the same sort of philosphical orientation in fessin' up that we had this year would exist. I think the answer is clearly no, it would not. There is one other thing that greatly distresses me, I mean very greatly distresses me, and that is earlier this year I was asked by Senator Warner, a man who I respect for his great integrity and his knowledge, his understanding of the budget process. I think he has done an excellent job. He knows things that I could never understand maybe about that budget but always wanted to have an opportunity to. Senator Warner has said earlier in this year he has asked me and others to raise the income tax and I said, yes, that is the responsible thing to do, and philosophically that is the right thing to do. We should set those sales and income tax rates.

PRESIDENT: One minute, Senator Newell.

SENATOR NEWELL: But today we are no longer asked to set the income tax rate, only asked to set the sales tax rate. Now I think we ought to be consistent. Let's set this precedent that what we do is philosphically correct. If we are going to set the sales tax rate, let's set the income tax rate too, and let's look at it as our responsibility coupled with the budget. That is the philosophical thing to do, not the political thing to do which is what I suggest is what is being done here today. It is a political solution we are asked to set. It is a political solution that we are asked to condone. Now, frankly, I can do it if we fess up and take that responsibility over to set all the rates, etcetera. But I cannot abide by what is being proposed today. I would urge this body to reject the political solution of raising the sales tax a half percent.

PRESIDENT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. Members of the Legislature, I, too, rise in opposition of Senator Warner's amendment to LB 757. We have a very difficult job, I believe the members of the Unicameral. We have to make decisions on the budget. We have to either cut in certain places or increase the budget in some instances, but we take that job very seriously and we do what we think has to be done. I think the responsibility of setting the sales and income tax rates, until we get as Senator Newell mentioned a bill passed where we take over that duty, should not be taken away from the Board of Equalization in the future, I hope, and I have always voted for that that we do

take over that responsibility, but until we do I don't think that we should be setting the sales and income tax rate. The Governor will line item veto I am sure some of the appropriations. That is his job. He should do it. We should not take over any part of that job, and I for one will oppose the amendment to LB 757. I agree one hundred percent with Senator Burrow's statements in opposing the amendment. Thank you.

PRESIDENT: The Chair recognizes Senator Cope. Is Senator Cope in the Chamber? Here he comes.

SENATOR COPE: Mr. President and members, I support Senator Warner's amendment. I am ready to stand up and take my responsibility. I was elected to the Legislature to do what I think was right for my district and for the state. This is an emergency and I see no reason in the world why the Legislature shouldn't be responsible. We are here. We are ready to go. So I don't think there is any reason other than political overtones not to back Senator Warner's and get it moving.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would call the question.

PRESIDENT: All right, do I see five hands? Yes, I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? The question is, shall debate cease? Record the vote.

CLERK: 25 ayes, 8 nays to cease debate, Mr. President.

PRESIDENT: The motion carries. Debate ceases. Senator Warner, you may close on your motion to return.

SENATOR WARNER: Mr. President and members of the Legislature, a couple of things. I know I used the word "we" when I was talking in the past and I was referring to "we" as the state, not necessarily...not the body because the two sales tax adjustments I talked about both occurred after when the Legislature was not in session. Secondly, it should be very clear, I hope, that the existing law in my opinion does not permit the Board of Equalization to meet because the only condition is if the receipts are 10 percent less...the cumulative receipts are 10 percent less than what was expected. That was the situation, for example, in 1976. The receipts were accumulative more than 10 percent below. Today the accumulative receipts are 4.6 percent

as of the end of March below projections, not anywhere near down enough to mandate or ever permit the Board to meet under that condition. The amendments we put on 757 yesterday changed that to 5 percent and under those conditions they possibly could. Now one more time, I certainly am aware that the comments in this election year, and I am not really going to spend a lot of time on that, that portion, I am not sure how I can say this and not offend anyone, but that portion of the media that are essentially repeaters and want to explain complex problems like some of our quotes and those will be run, that is how it is and those that are reporting it I suppose are repeating what I or anyone else says tells the facts of the economy of the state will tell the public that we are $50 million down on June 30th, a little over $50 million down, that there is no way other than the fund transfers to get us through the end of the year. In order to pay those back the sales tax needs to be adjusted now by May 1. Many have said the sooner it is done the better. That certainly is true. I would urge that the bill be returned, that the amendment be put on, that we acknowledge the fact that there is no alternative. And by the way, no one and I mean no one has asked me to place this amendment on this or any other bill. In fact, I filed it the other day in the Journal, quietly did it, because I could see what was happening to receipts as all of you have and it was obvious to me that it was probably that this was the action that would need to be taken. True, the Board can do it but they will not be able to do it until within fifteen days after we adjourn which is virtually the 1st of May, and one more month's collections is that much less pressure on the cash flow. It means these receipts will start coming in around the 1st of July, end of June, rather than in August. For those reasons I moved it up to May 1st. So I hope you would adopt the motion to move the bill back for the specific amendment.

PRESIDENT: The question is the return of LB 757 for the specific Warner amendment. All those in favor vote aye, opposed nay. Who asked for a record vote? Senator Wiitala. All right, we will have a record vote. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on page 1761 of the Legislative Journal.) 31 ayes, 13 nays, 5 not voting, Mr. President.

PRESIDENT: The motion carries and LB 757 is returned. Senator Warner, you may move to adopt your motion...your amendment.

SENATOR WARNER: Mr. President, I will move that we adopt the amendment.

PRESIDENT: Motion is to adopt the Warner amendment on LB 757. Now, discussion. Senator Chambers, you were first on the list.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, we are at that point now that people had been discussing when we were adding additional taxing authority to the City of Omaha and are being asked to add it to Lincoln. You add burden on top of burden in terms of taxes and pretty soon there is a situation that people cannot very well bear up under. Because the fact that another half cent tax would mean five cents on the dollars in Omaha would cause me to vote against this particular proposition. There are sales taxes on utilities, sales taxes on food. These are essentials, necessities that people cannot survive without. The utility companies have not shown themselves very sympathetic toward those people in the winter who can't afford to pay their utility bills. The amount of those bills have increased dramatically just this past winter, so to add additional cent and a half... an additional half percent of tax is a little more than I can agree to go along with, and I would advise those Senators from Lincoln to think before they would vote for this proposition. It has been argued whenever the cities were seeking additional taxing authority that the sales tax represents the taxing base of the state. I think what Senator Warner is doing is consistent with his philosophy. I won't even talk about the timing, whether the Legislature ought to do this, anybody else. The point I am getting to is that there are certain essentials that are going to be taxed beyond the power of some people to reach. I know that people like Senator Kahle, Senator Cope and others who have been against taking the tax off food have always talked about those transients who pass through, or that the people who are rich can afford to pay more tax on the rich meals they take in restaurants. But I think what we have to look at when taxes are levied is the individual who is the individual who is the poorest and the least able to pay the tax. Since poor people pay a disproportionate amount of all of their income for food, that means that the tax is going to impact on them far more heavily in terms of the amount of money they have. Because of that I have always been against the tax on food. I am reluctant to vote for any tax that will increase the amount of this tax on food. So based on that consideration alone, I cannot vote for this proposition and I think there are others who should give it some serious thought. You may go for this amendment

that Senator Warner is offering now, then when the bill comes up to give Lincoln some additional taxing authority, then I think we are going to find out really how much their constituents want to have a double tax placed on them or the possibility of that double tax in one year. Remember, Omaha's tax is 3 cents now based on the existing state tax. Omaha has levied an additional cent and a half which makes it 4 1/2 cents. This extra half will make it 5 cents on the dollar. When you have to go to the store and determine whether you can buy a loaf of bread or buy a carton of milk or any of the other things that cannot be considered luxury items, I think you have put the people in a country as wealthy as this one in an untenable position. There is no need in talking about the highest standard of living in the world when there are people in this country who cannot afford to buy the essentials. So what I would like to see happen is the defeat of Senator Warner's amendment. Later on today or whenever we talk about the Lincoln sales tax, I would like to see that bill amended to take away the taxing authority of all cities of any class. If that is done, then the state can come back and try to get its half percent, because for the people who live in Omaha it would be giving up a cent and a half that they pay now and having to pay only a half a cent. So it would mean a net gain of one percent. And I am telling you when your budget is slim, you have to concentrate all the time to figure how to make the money you get at the first of the month last to the last of the month. These taxes that exist on food and utilities do mount up. So I am opposed to the proposition and I hope that it will not be adopted.

PRESIDENT: The Chair would like to take this opportunity at this time to introduce some guests of Senator Sieck. In fact he is up there in the north balcony with them. Twelve students, the Government class from Benedict High, Benedict. Bud Exstrom is their instructor. Up here in the north balcony. Welcome, Benedict, to your Unicameral. The next speaker is Senator Koch.

SENATOR KOCH: Mr. President and members of the body, I know it is a difficult decision. I was just talking to Senator Wagner and I could foretell this was going to occur sometime in the future of this state, and what always bothers me is the same thing Senator Chambers just alluded to a moment ago. We come from a metropolitan area which has a 4 1/2 cent sales tax. I don't mind paying the sales tax because if I can afford to buy the things then I can afford to pay the sales tax, but what has always bothered me is when we have to put it on utilities and on food because in many cases people who are on limited incomes this is a severe

penalty to pay. I am going to cast my vote for Senator Warner's amendment or the state's amendment on one condition, that the Governor does not veto the state employees' raises. That is the condition I am going to cast it and until I get...I put it there now, but unless he confirms he will not veto the state employees' increase of 3.75, then he won't have it when it gets down to the last vote. Thank you.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President and members of the Legislature, the very first thing I would like to say is that I concur with Senator Chambers' remarks to the extent that the sales tax is an extremely regressive tax and it should be the last tax that this Legislature considers raising. I can appreciate the fact that we are in very difficult times and those difficult times might necessitate some increase in the various tax sources. Naturally I would prefer those to be the income tax rather than the sales tax. I would also like to say one other thing about the nature of the sales tax that Senator Chambers did not mention, and that is that the sales tax the way we have our sales tax in the state is only on retail items. It is not on services which would add a more progressive feature in raised revenues. I would prefer if it was possible to have that proposal before us today rather than an increase on the existing retail tax. I would prefer that because it would be more fair, the burden, it would raise the needed revenues but, in fact, it would be more fair and more equitable in terms of how to distribute that. I would also like to see the sales tax be more progressive not only with that sales tax on services feature but eliminating food and utilities from the tax. That is the proposal that I will be suggesting an interim study because this sales tax proposal looks like it has the votes to pass. But I am concerned about a couple of other issues and I think Senator Koch says at least if we are going to raise these taxes we ought to be able to keep the 3.75 for state employees, not a massive increase but a decent and at least the minimum increase that we can provide. I sure would hope that that is predicated upon keeping that increase. I would also like to ask Senator Warner some questions because I am concerned about what this might do in terms of revenues. I am concerned first, Senator Warner, with whether it will break the fifty-fifty tie which I think is very important. And, secondly....let me ask you that question first, Senator Warner, and then I will ask the second one.

PRESIDENT: Senator Warner, will you respond to the question? It is one at a time then.

SENATOR WARNER: Senator Newell, as you know the fifty-fifty test is against liability and the substantial shortfall of revenue that is occurring is in the sales tax which is down through accumulative 17 or 18 million dollars. It is my understanding and, in fact, I think if you look at those charts in the back of the November book even you will see that 3 1/2 and 17 meets the fifty-fifty test, but the reason that the sales tax has gone down that we were told correctly before sales tax that 18 and 3 1/2 was necessary. That is not true now.

SENATOR NEWELL: All right, that was one concern. The other concern I have is with this sales tax, coupled with the 2 percent increase and the individual income tax will the members of this body, will they be able to vote against the corporate income tax and thus push the burden more on the individual and less on the other elements of our society?

SENATOR WARNER: And the answer, Senator, to have a balanced budget for '82-'83 fiscal year, the bill we are passing, all revenue measures currently on Final Reading including the corporate tax and those on Select File would have to be passed. The increase of a half percent will have absolutely zero impact on the budget because we are starting out $50 million short.

SENATOR NEWELL: Thank you, Senator. Colleagues, I am still not ready to vote for the sales tax increase. I am not ready to vote for it because of its regressive nature, because of the great burden it provides and because I think it is too early to do that. I am concerned even though Senator Warner argues that we won't break the fifty-fifty tie. I am concerned that that may, in fact, be the case. I am also concerned that because of this sales tax increase and because of the individual income tax increase that we may decide or members of this body may decide that we don't need a corporate income tax increase after all. And I think that would be a mistake. That would be a mistake because we signal individuals once again that they will pay a far, far, far greater share....

PRESIDENT: Half a minute, Senator.

SENATOR NEWELL: ....of the state tax load. So I would urge this body not to make the mistake that they are about to make or that I predict that they will make and wait for later to raise the sales tax one half a percent.

PRESIDENT: The Chair recognizes Senator Wagner.

SENATOR WAGNER: Mr. Speaker, I would just call the question.

PRESIDENT: Do I see five hands? I do. So the question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? The question is, shall debate cease? Record the vote.

CLERK: 25 ayes, 12 nays to cease debate, Mr. President.

PRESIDENT: The motion carries. Debate ceases. Senator Warner, do you have anything on your motion to adopt the amendment?

SENATOR WARNER: In closing, Mr. President, I am not all that comfortable as any of the rest of you are, I'm sure feel the same way. Secondly, I want to make a comment that I made yesterday that the necessity of increasing the half percent sales tax has zero relationship to when the state salary adjustments should occur. I support the bill the way it is. Let me make that clear. But please do not let the public believe that that is the difference because we are $50 million, as I said before, $50 million short on June 30th with revenue and any cut will not change that in next year's budget. So the purpose of the increase as soon as possible is to lessen the amount of interfund transfer that has to occur, that's why May 1 the ability to pay those funds back will be required because of other things that those funds are anticipated to be used for so that that too makes it a necessity. And finally I do want to comment a little on Senator Chambers' remarks only because you have heard me many times and I first did it in '69 of objecting to giving our tax base away because I too agree that there is a maximum levy for sales, income and property tax beyond which you do not go. When you give your tax base away, it does hurt the state's ability in times like these to make the appropriate...the only response it has in order to keep its coffers adequate to meet its obligations. So I would urge the body to adopt the amendment, acknowledging our concurrence that there is no choice other than this for the state's action at this time.

PRESIDENT: The motion is the adoption of the Warner amendment to LB 757. All those in favor vote aye, opposed nay. Record the vote.

CLERK: Mr. President, Senator Newell requests record vote. (Read the record vote as found on page 1762 of the Legislative Journal.) 29 ayes, 13 nays, Mr. President, on adoption of Senator Warner's amendment.

PRESIDENT: Motion carries, the amendment is adopted. Senator Warner, do you want to move the bill back? Okay, thank you,

Senator Marsh. The motion is to readvance LB 757 to E & R for Engrossment. Any discussion? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am sure that this bill is going to be readvanced and I am sure this extra half a percent tax is going to be added. This is that tail end of the session when things are not thought through as carefully as they ought to be. As the repercussions begin to come in later, when the citizens realize what has been put upon them, then alibis, rationalizations and excuses are offered, but I think that the people in Omaha are going to react a lot more strongly than perhaps people in other areas. I just had it brought to my attention how a hub such as Grand Island can really profit from a sales tax because they will draw people from surrounding counties and cities to make a lot of purchases there. A lot of the tax is left in that county. The merchants do collect a percentage of all of the tax money they take in. I used to wonder how conservatives could be in favor of adding these taxes. I used to wonder why they wanted additional tax on their citizens in Grand Island. But when I find out that the gold mine or the windfall might be provided by people from outlying areas, suddenly I can understand it, and I don't fault them for that. If you feel that your job is to bring as much revenue into your community as possible, then you are doing that by imposing these types of taxes. But if on the other hand you view your responsibility as I view mine which is to keep undue burdens off the citizens, such a tax as this has no justification whatsoever. Every dollar that is spent in Omaha will cost an extra nickel. If you purchase a car in Omaha, that is when you really have an opportunity to see how much this sales tax does cost you. So if on the one hand you are talking about giving tax breaks to those who produce products that need to be purchased but then you are going to put heavy taxes on those who must make the purchases, then the one who would do the buying loses his or her inclination to make that purchase. So there is no way that I would support this proposition or any other like it. If I had leaned with any favor toward what Lincoln is trying to do, I certainly won't go for that now. There is no way that I would support any type of proposition that would try to increase the sales tax in Omaha. But what I am going to try to do when the Lincoln bill comes up...I see this as a very important matter, is to cut at least a half a cent sales tax off what Omaha can levy, then while allowing the state to take from its tax base which is the sales tax, I will try to save the citizens of Omaha hold, at least not cause an additional tax to be placed upon them by this action of the Legislature. That may not be accepted, but I would advise Senator Landis

and anybody else from Lincoln to listen to what I am suggesting. If I would offer an amendment to subtract a half a percent of sales tax from Omaha and I would attach it to the Lincoln bill, that would necessitate my voting in behalf of the Lincoln bill. So you would want to add a half a cent to your citizens, I want to take a half a cent off of ours. So that is what I intend to do because I recognize that there is no chance to stop Senator Warner's motion.

PRESIDENT: The Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, it was alluded to that the Governor and the State Board of Equalization cannot meet and adjust these rates. I feel this is incorrect because the present law provides that when the Tax Commissioner makes a report to the State Board of Equalization, to the Governor, that within 15 days they shall meet, a report that would show the loss of state dollars because of federal adjustments, that within 15 days the State Board meet and make adjustments that might be necessary. We are in a period where we are being affected by federal reductions. This is part of it. The Tax Commissioner can make a report to the Governor and to the State Board of Equalization and they can meet the next day to adjust the rates. Now what we are doing by raising the sales tax and it won't work without the income tax in my opinion, looking over the figures we have had before us, because we have been losing $9 million a month because we haven't collected as much as we spent. Simple as pie. And it takes $110 million increase at the rate we have been going the last year to hold our own and now we are in a period when the next couple months, the next three months are going to show us at a $54 million shortage. I think this is one of the most irresponsible activities that has taken place in this state when we are prohibited by the State Constitution from going down and borrowing the money to cover the problem. We are doing the same thing the federal government is doing with our present policies in creating and going in the red with our spending and tax collections. We are taking in a tax reduction by not adjusting our rates to take up the reduction by the federal tax rate. This had to be done...has to be done now and we are going to have cash flow problems in the next couple of months regardless of what we do. But what we are doing here today in trying to hit it on the sales tax is guaranteeing the pass-on to the wealthiest of this state in a state reduction of income tax. The $1 million income is receiving $179,000 benefits by the federal tax cut and now we are ripping up the sales tax to protect the income base,

or the income tax, having the little people, the poor people, the working people and the farmers pick it up on sales tax, the moderate and low income people, to protect $179,000 tax break for the million dollar income. I think this is sick to move in this direction and say you have got to take the squeeze we have got tough times. That means squeeze for the people with 40 to 50 thousand income and less, and it means the fastest growth of wealth paying the least taxes for the wealthiest in the state. I think it is time that the Legislature looked at the tax system with responsibility and look at who has the ability to pay rather than who you can grind the bucks out of. I urge the Legislature to vote no on this bill carrying this amendment and let the State Board move on that income tax side first and second, they are going to have to move with the half cent sales tax, I acknowledge that, but not go with the sales tax and try to slip it over there on the poorest people of the state. Thank you.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, Senator Lamb wants me to call the question but I do want to get something kind of into the record. I want to tell you about a ghost and I am the ghost after a fashion. I want to read you...it only takes two and a half, three minutes to read it, I want to read you my closing arguments at the Special Session as to why we should make the cuts and so on because I think now we have gone the wrong direction. Here is what I said in the closing arguments. "Dear Mr. President and members of the Legislature, right or wrong, this session, this Special Session has been cast into the formula of come here and have a tax increase or come here and take action under the Governor's plan and prevent any tax increase this year and next year." I said one of the first things I learned in Vietnam was that before you could ever be a good leader you have to be a good follower and because this is the Governor's session, because under the Constitution he had the power to call it, I have tried to follow his orders and instructions and the plan he has offered for the economy in the future of the state for the next 18 months. I said I sincerely hope that the proposal that we pass if we advance it, and we did, I hope it works and I mean that in all sincerity. However, I do want to say I express grave personal reservations about the analysis of the economy of Nebraska now and in the future by the officials that are providing the Governor the information upon which he is taking this action. I regretfully believe that we may be entering something more akin to a depression than a mild recession, and if that does, indeed, occur, we will know pretty well by February and March

and we may have to take some very dramatic action. I went on to point out Nebraska's agricultural economy, its housing economy, energy crisis, we're in near depression type condition. But then I took a different approach than the Governor and the administration and I think that is the approach we should be taking this session. I went on to say, should these terrible events occur I hope that there are those in here who having followed the leadership at this point to take the conservative approach will at least give strong consideration that there may be other approaches completely the opposite that may be necessary to bail the state out. If we have to be ready to consider far different solutions to put the people back to work, to get the engines going, to save our agricultural machine, to make this state survive, then we should be ready to take the courage and do it. Well, Mr. President, I do believe we have entered that something more akin to a depression and our solutions this session have been to increase cigarette taxes, to increase corporate taxes, to increase personal taxes, now to increase sales taxes, to increase almost everything you can name but not one program, not one program or system have we developed to put people back to work, to get the engines going, to meet depression conditions. And I don't think just additional taxes are the solution. If the additional sales tax went into programs that started people working such as building roads, and by the way we aren't building even any roads now...if we started doing those things, I would have much more sympathy for tax increases. But tax increases for the sake of tax increases without meeting the other things I think only will lead us deeper into the morass that we are in now, and that is why I voted....

PRESIDENT: One minute, Senator DeCamp.

SENATOR DeCAMP: ....that is why I voted against the sales tax increase, and that is why I think I will continue probably not to support a tax increase because I don't think we have really addressed the overall problem.

PRESIDENT: Before we go to the next speaker the Chair would like to introduce some fifty-four 8th Grade students from Our Lady of Lourdes in Omaha. They are up here in the north balcony from Omaha. Senator Higgins' district. Along with Laverne Haftings, Betty Holmes, Marianne Bonnemier, Mrs. Bev Johnson, Miss Sue Wiley and Mrs. Rose Pope and Mrs. Julie Hobik. They are up here. Would they just kind of indicate where they are if they are still with us up here? Right up here. Welcome to your Legislature. The next speaker will be Senator Wiitala. Okay, thank you, Senator. The Chair recognizes Senator Lamb. Senator Lamb

calls for the question. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Voting on whether or not to cease debate. Once again I will wait for you to get to your places. Record the vote.

CLERK: 27 ayes, 1 nay to cease debate, Mr. President.

PRESIDENT: The motion carries, debate ceases. Senator Warner, is there anything further? The motion then is the advance of LB 757 to....yes, Senator Chambers.

SENATOR CHAMBERS: Call of the House and roll call vote on this.

PRESIDENT: All right, you have that right to ask for that so the question is, shall the House go under Call. All those in favor of the House going under Call vote aye, opposed nay. Record the vote.

CLERK: 25 ayes, 4 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. The Sergeant at Arms will secure the Chamber. All members will return to your desks. All unauthorized personnel will leave the floor. The House is under Call and all members will register your presence at this time. While we are waiting for the members to return for the roll call vote which Senator Chambers has requested, as I understand, we will....the Chair takes this privilege to introduce some guests of Senator Hoagland, some nineteen 4th Graders from Brownell-Talbot in Omaha, teachers Hazel Wait, Loretta Reinig and Larry Lheureux. They are up here in the north balcony. Would they indicate where they are for us. Up here...there you are in the center. Welcome to your Unicameral Legislature Bronwell-Talbot. We have three excused. Senator Wagner, Senator Kremer. Senator Kremer is there I think, he just hasn't.....Senator Kremer, Senator Hoagland. Senator Hoagland is right there. All right, I think we are all here. Ready then for a roll call vote. The question is the advance to E & R, the readvance of LB 757 to E & R for Engrossment. All those in favor vote aye, opposed nay. Roll call vote, Mr. Clerk, go ahead.

CLERK: (Read the roll call vote as found on page 1763 of the Legislative Journal.) 31 ayes, 14 nays on the motion to readvance the bill, Mr. President.

PRESIDENT: The motion carries and LB 757 is advanced to E & R for Engrossment. Are there some matters to read in, Mr. Clerk?

CLERK: Mr. President, I have another motion.

PRESIDENT: Oh, another motion on this bill, all right. Read the motion.

CLERK: Mr. President, if I may right before that. Your Enrolling Clerk has presented to the Governor for his approval the bills that were read on Final Reading yesterday. (See page 1763 regarding LBs 127, 127A, 605, 755 and 756 in the Legislative Journal.)

I have a supplement to an Attorney General's Opinion addressed to Senator Beutler. That will be inserted in the Journal. (See page 1764 of the Journal.)

Mr. President, Senator Newell would now move to return LB 757 to Select File for a specific amendment, that amendment being to eliminate the State Board of Equalization's authority to set the sales and income tax rates.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: I won't speak long if I could have some silence. Thank you, that's not a bad deal. The proposal that I am offering this Legislature is one of those that you might call a...to use a colloquialism, a "fess up" amendment, and that is simply that it will strike the State Board of Equalization's Authority to set sales and income tax rates. We would have to bring 757 back one more time to set the income tax rate after this amendment is passed but I don't think that is any great problem. I think then we have a philosophically reasonable way of explaining this to the public. We can take this out of all of the politics and so forth and have the Legislature do what 49 other states do and that is set the sales and income tax rates. I think it would be very responsible. It would help the public understand just exactly who creates the problem. It is not only the Legislature, it is also the Executive, but at least places that authority between the Legislature and the Executive Branch and not solely in the Executive Branch. That way we won't have these kinds of election year situations when we have a real fiscal crisis. I would hope this body would accept this amendment. It is the right and philosophically correct thing to do.

PRESIDENT: The Chair recognizes Senator Hefner. Okay. The Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Chairman, I support the Newell amendment. I think the situation over the last year and the failure

of the State Board to make the necessary adjustments makes it imperative that the Legislature take over the responsibility of setting the tax rates and keeping our state in a sound fiscal situation. It appears that we can have leadership out there that doesn't understand they have to take the dollars to pay the bills. What most people learn in grade school that you have to cover expenditures and balance a budget in one way or the other and that when you appropriate $750 million you have to devise rates of taxation that will take that much money and that you cannot spend $9 million a month more than what you take in. I feel that the last year has made it obvious that the Legislature had better take over the finance of state government. We have had revenue staff that made predictions that made it obvious that rates had to be raised. The cash flow situation has taken place for a year and a half. Four years ago the State Board of Equalization voted 3-2 to raise the rate to 18 percent going into the four-year period leaving us up till about 18 months ago a very plush situation in revenues and general fund balance in the State of Nebraska. That vote came with a 3-2 political vote with the three Republicans on the State Board of Equalization outvoting then Governor Jim Exon and Bill Peters three to two to raise that rate to 18 percent because at that time there was a split opinion as to the need for a full 18 percent. Had we operated with a more moderate tax all the way through and kept a reasonable reserve in our state, we would not be going into the cash flow problems where we are going to be short of the money to pay back income tax returns, to pay back that money that belongs to the citizen that overpaid his tax. I think it is high time that the Legislature look at it straightforwardly and take over the responsibility of setting these rates because it has been proven that you can get irresponsible action from the Executive Branch and run us into deficiencies that cannot be tolerated by a state that by Constitution prohibit us from going into debt. That makes it even tighter and the need for some reserve and a real sound spending program and the Legislature must take it over. I urge you to support the Newell amendment. Thank you.

PRESIDENT: The Chair recognizes Senator Lamb. All right. Senator Warner. Senator Warner, did you wish to speak to this?

SENATOR WARNER: No.

PRESIDENT: Senator Fowler. Okay, Senator Warner and then Senator Fowler.

SENATOR WARNER: I thought I was the only one.

PRESIDENT: Go ahead.

SENATOR WARNER: Well, I would rise to oppose. Now immediately I am sure someone can say, well, how come you just moved to increase it? When you go back and look at the history when I first started on this amendment a little bit ago I commented on the fact that we have a tax structure that is exceedingly responsive to the economy which we have, the sales and income tax is, and when inflation is running as it was receipts were accumulating much more rapidly than anticipated. When you have depression or recessions, the economy slows down, the reverse is true. Now I don't know quite how to say what the law says. I guess anybody could read it and report it that...I don't mean reporters, but repeat it and understand it. Up until I think 1973 the Board had no ability to meet other than in November. Then when things got difficult, in fact, we were raising money more rapidly than was needed, the Legislature at that time reduced the income tax down because the Board could not meet, but at that same time we then put in provisions for the Board to meet other than in November under special circumstances, one of which was after the Legislature adjourns and the other time was when receipts were more than 10 percent, and then there was the requirement beyond that... before that that dealt with changes in the federal income tax and dealt with income tax only. This year with 757 the amendments that the body adopted a few days ago now will provide the Board of Equalization with the ability to meet and react to economy...changes in the economy much sooner than they otherwise could. The kind of tool that they needed which did not exist will now exist and they can continue to do it. The argument has always been and I still agree that it is factually a correct argument, that in November a Board of Equalization can more adequately judge the next year's economy than us trying to set it now. Those states that do it carry large, large reserves. You may recall California when they did their Proposition 13. They had something like $7 billion in reserve because they had fixed rates. Our concept has been not to raise any more dollars than was required to cover the budget and that is what we have done. And the reserve, whatever reserve we did have was only one because if it was above the 5 percent or the 3 percent, whatever it was put at, was only because that the economy was either healthy or less healthy than had been anticipated. But if we want to keep that system in place which is an excellent system and really the envy of most states of only raising the money that is needed, you need that flexibility of the Board's setting the rate as late as possible, and I would hope that it would be understood that it is not an election type process, it is not a political process, understand the circumstances that permit those kind of arguments. But the fact remains that for maintaining

the minimal amount of taxes to be collected to cover the budget. Approved by this body, the system that we have is the one that enables that, and the alternative that is proposed by its very necessity would require substantially larger reserves, substantially more money taken away from the taxpayer in the system we have.

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, in the abstract, Senator Warner's statements are probably correct. The amendments that he has added do give the Board of Equalization more power to act in terms of responding to changes in the economy. It refines further the sales and income tax rate system that we have and therefore there would be no need for this Legislature to set rates in the abstract. In the world of political realities we find that Boards of Equalization don't want to set tax rates anyway and that even though there may have been limited options in the last year or in previous years for Boards of Equalizations to act, they tend to prefer calling special sessions of the Legislature. They tend to prefer other mechanisms so as to avoid the decisions that we ask that they take. Now I think that we cannot continue to design a system that looks good in the abstract and ignore the realities, and the reality is that the Board of Equalization doesn't really want the responsibility for setting tax rates. And I think that is clear because there are at least three individuals out in the rotunda, Don Leuenberger, Larry Bare and John Knight, who have been calling senators out and asking them, wouldn't you want to vote for this tax increase? Now I would assume that they are there not just because they like to be there. They look a little haggard, being out there last night and stuff. But they are there to ask us to assume a responsibility that lies instead with another body, and as often happens in political areas, there are even rumors of political deals being made so that we would be the ones to assume the responsibility for raising the sales tax. People...senators are kind of going around asking, well, what did they promise to sign for you? Or are they going to sign the Medicaid bill or maybe could we have the food sales tax repealed and returned for this? Or maybe...Senator Koch stood up on the floor and I appreciate his candor because he made it public, he said, I am not going to stick with this unless the state employees' salaries is signed. We have a little trading between the rotunda and the chamber here to make sure that the Board of Equalization doesn't have to have the responsibility that the law says that they do. Now I think that we would like to live in an ideal world where those types of political things don't happen, where a

Board of Equalization of whichever party would just simply assume what the statute says that they should assume, that we wouldn't have to go through a special session of the Legislature every time the economy slumps, that we wouldn't have to have all the sorts of political games that we have seen in the last week, the trading, the dealing, the offers that have been made in order to have the Legislature raise the sales tax rate when the Board of Equalization could have done it, still could do it and would be doing it in a couple months, or couple weeks. So I think that what Senator Newell is saying, let's just be honest, let's be honest about ten years of experience in the State of Nebraska. I don't care how many refinements we make in terms of giving greater opportunity for the Board of Equalization to meet to adjust tax rates, I would say that given the political history and given the political convention of wisdom of this state it is that a Board of Equalization should never meet to raise taxes, it should only meet to lower them. If taxes have to be raised, somehow we will always ask the Legislature to do it and it is only when taxes have to be lowered that suddenly do we see a Board of Equalization decide that they have the power to act in the area of tax rates. I think as a Legislature we ought to, if we are going to have to assume the responsibility for raising the tax rates....

PRESIDENT: One minute, Senator Fowler.

SENATOR FOWLER: ....if we have to assume the responsibility for raising the taxes, the negative act, why don't we also take the power to lower the taxes? Why do we give that to the executive and let them force us to be the ones to raise taxes? I think that Senator Newell has a concept that a ten year history in the State of Nebraska says would be the honest way to deal with tax rate setting, and then our Tax Commissioner could go back and watch revenues and our State Budget Officer could try and keep track of the state budget. They wouldn't have to be out in the rotunda bothering us to have us set the tax rates for the Board of Equalization.

PRESIDENT: Before we go on to the next speaker, the Chair would like to introduce some guests from Senator Hoagland's district, sixty 8th Grade students from St. Margaret Mary from Omaha with Jo Ryan and Irene Gartigas, teachers. This class includes Senator Higgins' nephew, Pat Boyle. They are up here in the south balcony. Right up here. Would we welcome the St. Margaret Mary students from Omaha. Welcome to your Legislature. The Chair recognizes Senator Lamb. Senator Lamb calls the question. Do I see five hands? I do. The question is, shall debate cease? All those in favor

vote aye, opposed nay. The question is, shall debate cease? Please vote so we can proceed one way or the other, otherwise I am going to call on the list. Record the vote.

CLERK: 25 ayes, 7 nays to cease debate, Mr. President.

PRESIDENT: Motion carries. Debate ceases. Senator Newell, you may close on your motion to return.

SENATOR NEWELL: Mr. President, I have heard the arguments that Senator Warner proposes many times that this is a mechanical responsibility, you get better vision, etcetera, etcetera. But I think Senator Fowler said it best when he says the history doesn't show that that is the way it works. Now let me make a couple of things on a couple of points. First of all I have always been enamoured by the argument we ought to take politics out of politics except when we need to have politics, and I hear a lot of people saying that, we need to take the politics out of politics except in election years when there is naturally a need for politics. But I would like to remind this Legislature that 49 other states set the sales and income tax rates. Nebraska is the only one that has devised this unique system, and it is a unique system basically so the Legislature can pick and choose when it wants to be responsible. The majority of this body then gets to pick and choose based on the politics of the hour whether or not to do these things or not do these things. Now let me remind you that during the eight years that Jim Exon, who just happens to be a Democrat, sat in the Governor's office this Legislature only once decided to get involved in this process, and that was to lower the income tax, not to raise the income tax or the sales tax but to lower it because the Legislature felt at that point in time that they should take the credit, not the Executive branch but they should take the credit for a reduction, and that seems to me very logical that this is an independent legislative body. It seems very logical we would want to take the credit. It is less logical for me, however, at this point in time to understand why this Legislature determined earlier to take the blame for raising the sales tax rates. And I suggest to you, in fact I more than suggest, I know that it is for political reasons that we decided to take the blame. Now I think that is a legitimate function of this Legislature but not on a sometimes basis, not on a convenient basis and not on a political basis, but on a full-time basis, on an ongoing basis should we set the sales and income tax rates. I would hope this body would do not the political thing but the responsible thing and take over the full authority of setting those sales and income tax rates. I urge this body to adopt the amendment.

PRESIDENT: Motion is to return for the specific amendment that was being discussed by Senator Newell. Motion to return. All those in favor vote aye, opposed nay. Have you all voted? Please vote. Yes, Senator Newell.

SENATOR NEWELL: Mr. President, I just want to...if we can get enough votes up there I will just ask for a record vote and not a Call of the House.

PRESIDENT: Okay.

SENATOR NEWELL: So I would urge my colleagues to vote.

PRESIDENT: Let's all vote so we can get a record vote and then go on to the next one, because it is rather evident that is what is going to happen, Senator Newell, I will agree with you. Have you all voted? Record the vote and a record vote.

CLERK: (Read the record vote as found on pages 1764 and 1765 of the Legislative Journal.) 19 ayes, 25 nays, Mr. President, on the motion to return the bill.

PRESIDENT: The motion fails. The next motion, Mr. Clerk. Read the motion.

CLERK: Mr. President, Senators Labedz, Goodrich and Newell would move to return LB 757 to Select File for a specific amendment. The amendment, Mr. President, is referred to as Request 2812. You will find it in your bill books under LB 591.

PRESIDENT: Senator Labedz, will you discuss the motion to return. Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. There is no doubt in our minds that the Legislature will increase the sales tax a half percent. That will be three and a half percent state plus any city sales tax that is imposed on that particular city. For a long time now we have discussed the sales tax on food. It is very, very essential now with the rising cost of food and I think Senator Chambers put it very well a short time ago. If there was any way possible that we could have done it in time, I would like to have also included the sales tax on utilities because we all know there is a very unfair tax there for the homeowner because the homeowner is the only one that pays the sales tax on utilities and the commercial and business use does not, but we are on the food sales tax issue. We all know too that

there is a very, very high increase in the cost of food and yet we have people unemployed. We have people on welfare receiving food stamps, yes, but not hardly enough to pay for the rising cost of food. I sincerely and very strongly urge that the members of this Legislature think very, very hard and very strongly in removing the sales tax on food. We have the food sales tax credit up to a point now where it is very high but it still does not cover, and I can remember when I worked for the Department of Revenue when I first started out, the sales tax refund on food was only $7. We are now up to $28 and others are wishing there was an increase there. The administration of the sales tax refund on food by the Department of Revenue is a very, very tedious and long and expensive method of getting the sales tax refunds back. Many of the elderly do not have to file a federal return and yet every year we have to have them file a state return just to receive the food sales tax refunds. The cost, and I am sure I don't have to speak too long on the cost of food, it is very high when you are unemployed or you are low income and your hours are cut down because of the economy. I think the first thing we should be looking to is the removal of sales tax on food. There is no doubt that the half percent increase on the sales tax is going through in Omaha and possibly in Lincoln. That will be 5 percent more on your food bill. I urge the members of this body to remove the sales tax on food and give the citizens of Nebraska a break because we are raising the income tax also, there is no doubt there. I urge the adoption of the amendment to LB 757.

PRESIDENT: The Chair recognizes Senator Goodrich.

SENATOR GOODRICH: Mr. President and members of the body, just to set out what this amendment does. It eliminates the sales tax on food. It also eliminates the refund arrangement that we have in the state and it gives the local urban areas that levy the sales tax the option of levying a quarter of a cent to make up the lost revenue. Now, the net profit to the state of adopting this amendment is about $5 million. In other words, that tax brings in $5 million. In other words, there is a lot of people that do not apply for their refunds, consequently the cost to the state is such with the refund picture that the state makes a profit off of the sales tax on food of $5 million. The revenue would be left in the state, in other words, so the state gains $5 million from adopting this amendment. The local tax, for example, sales tax we are talking about would be levied on the local areas so the state isn't picking up that particular revenue unless somebody happens to come into Omaha and buy food...or buys, excuse me, and buys something. That is the only portion

that would be picked up by anybody. Anybody that goes through the state and buys something helps to pay for it, that sort of thing. So I would urge the adoption of this amendment based on the fact that if you are going to adopt a sales tax of a half of a percent statewide, which is the essence of the Warner amendment, then what you are doing is you are taking something away from the general public without giving them back something at the same time, unless we adopt this amendment. If we adopt this amendment, we are then giving them back a refund or elimination of the tax on food which is something that they can see and they can feel in their hot old hand. At the time they are paying the extra half cent they are also eliminating the sales tax on food which means that the very poor of the state then have maybe a dollar, dollar and a half, two dollars to buy more groceries. This, for example, we will then be in a position rather of levying the tax on the local people to make up the lost revenue to the urban areas. It is not a statewide levy, it is the option...the extra quarter of a cent here is the option of the local urban area and they can either levy it or not levy it as they see fit. If they need it, they will levy it. If they don't need it, they won't levy it. But at least then they won't have lost the revenue without having a way of getting it back. I would strongly urge that we adopt this amendment so that we are then giving back to the individual people something at the same time that we are taking away from them the extra half a cent statewide basis. I strongly urge the return of the bill for the adoption of this amendment.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, again I would rise to oppose the proposal in two simple points. If you want to exempt some things then keep in mind that you are also going to increase the rate. There is nothing magic about it, you have to raise...the state is going to raise X amount of dollars if you want to exempt some of the things, then instead of a half percent you are going to probably be talking about one percent. Don't forget the fifty-fifty test, Senator Newell. The fifty-fifty test would require an increase in the sales tax rate more than a half percent in order to have the same amount of revenue. I don't think you want to impose another half percent on all the other items that people have to buy in order to exempt it on food. One other thing I want to say while I am up so it is clear. The only time that the Legislature reduced the income tax, I made the motion, Senator Newell, and at that time there was no provision in

law, no provision whatsoever in law for this Board of Equalization to act. Those provisions were put in later. The Governor signed the bill. He concurred with the bill and it was nobody's fault. That was no other way it could be done at that time, otherwise that would have carried clear through till November and would have collected a great more revenue than was necessary. So your remarks earlier were totally wrong.

PRESIDENT: The Chair recognizes Senator Wiitala.

SENATOR WIITALA: Thank you, Mr. President. Mr. President and colleagues, I rise in support of Senator Labedz's, Senator Newell's and Senator Goodrich's motion to return for the specific amendment on LB 757. I support this motion largely because this issue has been a long debated issue before this Legislature. I want to call the body's attention to a few facts. We have just effectively raised the sales tax in Omaha to 5 percent, 5 cents on every dollar. This body should be appraised to the fact that there is money...additional money that is earned as profit on the collection of sales tax. Three percent of all the revenues that are collected, sales tax revenue collected, are kept as profit or profit to cover the costs of administering it. But there is more profit that is involved. I don't know how long it is before a business has to report their sales tax revenue to the state, but I am sure that they can keep those revenues in a bank account for at least a month. At today's interest rates I will assure you that the interest that is bearing on those revenues is 5 percent or more. So we are really talking about taking 8 percent or more profit on administering the collection of sales tax. Members, I think that is unfair. It is unfair in light of the fact that the general public is required to pay this tax on a necessity of life. I disagree with Senator Warner's remarks when he mentioned that he may have to increase the sales tax maybe an additional half percent to cover the loss in revenue, and this will just cause people to pay more sales tax on the other items they wish to purchase. But I am telling you living in today's economy there are a lot of those people that just can't buy those extra purchases. Their main expenditure, if they can scare up the funds to pay for their heating bills, is to purchase food and clothing, the basic necessities of life. There is another inequity in here I don't think has been addressed on the floor and that is that by giving a food tax credit we are sending dollars from our local areas to the state only to return them back to us in the form of a food tax credit. Now if I am not mistaken, this is contrary to the philosophy of the new federalism, that

philosophy being to send less dollars to Washington D.C., less dollars that are expended for overhead expenses, and keeping those dollars in the state and administering them more economically at the local level. Now if we want to match our philosophy with our actions, it would seem proper at this time to get rid of the food tax credit....

PRESIDENT: One minute, Senator Wiitala.

SENATOR WIITALA: ....and exempt the sales tax on food. I hope that you would support this motion, members. Thank you.

PRESIDENT: Before we go on to the next speaker the Chair takes pleasure in introducing some visitors from Senator Apking's district, fifteen students, 3rd and 4th Graders from Western, Nebraska, with Terry Boeckner, their teacher, and one sponsor. They are up here in the north balcony. Would we welcome Western, Nebraska to their Unicameral Legislature. Welcome. The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I rise to oppose bringing this bill back to add this amendment. If you will notice, it has just been the Omaha senators that have been supporting this amendment. I think Senator Labedz said that food prices were going up. I thought they were coming down a little bit, and I hope they come down a little bit further. And, of course, I can see the rationale behind the Omaha senators. When this goes into effect they will be paying a 5 percent sales tax, and I think this is a good argument against voting for the bill that would let Lincoln increase their sales tax another half a percent. I figured all along that we would be getting in trouble and, of course, it is certainly coming to the surface right now. Omaha at the present time is collecting a one and a half percent sales tax. A Lincoln senator has a proposal so that Lincoln can do it, and here is where I feel the state has lost control. The Revenue Committee has heard this bill many times. It seems like we hear it about every year, that would take the sales tax off of food. But I believe by giving a $28 food sales tax credit that this is fair. Not only that, we keep track of most of the residents in Nebraska this way. We are able to put their name and their number on the computer and to see whether they are paying their fair share of income tax. And so I don't think that we want to change that right at this time. Also another reason is that it is late in the session. We only have four days left and if we keep bringing these bills back we will never get to our priority bills, will we, Senator Higgins? Will we? That's right. Okay, therefore, I would

urge you to vote against bringing this bill back.

PRESIDENT: The Chair recognizes Senator Clark.

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

PRESIDENT: The question has been called for. Do I see five hands? Yes, I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? The question is, shall debate cease? Record the vote.

CLERK: 19 ayes, 11 nays, to cease debate, Mr. President.

PRESIDENT: The next speaker is Senator Higgins.

SENATOR HIGGINS: Mr. President, I will be brief. Senator Hefner, you are absolutely right, if we bring this bill back it is going to take time and priority bills are not going to be heard. There is nothing more important to me than my priority bill except seeing to it that people do not starve to death in this state, so I would forego my priority bill if I can do anything at all to remove the sales tax on food. And I want to point out again that the sales tax on food hurts the little people, the people who don't own a lot of property, the people who don't have stocks and bonds. And, Senator VonMinden, you are concerned about those people coming from Iowa into Nebraska to get ADC. Let me tell you something. I have got a sister that lives up in Sloan, Iowa just 20 miles south of Sioux City, and she said, you ought to see the Nebraska cars from South Sioux City that come to Sioux City, Iowa to spend their money on groceries because they don't have a sales tax on groceries. And gasoline is cheaper over in Iowa so they fill up their gasoline tank. So, Senator VonMinden, you are losing so much money in Dakota County and sending it all over to Iowa. And the same is in Omaha, we see these people every week going across the bridge into Council Bluffs to fill up their gas tanks, buy their groceries, and, of course, if we increase the sales tax on cigarettes, they will be buying their cigarettes there too, or we add the added tax to it. I want to remind the body that this sales tax that we have was fought for years in the Legislature and it wasn't passed until we sweetened the pie by paying the business men 3 percent to collect the sales tax, and I hope this summer when I am touring the State of Nebraska to bring home to the people the fact that they are paying to have their taxes collected. I don't think this amendment is going to pass. It never has because we have the strong lobby groups of business men who don't want the

sales tax on food taken away and there is no doubt in my mind that this amendment is going to fail as it has always failed until we come up with a way for the business men to make a profit off of the poor other than the way they are doing it now. So I urge those of you who call yourselves Christians, who really care about people, to vote for this amendment, and those of you that just care about money go ahead and vote as you would. Harry Truman had a saying, "The buck stops here". I think from the voting I have seen in this Legislature this year, we can say very easily, "The buck starts here". Money is first. People are last. Thank you.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise in support of this amendment. As a member of the Revenue Committee I certainly have heard the arguments on the repeal of the sales tax on food. Also as a member of this body I have heard similar arguments. I have never understood the rationale for retaining the sales tax on food as long as we retain the state credit system, and, in fact, it almost defies credulity that a body of rational people would continue to fight to retain the sales tax on food. You know, the Governor himself and his own office have sent out a report which we saw last year saying that actually the food sales tax and food sales tax credit system is a tax loser for the State of Nebraska. It is a $5 million tax loser for the State of Nebraska. The Governor's office says that our credits return $5 million more to our people than the food sales tax, meaning simply that we actually are losing revenues by virtue of retention of the system of having a food sales tax and then to credit. So it would seem to me that it would just make good revenue sense for the state to eliminate the food sales tax and at the same time eliminate the credit. I can't find any reasons for state revenue purposes to retain the food sales tax and the credit because the credit apparently according to the Department of Revenue and the Governor's office provides more money to people than they generate in the food sales tax. That is the first point. The second point, Senator Higgins certainly touched on it. She talks very simply about people going across the state line in nontaxed states to buy their food. Now, you know, we had a heated debate here a week or so ago on the cigarette tax, and you know one of the principal arguments that was made on the cigarette tax was that if we increased our tax too dramatically we undoubtedly would encourage the importation into this state of cigarettes from other states that have a lower tax. Well by virtue of

our continuing a high sales tax on food we literally are encouraging the export of people from our border areas to Iowa and to South Dakota and to Wyoming and to Kansas to buy groceries. And I will tell you that is a true and absolute reality in the City of Omaha and it is a true and absolute reality in South Sioux City, Nebraska, and it is a true and absolute reality in a number of our border towns. We literally lose food sales tax revenues and grocers lose their own...and local grocers lose their own sales receipts by the virtue of movement of people across the borders. You know if the argument obtains in the cigarette tax, it obtains here. We talk about the corporate community. If we have the corporate tax too high then we will drive out corporate business and we won't encourage the movement of corporate business into this state. The same arguments obtain frankly with respect to the sales tax on food. We cause people to actually cross the borders to buy their groceries in places where they don't have a 3½ percent tax on food. Now the only argument...the only argument that has any validity whatsoever is the argument with respect to the local communities that have the add-on sales tax because local communities don't have to provide a credit and they don't provide a credit, and as a result when we take the sales tax off food then we literally cause Omaha and Bellevue and Lincoln and North Platte and Lewellen, and the other communities that have a sales tax, to lose that bit of revenue source. They don't have that much money coming in. But this piece of legislation says, look, local communities if you want to you can even add on, you can even add a quarter of a percent to the sales tax rate on remaining purchases to make up the difference if you want to do that.

PRESIDENT: One minute, Senator Johnson, one minute.

SENATOR V. JOHNSON: I mean, do we put together a reasonable package to frankly meet a very reasonable argument, and as far as I am concerned it is one that we really ought to advance. And I think not to advance this argument...not to advance this point is to hold too tightly to old dogmas and old myths and old beliefs which have very little reality, in fact.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President and members, a hard act to follow. I certainly do not support taking off the food tax and very simply and I have used this same argument for eight years I've been here. First of all, I think the

average family is reimbursed for the amount of tax that they have paid on food. Now you will notice, and somebody else mentioned this, most of the problems are in Omaha evidently. It's the Omaha senators that are for it, and I can see they have a problem and they caused that problem themselves thanks to the case that the Legislature helped them with the problem, I am sorry to say. And that is too bad. But the rest of us it isn't that big a problem because people are reimbursed and no matter what Senator Johnson says the state has to come out ahead because the tourists that come through, the people that live on the border and come in and shop, that is revenue extra, above what is reimbursed to our own people. This is no time to be taking taxes off. For heaven's sakes, we are working hard to add taxes in various places where they are to individuals for fees and licenses and different methods of collection. So please think about this especially outstate Nebraskans let's don't get caught up in this.

PRESIDENT: The Chair recognizes Senator Kahle.

SENATOR KAHLE: Mr. President, this is one of the most interesting discussions we have had this session and it is too bad we are on the last four days. But I could have predicted this a number of years ago when we...especially when Omaha fought so hard and so diligently to get that extra half cent sales tax. My goodness, they were going to go wash right down the Missouri River if they didn't get it, and I said at that time that if the rest of Nebraska or state government wanted to raise the sales tax across the State of Nebraska that they would get flak from the Omaha delegation. How does that strike you this morning? I think we have had nearly every one of the Omaha delegation up here pleading with us, please don't raise that sales tax a half percent, it is just going to kill us. Well the half cent that you pleaded for probably is what killed you. The sales tax in the beginning was meant for state government, and, of course, my philosophy there is similar to Senator Chambers, believe it or not. I think we made an awfully big mistake by allowing cities to add to their sales tax. Senator Schmit is not here this morning but he has worked on a bill for a number of years that would eliminate the sales tax on food and would put the same sales tax on across the State of Nebraska which I think is the proper way to handle this issue. But I am just bleeding all over the place when I hear the pleas that, oh my goodness, we can't do this, they are using sales tax on food as a whipping boy but there are a lot of other things that are sold across the state borders that perhaps you can get a better deal on besides food. So don't use food just for the whipping boy.

I am not all that thrilled with the tax on food but I think right now is an awful poor time to be talking about taking it off. Thank you.

PRESIDENT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I just wanted to touch on a couple more things. I was very glad that Senator Johnson did bring up the fact that the Department of Revenue was saying that they put out more money in food sales tax credit than they take in and I really believe that is true because I worked for the Department of Revenue for seven years. We had a very difficult time. If we checked a state income tax return against the federal return in some cases we would find that people were showing two or three dependents that they didn't show on their federal return and therefore were receiving an extra $28 or whatever the rate was at that time and getting that in a refund. We also say that if you are living in a nursing home or a tax exempt organization that does not pay sales tax on food, those people were showing that they should receive a $28 refund and yet there was no sales tax paid on food at that nursing home or whatever tax exempt organization they were receiving food from. We have the nutrition sites now, of course, thank God we do, but there is no sales tax paid on food there and yet those people that are receiving that food will apply for a $28 refund. So we are paying out more money than we should on the sales tax refund on food because there are people that can show and do show exemptions. Now, for instance a student going to the University or going to school as a full time student and working at the same time will file a return and receive a $28 refund on his return and at the same time his parents show him as a dependent and they receive a $28 refund for that particular person. Those things for the Department of Revenue is very, very difficult to check. So in some cases we are paying $56 for a food sales tax refund because both the student and the parents claim them on their return because the student is still living at home or maybe living at the University while he is going to school but in working part-time he does have a refund coming of his withholding tax and he will show the $28 food credit plus his refund on withholding and the parent because he is a full time student is allowed to keep him or her as a dependent so they show them as a $28 refund, therefore that shouldn't be allowed and if the Department of Revenue catches that they will disallow one of them. But how in the world can we check all of them? So there are times when we are paying $56 food sales tax refund rather than the $28. There are times we are paying for more dependents than they actually have. They may

be living away from home but they are still considered on the parents' refund on their income tax return as a dependent and therefore they get another $28. So we are paying out a lot more than legally we should and it is very difficult for the Department of Revenue to catch those people that are showing it twice, once on their return and once on the parents'. Then those that are living away at a tax exempt organization like a nursing home should not be getting the $28 but that is very, very difficult to find those.

PRESIDENT: One minute, Senator Labedz.

SENATOR LABEDZ: Thank you. That is all. I urge the adoption of the amendment and keep in mind that we do have people crossing the border. Whether they are paying just the state sales tax on food or whether it is state and city it will be 3½ percent cheaper for them to cross the border to obtain food in another state. Thank you.

PRESIDENT: Before we go on to the next speaker, the Chair would like to introduce some guests of Senator Goll, some twenty-three 4th Graders from Lyons, Nebraska with their teacher, Dyann Poppen. They are up here in the north balcony. Would we welcome Lyons, Nebraska 4th Graders. Welcome to your Legislature. The Chair recognizes Senator Sieck.

SENATOR SIECK: Mr. President, I call the question.

PRESIDENT: The question has been called for. Do I see five hands? I don't see five hands,do I? Oh, I see...well, I hope maybe....all those in favor to cease debate vote aye, opposed nay. Have you all voted? The question is, shall debate cease? If you want to go on debating it is all right with me. Yes, Senator Lamb.

SENATOR LAMB: If we don't get enough votes I am almost tempted to ask for a Call of the House to cease debate.

PRESIDENT: Okay.

SENATOR LAMB: Because there are a lot of people not in here that I think would cease debate and....

PRESIDENT: All right.

SENATOR LAMB: ....we have spent a lot of time on this issue.

PRESIDENT: All right, so what you want to do as I understand it is you want to have a Call of the House. So let's have....

SENATOR LAMB: We only need I think about one more vote if someone would think they could cease debate.

PRESIDENT: The question is, Call of the House has been asked for. All those in favor vote for if you want to go under Call. The motion is, shall the House go under Call. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 19 ayes, 2 nays, to go under Call, Mr. President.

PRESIDENT: The House is under Call. Now all members will return to your desks, record your presence and everybody else leave the floor. We are going to have a....did you ask for a roll call vote or just ask for call ins, Senator? Call ins are all right. There is a call in right there. Yes, you are authorized to take call ins.

CLERK: Senator Kremer voting yes. Senator Kilgarin voting no.

PRESIDENT: We will accept call in votes. Call of the House, right.

CLERK: Senator Haberman, you had voted yes.

PRESIDENT: Yes, Senator Newell.

SENATOR NEWELL: Could we proceed? I don't mind a call in after everybody is here but if we could bring them all in all the same.

PRESIDENT: Sure if you want to, yes. I mean it is all right with me. We are a long ways from doing it because we still have, what, three, Mr. Clerk, three excused or have we got more? We have five excused now, Senator Newell. But we still have a long ways to go, so, Sergeant at Arms, you are requested to bring everybody back. Senator Vickers, do you want to put your light on so we will know because you are here. Senator Kremer, could you put your green light on. Senator Hoagland is approaching his desk and will turn on the light. Thank you. Senator Higgins is right here. She will turn on the light, why we know she is here. Senator DeCamp, Senator Stoney are the only two that we need. Senator DeCamp and Senator Stoney. Here is Senator Stoney, so we need Senator DeCamp. Is he in the telephone booth? All right, Senator DeCamp is in the telephone booth. Senator

Newell, you had requested that everybody be at....now everybody is accounted for. Here comes Senator DeCamp so we are ready to....all right, you are still authorized to accept call ins on shall debate cease.

CLERK: Senator Goll voting yes. Senator Stoney voting yes. Senator Wagner voting yes.

PRESIDENT: Okay, and Senator Barrett is voting yes, so that is enough. Record the vote.

CLERK: 28 ayes, 12 nays, Mr. President, to cease debate.

PRESIDENT: Motion carries. Debate ceases and we would ask that everyone...would the Sergeant at Arms make sure that everyone stays now till we get a vote on this. The House is under Call and let's let it be under Call long enough to get a vote. Proceed then with....who wants to close, Senator Labedz, who is going to close for you? Senator Newell will close. Senator Newell, you may close on your motion to return.

SENATOR NEWELL: Mr. President and members of the body, just before I get into the close.

PRESIDENT: Let's have less noise in here too. It is getting increasingly more noisy.

SENATOR NEWELL: I want to correct some things that were said earlier. I did go back and talk to Senator Warner about the credit. He was concerned about the fifty-fifty provisions in his speech and I went back and reminded him that the food tax credit is deducted from the income tax side of the ledger and so therefore there is not that fifty-fifty concern that Senator Warner indicated and he agrees with that. Isn't that right, Senator Warner? Okay. The other thing that I went back and talked to Senator Warner about is that the income tax was twice reduced by this Legislature, once in 1973 per Senator Warner's motion, and then again in 1977. I was referring to....I said in my speech the last time that it was twice reduced and that the second time is when I was in the body and it was reduced for political reasons and that still stands, that statement still stands. In '73 there may not have been a provision to be able to do it but in '77 it was done solely for political reasons. The Legislature wanted to take credit for the reduction. Now the issue before us now is the elimination of the sales tax on food and the provisions of this bill provide for the elimination across the board and it delays those provisions until 4/1 of '83 so that the

credit would still go out and the state would receive the $5 million additional revenues. In these hard times that ought to be some consideration from members of this body. Also, one of the other things that I would like to point out early on in this regard is that this bill takes 33 votes to pass on Final Reading with the emergency clause which is necessary...which is necessary if the sales tax provisions are to go into effect and be effective to help with the cash flow problem. I would hope that that would be a consideration for some members here who supported the sales tax increase when you think of your vote on putting this food tax elimination on. I would personally say that if the food tax was eliminated that I would look far more favorably towards LB 757 than I presently do. That should be a consideration I hope for some of the members of this body. Let me say that we have discussed many issues in regards to the elimination of the sales tax on food. We have just proposed under 757 that we increase one half a percent...one half cent the sales tax. We have not offered a credit, a credit of any provision under this to try to ameliorate the pain and suffering that will be caused on millions of Nebraskans. The arguments that Senator Johnson brought forth about the fact that many people are crossing the river in our various border towns to not only save the sales tax but also because they benefit from the credit. I think frankly the time has come in this Legislature that this state consider the fact that it is an agricultural state and that the sales tax is on the main product that we produce. Now, frankly, this is an issue of justice and equity and it is the time to do it. It is delayed until 1983, that will produce additional revenues and help us further out of this crisis. The issue has come before us on many occasions and this is the same proposal that has been kicked around on the Lincoln city sales tax bill, but this proposal does not increase...does not.....

PRESIDENT: One minute, Senator Newell. Would the Sergeant at Arms make sure that all unauthorized personnel leave the floor. We are under Call.

SENATOR NEWELL: This provision does provide a quarter percent for those cities that presently levy the tax and that quarter of a percent is to help them ameliorate the tax problem. I think this is a responsible, well thought out attempt to eliminate the sales tax on food which many Nebraskans have wailed against, been angry about, and it is proper and appropriate that we do it at the same time that we are raising the sales tax. I want to conclude by reminding this Legislature again that LB 757 would be a much stronger bill if we did what we know we are going to have to do eventually and that is to eliminate the sales tax on food. I urge your support for the amendment.

PRESIDENT: Would everybody please, all senators return to your desks, we are under Call. We are ready for the vote then on the motion to return LB 757. All those in favor vote aye, opposed nay. Have you all voted? Senator Newell, I am about ready to call the vote. Anything you want done, why do it now.

SENATOR NEWELL: Mr. President, I would like to have a Call of the House just in case we are not all here.

PRESIDENT: We are under a Call, so there is.....

SENATOR NEWELL: Well, I would like to have everybody check in. That is what I meant to say.

PRESIDENT: Well, we just did it.

SENATOR NEWELL: It would be good to have a....

PRESIDENT: I feel reasonably sure everybody is here that is....because I don't...the Sergeant at Arms will correct but I don't see anyone that's left.

SENATOR NEWELL: Is there anyone who is excused? I would feel...I mean I....

PRESIDENT: Five. Five people are excused.

SENATOR NEWELL: I would feel reasonably more assured if we did just let them check in and have a roll call.

PRESIDENT: Well, the Chair is very certain that everyone is here that is not excused. If you want a roll call vote, I guess at this point you are entitled to that. Senator Higgins.

SENATOR HIGGINS: Would I be in order if I asked who is excused?

PRESIDENT: Yes, you may ask that.

SENATOR HIGGINS: Who is excused?

PRESIDENT: Do you want to tell them who is excused?

CLERK: Mr. President, Senators Beyer, Burrows, Marvel, Nichol and Schmit are excused.

SENATOR HIGGINS: Thank you.

PRESIDENT: Senator Newell, do you wish to have a roll call vote. Otherwise, I am going to call for the....

SENATOR NEWELL: Roll call.

PRESIDENT: Roll call vote has been requested. Everybody is here that can be here or that is not excused. So go ahead with the roll call vote, Mr. Clerk.

CLERK: (Read the roll call vote as found on page 1766 of the Legislative Journal.) 19 ayes, 22 nays, Mr. President.

PRESIDENT: The motion fails. The next....yes, Senator Haberman. The Call is raised. The next motion on the desk, Mr. Clerk. Read the motion.

CLERK: Mr. President, Senator Chambers would move to return LB 757 to Select File for a specific amendment. (Read the Chambers' amendment as found on page 1766 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature and Senator Warner especially and Senator Kahle and some of the others, since LB 757 has been amended to add an additional half percent of sales tax by the state, my amendment would take one-half percent off the sales tax currently levied by cities of the metropolitan class. This would let the state get its half percent but it would not require the citizens of metropolitan class cities, mainly Omaha, to have to absorb an additional half percent sales tax. You know that with the extra cent and a half tax that Omahans pay now there is nothing in the rebate or credit that takes that into account. What I would hope that you would do is adopt this amendment. Most of the Omaha area senators did not vote to readvance LB 757. What I think the rest of the senators ought to look at is the fact that the sales tax and the income tax are the primary generators of revenue for the state. This offers the opportunity for the Legislature to say two things, that the state is going to use the sales tax to raise revenue but also it is going to protect that base and the citizens by not allowing a continuation of the heaping of one tax upon another tax. If you read the newspapers at all during the past recent months, you saw that Omaha had about a $3 million surplus in its treasury. They say this came partly because there was more interest return on their money than they expected, but regardless of where the money came from it doesn't say when it goes into the treasury where it came from. All it says is that it represents a surplus for the City of Omaha. If you are going to impose an extra half cent tax as

757 seems is the intention, I would hope that you would give some thoughts to what is equitable and just. A city council can submit to the people for a vote the question as to whether an extra half percent tax should be levied. The city is thinking only of its own interest. When an issue is properly presented to the Legislature, the Legislature has not only the duty but the absolute right to consider that. The question now is not one of a tax levied by Omaha on its citizens dealing strictly with Omaha interest but the interplay between the taxing power asserted by the city and that asserted by the state. When there appears to be a conflict and the conflict is based on what is in the best interest of the citizens, the state should preempt what the city has done. We are talking about the people who are taxed in Omaha now as citizens of the city and of the state. We have by analogy the dichotomy which exists sometimes between state citizenship and national citizenship. The national always prevails over the state. Certain provisions of the U.S. Constitution were made to apply to the states by the enactment of various other amendments to the U.S. Constitution, the 14th notably. So we have a situation where one individual is being acted upon by two taxing authorities. The double tax is not fair. It is clear that the state intends to impose its tax and it does have the paramount taxing authority. What I hope that the state will now do through the consideration by the Legislature is to bring about an equitable readjustment of the overall amount of tax that people in Omaha are going to have to pay. I am not asking you by this motion to reduce the amount of tax that people in Omaha will pay, I am asking you simply not to increase it. If you adopt this amendment, Omahans are not paying less tax than people throughout the rest of the state. Omaha will still be paying a full one percentage point more tax than people in most of the rest of the state. They will still be paying 4½ percent sales tax. So I hope you will accept this amendment so that the people in Omaha will not be paying 5 percent sales tax while everybody else is paying 3½, practically everybody else. In some cities I know they have levied it another half percent. But what Senator Cope said about this not being the time to take the tax off, at the federal level they are talking about tax cuts where income is concerned and the biggest cuts are coming for the affluent who really don't need it. They want it obviously but they don't need it like those at the lower levels who ultimately will be paying more income tax than they are paying now with the so-called cut. I don't know what I can say that would make you see the injustice of allowing the present system to exist as it does. Burdensome taxes are not liked by anybody. America's tradition is one of being opposed to what they consider unjust

taxes. England felt that they could establish the right of Parliament to tax the colonies by an innocuous tax on tea, not a large amount. The intent was not to raise revenue but just to maintain the right of Parliament to levy taxes on the colonies. The colonists stated that their rights could not be purchased for the price of a cup of tea. So as you know at the Boston Tea Party they experimented with how well tea could be made with salt water. Now we don't have those kind of objections expressed by the populace in these days. People are more willing to let their elected representatives look out for their best interests. In this case I wish the senators who do not come from the Omaha area would view the citizens independently of how you may view any of us who come from Omaha as senators, view them as citizens of the state who have an undue burden placed on them if this amendment is not adopted. So that it is clear what the amendment does, it takes one half percent from the amount of sales tax currently being levied by cities of the metropolitan class. I hope you will adopt this amendment.

PRESIDENT: The Chair recognizes Senator Hefner. We really ought to have...I have never done this before but I think we ought to have at least one other speaker.

SENATOR HEFNER: Mr. President and members of the Legislature, I rise to oppose bringing this bill back to add this amendment. I think that a lot of us warned you in the previous years that if the city sales tax got too high, then the senators from that particular area would oppose raising the state sales tax and this is what is happening. At the present time we have a bill before us that would give Lincoln the authority or at least let it be brought before a vote of the people to increase the sales tax a half a percent in Lincoln. And, of course, it will be very interesting to see what senators vote for this bill. Therefore, I would urge you to vote against the Chambers motion to bring this bill back to strike a half a percent sales tax from those cities that have it. Thank you.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President and members of the Legislature, I kind of have mixed emotions about Senator Chambers' motion. In one sense I feel that if it is adopted it will severely weaken 757. On the other sense I kind of think this would bring this whole issue to a head and maybe 757 ought not pass. I certainly don't think it ought to pass without the elimination of sales tax on food. If Senator Chambers' amendment is attached to this bill, that would give

us an opportunity to come in one more time with some other provisions. But I guess at this point in time it is not the responsibile thing to do and I would urge this body to reject it.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I have somewhat mixed emotions, frankly, solely on the basis that I only once have supported giving away the state's tax base and I see the wisdom of not doing that. And I assume it is a practical matter that Senator Chambers' amendment should not be adopted. The previous amendment that we had, I was in error and Senator Newell very graciously corrected me. Although I had the wrong reason I did have the right argument which was that that amendment was going to increase the sales tax by a fourth of a percent. So it would have had an impact on everyone else. I guess, Senator Chambers, I am in a position on this amendment that I couldn't be the 25th vote but I am in total agreement with the arguments that you make, but I know as a practical matter we cannot do it without creating serious problems for those cities that are relying on this for receipts.

PRESIDENT: The Chair recognizes Senator Sieck.

SENATOR SIECK: I call the question.

PRESIDENT: You were the last speaker, so, Senator Chambers, we are to you for the closing. Senator Chambers now closing on his motion to return.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature and especially Senator Hefner, I spoke very vigorously against the Omaha sales tax. I stumbled one time when they were trying to move that bill from General File to Select File because I didn't like the way that the Omaha senators were groveling before this body. It was a principled vote as far as the overall integrity of the delegation was concerned. It was an unprincipled vote because it was contrary to what I really believe on the specific issue that was before us. So whatever scorn is heaped upon my head for that vote, I readily accept it. I conceded that at the time that I tried to help move that bill, but I saw a bigger issue. However, I have never felt that the cities should be levying these taxes. So, Senator Hefner, if you want to punish the senators from Omaha, there are better more direct ways to do that than by saying we are going to fix all the people in Omaha by burdening them further. If they have unwise representatives, you can say, they are unwise

for having sent those representatives here. But we know that the people don't have much opportunity to judge in advance what manner of man or woman they will send to the Legislature to represent them. We know that with the meager coverage that the news media is able to give to legislative proceedings, there is very little in the way of an accurate picture anybody will have of anyone of us and certainly no accurate picture of the group as a whole. So this is not the time to take a vindictive stance and say, I will not vote for this amendment because we told the Omaha senators this day would come. You are not the only ones who told them and they themselves knew it, but they just thought it would be postponed further in the future and we all know based on how human nature operates, if an impending crisis is impending but far off in the future, it is not even viewed as a crisis and is not even viewed as impending and that seems to be a contradiction of terms. But as a problem gets closer and closer people become more aware of it. They realize that something must be done about it. This is the time when something needs to be done about this situation and those senators who claim that the state should not give its tax base, should vote for this amendment. Those senators who believe in equity as far as taxation is concerned ought to vote for this amendment. The impact or the effect of this amendment is to say that Omaha taxpayers where the sales tax is concerned will continue to pay the same amount that they are paying now, 4½ percent. Most of the rest of the state with the increase that 757 is imposing will be paying only 3½ percent. So I am not telling you to give anything to the people who pay taxes in Omaha, but I am asking that we stop being Hood Robin which means to take from the poor to give to those who are not poor. The sales tax does that. I don't see how anybody who says they have a mixed feeling about this bill could vote against the amendment. The reason there is a mixed feeling is because you know what is right but you are wondering about...I don't know what word to use, I don't want to use one of those bad terms that indicates somebody is just political in their vote, but whatever the term is that I don't want to say, you know what it is. You know what is right but for some reason....

PRESIDENT: One minute, Senator Chambers.

SENATOR CHAMBERS: ....it doesn't seem feasible or convenient to do what is right. That is the only reason there is a mixed feeling. The mixture of feeling doesn't come because you can't determine what ought to be done. The problem is that you know what ought to be done but you are reluctant to do it. And I say whenever that type of moral dilemma arises, the thing to do is what is right. You can always live when

you have made a decision that is right. It is more difficult to live with a decision that you knew was wrong at the time you made it. So I am asking that you adopt this amendment and even if you have second thoughts later, there is time. But if we act initially, let the initial action be from our better sentiments and our more just movings. I think this amendment ought to be adopted and I hope you will support it.

PRESIDENT: The motion before the House is the motion to return LB 757 for the specific Chambers amendment. All those in favor vote aye, opposed nay. Have you all voted? Senator Chambers, what do you wish to do?

SENATOR CHAMBERS: I will ask for a Call of the House.

PRESIDENT: All right, motion is, shall the House go under Call? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 22 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The motion carries. The House is under Call. Once again the Sergeant at Arms will secure the Chamber. All nonauthorized personnel will leave the floor. All members will register your presence and the House is under Call. Senator Chambers, did you then want to have a roll call vote or what did you wish to do? All right, we will wait for them to return. Senator Goll, Senator Beutler, Senator Goodrich, Senator Koch, Senator Labedz, Senator Newell, Senator Wesely, Senator Wiitala. Senator Wesely is here. Senator Wiitala is here too. Senator Higgins is excused. Senator Labedz is coming down too. Senator Beutler is here. Senator Newell and Senator Goodrich I guess are the ones we are looking for. Senator Newell and Senator Goodrich. There's Senator Newell. Now if we find Senator Goodrich we are ready to go. We are waiting for Senator Goodrich. If he is within the hearing of our voice, would he please come to the Chamber. Would the Sergeant at Arms make sure that while we are waiting for some that the others do not leave. That has been part of our problem. We gain one and lose two and that is not very good arithmetic. So I am asking the Sergeant at Arms to make sure that once we get here we stay here long enough to vote. We also need enough here to vote to recess for lunch pretty soon. Ready, Senator Chambers. All right. Senator Chambers said to proceed. You want a roll call vote now on the return of LB 757 for the Chambers specific amendment. Proceed with the roll call, Mr. Clerk. Yes, Senator Chambers.

SENATOR CHAMBERS: The amendment is brief, could it be read?

PRESIDENT: All right, Mr. Clerk, will you read the motion?

CLERK: (Read the Chambers amendment as found on page 1766 of the Legislative Journal.)

PRESIDENT: Proceed with the roll call vote, Mr. Clerk.

CLERK: (Read the roll call vote as found on pages 1766 and 1767 of the Legislative Journal.) 21 ayes, 19 nays, Mr. President.

PRESIDENT: The motion fails. Anything further on the bill?

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

PRESIDENT: Okay, it's right where it is, it's on E & R for Engrossment. Do you have some matters to read in, Mr. Clerk?

CLERK: Yes, sir, I do. Mr. President, Senator Barrett would like to remind the members of the Business and Labor Committee of their meeting at 12:30 on the state labor contracts. That is going to be held in Room 1019. That is Business and Labor in Room 1019 at 12:30.

Mr. President, explanation of vote offered by Senator Hoagland. I have an amendment from Senator Hoagland to LB 956 he would like printed in the Journal. (See page 1768 of the Legislative Journal.)

I have a communication from the Governor. (Read communication regarding LBs 739 and 892 as found in the Journal on page 1767.)

Mr. President, the Governor has delivered Constitutional Amendment, LB 766, without his action.

PRESIDENT: Anything further? Senator Lamb, what do you wish to do? Do you wish to take up anything before noon or do you want to break now and come back? Senator Lamb.

SENATOR LAMB: Mr. President, I move that we recess until 1:30.

PRESIDENT: All right, motion is to recess until 1:30. All those in favor signify by saying aye. Opposed nay. We are in recess until 1:30.

Edited by: Mary Turner

RECESS

April 7, 1982

LB 688, 708, 753, 757, 835, 854, 854A, 933, 568

SENATOR LAMB PRESIDING

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

CLERK: Mr. President, we have a quorum. Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 568 and find the same correctly engrossed; 688; 708; 753; 757; 835; 854; 854A and 933, all correctly engrossed.

SENATOR CLARK: The bill is declared passed on Final Reading. The Clerk will now read 753. Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: I don't have some of these bills in my bill book and I wonder if anybody else is short of them too. I haven't had the last two. I just wondered if anybody knows about this. If I am the only one...

SENATOR CLARK: Does everyone have them? Does anyone else not have them?

SENATOR NICHOL: Okay, thank you.

SENATOR CLARK: We will get a copy for anyone who doesn't have it. Sometimes they make a mistake putting them in. They put them in the wrong location. The Clerk will continue reading.

CLERK: (Read LB 753 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay. Have you all voted? Once more, have you all voted? Record the vote. Senator Stoney. A roll call vote has been requested. The Clerk will call the roll. We must have quiet. There is no way to hear up here.

CLERK: (Roll call vote taken. See page 1912, Legislative Journal.) 34 ayes, 12 nays, Mr. President.

SENATOR CLARK: The bill passes with the emergency clause attached. LB 757E please. I guess it has been too long.

CLERK: (Read LB 757 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Senator Warner.

SENATOR WARNER: Mr. President, I guess I would ask for a roll call vote on this one, too.

SENATOR CLARK: A roll call vote has been requested. The Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1913, Legislative Journal.) 34 ayes, 12 nays, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read 835.

CLERK: (Read LB 835 on Final Reading.)

SENATOR CLARK: All provisions relative to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: (Record vote read. See pages 1913 and 1914, Legislative Journal.) 27 ayes, 18 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. The Clerk will now read 854.

CLERK: (Read LB 854 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See pages 1914 and 1915, Legislative Journal.) 36 ayes, 8 nays, 3 excused and not voting, 2 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. The Clerk will now read 854A.

CLERK: (Read LB 854A on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay. It takes 30 votes.

CLERK: Senator Clark voting yes.

SENATOR CLARK: While we are waiting for the vote, I would like to announce that we have 40 juniors and seniors from Omaha North High School in the North balcony. Will you stand and be recognized please. We also have 35 seniors

I mean a roll call vote.

SENATOR CLARK: (Interruption) a record vote and a roll call vote.

SENATOR NEWELL: You know, I have changed my mind. I would like to have people vote for this resolution. The more I think about it, Senator Chambers has a good point.

SENATOR CLARK: Well, we are talking about a roll call vote. The Clerk will call the roll if he don't want anyone else in here.

CLERK: (Roll call vote taken. See page 1937, Legislative Journal.)

SENATOR CLARK: We can't hear anything up here at all, gentlemen, please. I just say gentlemen because the ladies are not talking. When you quiet down, then we will go ahead and call the roll. (Gavel) That helped some. Go ahead and call the roll.

CLERK: (Roll call vote continued.) 16 ayes, 12 nays, Mr. President.

SENATOR CLARK: The motion lost.

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

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 89, 714, 714A, 669, 669A, 609, 609A, 604, 604A, 278, 629, 629A, 480, 568, 909, 854, 854A, 835, 757, 753, 708, 688, and 966.

President, I have a communication from the Governor addressed to the Clerk. Engrossed LB 753 and 757 were signed by me on April 14th and delivered to the Secretary of State. Sincerely, Charles Thone, Governor. (See page 1941 of the Legislative Journal).

Mr. President, LR 292 is offered by Senator Barrett, Remmers and Lamb. It is on page 1585 of the Journal.

SENATOR CLARK: Senator Barrett.

SENATOR BARRETT: Mr. President and members, many of you have probably noticed the series of six prints which are on permanent display in the Moses P. Kinkaid hearing room number 1520 Senator Koch. These, this seris of print is entitled "From Sea to Shining Sea", and is made possible by Mr. John Falter the artist the former native of Plattsmouth, Nebraska, born in Plattsmouth in about 1910 now living with his wife in Philadelphia and still actively painting. The gift, this outstanding gift was made possible on the occasion of the 50th Anniversary of the State Capitol Building by Mr. Cliff Hillegass of Lincoln, Nebraska. So this resolution simply is an official thank you to Mr. Hillegass for his most generous contribution to the State of Nebraska, also recognizes Mr. Falter the artist for his talent and the beautiful prints which are now permanently a part of the state property. So I'm pleased to join with Senators Remmers and Lamb in the introduction of this resolution. I move the adoption.

SENATOR CLARK: Question before the House is the adoption of the resolution. All those in favor vote aye, opposed vote nay. Voting aye. Record the vote.

CLERK: 27 ayes, 0 nays on adoption of the resolution, Mr. President.

SENATOR CLARK: The resolution is adopted. LR 293, by Senator Higgins, is she here?

CLERK: Mr. President, Senator Labedz and Higgins move to offer 293, it is on page 1610.

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. LR 293 is a very brief resolution to commend and congratulate the Forensics Team of the University of Nebraska at Lincoln for their outstanding season, especially the teams first place finish last month in the Delta Sigma Rho-Tau Kappa Alpha