

January 13, 1982

SENATOR SCHMIT: Because we know if you include the incorporated area the rural people will be outvoted ten to one most times and we don't like that and so as a result we exclude them. Ladies and gentlemen, it won't work and as Senator DeCamp has said, we will be coming back here next year and try to bail ourselves out quietly, peacefully and piecemeal. Rather than to get ourselves out of a trap, let's stay out of the trap.

SPEAKER MARVEL: I think we need to recess now. Let me indicate the order after the recess. Senator Koch, Senator Lamb, Senator Beutler and Senator Haberman. Do you have something to read in?

CLERK: Mr. President, new bills. (Read by title for the first time, LBs 814-819 as found on pages 266-267 of the Legislative Journal.)

Mr. President, a new resolution, LR 206 by Senator Chambers. (Read as found on pages 267-268 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senator Richard Peterson would like to print amendments to LB 267. (See page 268 of the Journal.)

And, finally, LR 203, 200 and 197 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LR 203, 200 and 197. Senator Vickers, do you want to recess us until one-thirty, please?

SENATOR VICKERS: Mr. President, I move that we recess until one-thirty this afternoon.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. We are recessed until one-thirty.

Edited by L. M. Benischek
L. M. Benischek

January 26, 1982

LB 274, 572, 623, 816, 948

to start getting too greedy.

SPEAKER MARVEL: The bill automatically lays over. Now the Clerk has some items on the desk.

CLERK: Mr. President, I have a designation of LB 572 as a priority bill by the Speaker.

Mr. President, reminder that the Judiciary and Banking Committees will be switching hearing rooms today for public hearing.

I have an Attorney General's Opinion addressed to Senator Pirsch, one to Senator Schmit. Both will be inserted in the Journal. (See pages 422 through 427 regarding LBs 948 and 816).

I have public hearing notices from the Urban Affairs Committee for February 10 and 17, and one from Retirement for February 3, and one from Retirement for February 9.

Banking reports LB 623 advanced to General File with amendments, Mr. President.

Mr. President, in addition to that I have a notice of hearing offered by the Ag and Environment Committee. In addition, the Ag and Environment Committee would like to cancel the hearing scheduled for Friday, this coming Friday, January 29. In order to do that, Mr. President, Senator Schmit needs to suspend Rule 3, Section 12, so as to permit the cancellation of the public hearing.

SPEAKER MARVEL: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I would like to move to suspend the rules and cancel that hearing because it is similar to another bill which we have scheduled for a later date, and it will be much more convenient for the individuals who will testify if we hear both bills on the same date. So I would ask you to vote for the rule suspension.

SPEAKER MARVEL: The motion is to suspend the rules to cancel the hearing. Is there any further discussion? All those in favor of Senator Schmit's motion vote aye, opposed vote no. We are talking about 30 votes. Have you all voted? Okay, record the vote.

CLERK: 33 ayes, 0 nays on the motion to suspend the rules and cancel the hearing, Mr. President.

SPEAKER MARVEL: The motion is carried. Other items?

CLERK: No, sir, I am through.

February 22, 1982

LB 684, 816, 834

Mr. President, Senator Fenger would like to print amendments to LB 616 in the Journal. (See pages 805-806 of the Legislative Journal.)

The Speaker has a list of priority bills as designated by the Speaker. (See page 806 of the Legislative Journal.)

Senator Cullan would like to expedite LB 834.

SENATOR NICHOL: If there are no objections, so ordered.

CLERK: And again, Mr. President, a reminder that the Education Committee will have an executive session immediately following their public hearing this afternoon.

I have an Attorney General's opinion, Mr. President, addressed to Senator Cullan. That will be inserted in the Legislative Journal regarding LB 684. (See page 807 of the Legislative Journal.)

SENATOR NICHOL: Senator Marsh, for what reason do you rise?

SENATOR MARSH: I rise to ask the body to adjourn until tomorrow morning.

SENATOR NICHOL: Wait just a minute. I think the Speaker has something to say to us, Senator Marsh, and then I will call on you.

SENATOR MARSH: Thank you.

SENATOR NICHOL: We will be at ease for just a moment. The Speaker will be with us in a minute.

EASE

SENATOR NICHOL: The Speaker will be back with us momentarily so if you would just hang on we'd appreciate it. Mr. Clerk, do you have something to read in?

CLERK: Mr. President, just very quickly I have a list of priority bill designations by the Speaker to be inserted in the Journal. (See page 806 of the Legislative Journal.)

SENATOR NICHOL: Senator Marsh, would you please adjourn us until nine tomorrow.

SENATOR MARSH: Thank you, Mr. Chairman, I move that we adjourn until nine o'clock tomorrow, February 23rd.

SENATOR NICHOL: All those in favor signify by saying aye, opposed nay. We are adjourned.

EDITED BY:

Mary A. Turner
Mary A. Turner

7878

April 1, 1982

LR 233, 238, 239
LB 705, 816, 893

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of the Carsten amendment.

SENATOR CLARK: The amendment is adopted. Anything further on the bill?

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

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 705.

SENATOR CLARK: The motion is to advance LB 705, but Senator Nichol wants to wait a while. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, there is an amendment that we passed out this morning. Didn't I give you a copy of it? And then also there is one other small amendment that should be put on and I can have that ready after lunch, so I would prefer to hold it until after lunch so that we don't take it over to Final Reading and have to bring it back.

SENATOR CLARK: We will hold it until after lunch. Senator Wesely, you had an announcement to make and then would you like to recess us until 1:30 after this. Wait, we have some things to read in first.

ASSISTANT CLERK: Mr. President, I do have a series of items to read in. Your committee on Ag and Environment whose Chairman is Senator Schmit reports 893 to General File with amendments. Your committee on Revenue whose Chairman is Senator Carsten reports LB 816 to General File with amendments. (See pages 984-986 of the Journal.)

New resolutions, LR 238 offered by Senator Koch. (Read LR 238 as found on pages 983 and 983 of the Legislative Journal.) That resolution will be laid over.

LR 239 also offered by Senator Koch. (Read LR 239 as found on page 983 of the Legislative Journal.)

Mr. President, your committee on Appropriations gives notice of Executive Session on Saturday, March 6th at 8:00 a.m.

Finally, Mr. President, I have an amendment from Senator Schmit to be printed in the Journal. That amendment is to LR 233. (See page 986 of the Journal.)

March 8, 1982

LR 237
LB 816, 817, 870, 956

aye, opposed vote nay. Have you all voted? Once more, have you all voted? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, though I am within striking distance, I am too proud to beg. You can record the vote.

SENATOR CLARK: Record the vote.

CLERK: 20 ayes, 12 nays, Mr. President, on adoption of Senator Chambers' amendment.

SENATOR CLARK: The motion fails. We are back on the original amendment. There is nothing else on the amendment. Senator DeCamp.

SENATOR DeCAMP: Let it rip.

SENATOR CLARK: The question before the House is the adoption of the resolution. All those in favor vote aye, opposed vote nay. A record vote has been requested. Senator Clark voting aye.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: (Read the record vote as found on pages 1045 and 1046 of the Legislative Journal.) 33 ayes, 9 nays, Mr. President, on the motion to adopt the resolution.

SENATOR CLARK: The motion carried and the resolution is adopted. We will now go to item #5. Do you have anything to read in, Mr. Clerk? All right, go ahead.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 870. Mr. President, Senator DeCamp would like to print amendments to LB 816. (See pages 1042 through 1044 of the Legislative Journal.) And your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle instructs me to report LB 956 advanced to General File with committee amendments attached. (See page 1046 of the Journal.) And, Mr. President, your committee on Public Health gives notice of hearing for gubernatorial appointment hearings. (See page 1046 of the Journal.)

SENATOR CLARK: We will now go to item #5 and we will take up LB 817.

CLERK: Mr. President, LB 817 was a bill introduced by

March 9, 1982

LB 587, 652, 750, 752,
816, 895, 915

RECESS

SPEAKER MARVEL PRESIDING

CLERK: A quorum present, Mr. President.

SPEAKER MARVEL: Okay, the Clerk has some items to read into the record.

CLERK: Mr. President, your committee on Public Works whose Chairman is Senator Kremer instructs me to report LB 750 as indefinitely postponed; LB 752 indefinitely postponed; LB 915 indefinitely postponed. All signed by Senator Kremer as Chair.

Mr. President, I have an Attorney General's opinion addressed to Senator Carsten regarding LB 816. That will be inserted in the Legislative Journal. (See pages 1068-1070.)

Mr. President, I have a motion from Senator Kremer to place LB 587 on General File notwithstanding the action of the committee. That will be laid over.

Mr. President, Senator Kremer would like to print amendments to LB 895 in the Legislative Journal.

SPEAKER MARVEL: Okay, we will return to item #5, LB 652.

CLERK: Mr. President, when we left 652 this morning there was pending a motion from Senator Hoagland to indefinitely postpone the bill.

SPEAKER MARVEL: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and colleagues, I rise to oppose the kill motion and the reason I do is because I feel that we have made a fair compromise. I think that we found a fair and just solution to the problem that we have been toying with over the past year and a half. I don't think that just because a teacher is certified that this means she or he is good. I think we can write other things into the law that would help our school system in Nebraska. We were able to get some amendments to the bill this morning that I feel are a compromise and one of those is the sunset provision. If it isn't working by the end of four years, we can take another look at it and make some adjustments then. We are also striking the section in the Peterson-DeCamp amendment that waives some of the requirements of the school. I think that Senator DeCamp and Peterson have been very fair and I want to commend Senator

March 15, 1982

LB 633, 816, 882, 893

Kahle on LB 882; one to Senator Carsten regarding LB 816 and a fourth to Senator Cullan on LB 893. (See pages 1153-1163 of the Legislative Journal.)

PRESIDENT: Alright, we're ready then for the next bill on General File, priority consent calendar, LB 633.

CLERK: Mr. President, LB 633 is a bill offered by Senator Clark. (Read.) The bill was read on January 6, referred to Public Works. The bill was advanced to General File, Mr. President. There are Public Works Committee amendments pending.

PRESIDENT: The Chair recognizes Senator Kremer for purposes of discussing the committee amendment.

SENATOR KREMER: Mr. Chairman, members, here again we're dealing with telephone companies in a little bit different light. This bill, just to make a brief statement, I already explained the amendments, provides that a telephone company can assess a rate increase and impose that increase on a temporary basis until such time that the PSC acts upon it. However, the committee amendments provide, since we use the language, "common carrier," it limits the word common carrier to telephone companies. So we're dealing under the committee amendment only with telephone companies. Secondly, it provides that they can collect only 75% on a provincial basis of this rate request until such time that the PSC acts upon it. Then should the PSC make a decision and they are in excess of what they are allowed under this decision, that excess has to be returned to the subscriber. That, in essence, is the explanation of the committee amendments. I move their adoption.

PRESIDENT: The Chair recognizes Senator Clark. Okay, Senator Beutler, do you wish to discuss the committee amendments? Senator Beutler.

SENATOR BEUTLER: A question of Senator Kremer, if I may.

PRESIDENT: Senator Kremer, will you respond.

SENATOR BEUTLER: Senator Kremer, the committee apparently added the language, "When making its final determination on the application, the commission shall not consider the rates and charges of the company put into effect pending such final determination." What is the purpose of that particular language?

SENATOR KREMER: Well, the rate increase can take place only until such time, I mean on a temporary basis, and then only 75% of the request, until such time the PSC acts upon it.

March 17, 1982

LB 619, 629, 726, 816

CLERK: Mr. President, very quickly Senator Kremer would like to print amendments to LB 726; Senator DeCamp to LB 619; Senator Carsten to LB 816. Mr. President, a new resolution LR 254 offered by Senator Koch. (Read. See pages 1234-1238 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, LB 629 is a bill introduced by Senator DeCamp. (Read.) The bill was read on January 6 of this year. It was referred to the Miscellaneous Subjects Committee for hearing. The bill was advanced to General File, Mr. President.

SENATOR LAMB: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I move advancement of the bill. I will try to be very brief because I know we have a lot of business to get done here. The bill simply for the first time in eleven years tries to provide the newspapers who are ordered by law to print certain items that normally they probably wouldn't print, in fact have no reason to print, the opportunity to recover close to actual costs of printing those things. The increase is from, well its about one-third. The last time, I repeat, it was increased was eleven years ago. Additionally the legislation does one other important thing and that is it puts a system where you can look in the book and have uniformity of price, so that whether you go to Ogallala or Neligh or O'Neill or Omaha, you have a standard price for a certain amount of words. Previously, because different people used different kinds of type, different kinds of newspaper, nobody really knew for sure whether they were paying fifty cents in one place and twenty cents in another for identical things. This would establish a uniform system. Mr. President, I urge advancement of the bill. As I say, I would try to answer any questions. Let me just say that this increase is probably very small compared to what it should be. I repeat again the last increase to cover these mandated publishings was eleven years ago. As an example newspaper, the paper itself, has gone from like a \$17⁴ a ton to five hundred and sixty some dollars a ton and a printing of this material, the types of things we're talking about, legal notices, so on and so forth, notices of bids, interestingly enough, even with this increase, incredible as this sounds, would still be only one-third the cost of me putting in, for example, an ad or a publication on something for an auction or a legal advertisement or something like that. It probably doesn't even recover the actual cost of printing it but we mandate the papers do it. I urge advancement of the bill.

SENATOR LAMB: Amendment on the desk.

March 18, 1982

LB 358, 611, 714A, 760, 816

Senator Landis and DeCamp would like to print amendments to LB 358. (See page 1263 of the Legislative Journal.)

New A bill, Mr. President, LB 714A offered by Senator DeCamp. (Read. See page 1264 of the Legislative Journal.)

Mr. President, Senator Hefner would like to have a meeting of the Miscellaneous Subjects Committee underneath the North balcony upon adjournment, Miscellaneous Subjects, North balcony upon adjournment.

Senator Kahle would like to print amendments to LB 611; Senator Schmit to print amendments to LB 760, Mr. President. (See page 1264 of the Legislative Journal.)

SENATOR CLARK PRESIDING

SENATOR CLARK: The next bill is LB 816.

CLERK: Mr. President, LB 816 was a bill that was introduced by the Revenue Committee and signed by its members. (Read.) The bill was read on January 13 of this year. It was referred to the Revenue Committee for public hearing, Mr. President. The bill was advanced to General File. There are Revenue Committee amendments pending.

SENATOR CLARK: Senator Carsten, on the amendment.

SENATOR CARSTEN: Mr. President and members of the Legislature, I move for the adoption of the committee amendment. At this point, Mr. President and members, I feel a little washed out and I say that in jest but it has been a long day with water bills and I think we're moving now into an area that we, everyone of us, have a deep concern and that is this distribution of the \$70 million governmental subdivision fund with which we have had so much problems. The committee amendments to the bill and I'm going to take them first and explain them. As amended it revises the distribution of the \$70 million state aid to local government fund. In addition to that \$70 million, \$12.6 million governmental subdivision fund is revised in light of the opinion, #182 of the Attorney General, January 25, 1982. The basic concept of the bill is to place the approximate amount of funds received by the counties, schools, cities and technical colleges into existing state aid funds received by those types of local government...

SENATOR CLARK: (Gavel.) Could we reduce the noise level, please so he can talk.

SENATOR CARSTEN: ...with the following exceptions. 1. Funds

added to the state aid to schools fund are distributed solely based on the foundation portion of that formula. 2. The counties share of these funds is used to eliminate the county share of Medicaid payment and, 3. The cities share under the governmental subdivision fund is distributed based on population rather than valuation because of the above opinion of the Attorney General that the former distribution is unconstitutional. No additional state funds are added to the present \$82.6 million total of these two state aid funds. The constitutionality of LB 816 as amended by the Revenue Committee has been approved by the Attorney General and you have in your hands a copy of that opinion, #213, marked March 8. Now, Mr. President, if I may, I would like to offer my own personal amendment, not a committee amendment, to the committee amendments and I would ask that the Clerk, if I may, Mr. President, have him read that amendment of mine.

SENATOR CLARK: The Clerk will read it.

CLERK: Senator, it is referenced on page 1234 of the Legislative Journal.

SENATOR CARSTEN: Yes, it is printed in the Journal, correct.

CLERK: Would you still like me to read it, Senator?

SENATOR CARSTEN: Yes, if you would please.

CLERK: (Read Carsten amendment as found on page 1234 of the Legislative Journal.)

SENATOR CARSTEN: Thank you, Mr. Clerk. Now, Mr. President and members of the Legislature, I would like to deal with the amendment to the committee amendments. And the reason for this amendment, and I want to emphasize again to you, this is not a committee amendment, it is my own amendment. But in light of the committee amendments and the bill itself, we have had numerous communications from counties saying that they were being hurt very badly. In reexamining our proposal along with the director or executive secretary of the County Officials Association we have looked at another alternative that seemed to be appropriate to be addressed in this area of a distribution formula. Using dollar amounts of property taxes paid by county as it is percentagewise according to the total of the state, we have taken from the cities \$1 million which leaves them \$17.9 which as we understand it and as we believe to be measured correctly as best we can, will not hurt them but will change the county to \$17.7 million replacing the Medicaid which we had in the original bill. So what it does is designed as an alternative to using the counties funds to

allow the state to assume the counties' Medicaid payment. In addition, this does help some of those counties and I want to refer you to the passout that we have given to you to the best of our knowledge and to the latest figures that we can get from several sources, the comparisons that you have in your hands now. This was done, as I said, with our Revenue Committee staff along with the Association of County Officials. It does seem to me that we are trying hard to bring at least as much equity as we can under this formula even though we're fully aware that some are going to be helped and some are not going to be helped and I say to you that over the last two or three years the Revenue Committee as well as several individuals in this body has tried desperately hard to find a formula that was constitutional, that had as great a degree of equity in it as possible and that was constitutional without question. It is a difficult role and I suggest to you now, if you have a better way, I would hope that you would come to us and work with us to get this problem solved on a permanent basis. But we believe this is one step. It is one that we have not taken before but in light of the suit that is now pending before the Supreme Court we may very well find ourselves in the same position that we were in very recently and find that that \$70 million has been held up. The governmental subdivisions will not have that money to be used and we will be called back in here and in a short few days, draft a distribution formula again. Now that seems unfair and unless you want to spend some time this summer or fall in the event that the Supreme Court does find that the present formula is unconstitutional, then I would suggest you support this proposal that is before you today. I think you have been informed that the Attorney General's opinion of the formula that we're now using, while this year he has told us that he will defend it, still has that question on the bottom line of whether it will be upheld or whether it won't and I think with that same thing other than the Attorney General saying he will defend it this year and he would not or could not last year, is the only significant difference that I can read in that opinion. I would, with that, Mr. President, move for the adoption of the amendment to the committee amendments.

SENATOR CLARK: Senator Kahle, on the amendment to the committee amendments.

SENATOR KAHLE: Mr. President, members of the Legislature, I think if you will look in your bill book you will find that LB 816 came out of committee with, I don't know if there were any dissenting votes or not, there may have been one, I'm not sure. I don't believe there were any. The stipulation was at that time that we would like to have a readout to what it was going to do which we did not have

and I, for one, stated at that time that I would vote to move the bill to the floor but was not necessarily sure I could support that concept if we found that there was a great disparity in amount of money received by the people out in our state local government. When we finally began to get readouts and I'm not sure we have a complete one yet, I don't know, I guess we need to buy more computers or something. It is awful hard to get information out of the Revenue Department especially on short order. But we had no more than brought the bill out until people began to get figures. I think they got them more from the Education Department than they did perhaps from the Revenue Department. I'm not sure about that. We began to hear from county officials and we began to hear from school boards that in the general area that I represent and in the area that a lot of the rural senators represent, where there is not a large city or a large population, that the shortfall was going to be considerable and I'm not faulting Senator Carsten at all. He has worked so hard trying to get this put together but there isn't a senator in here that represents either rural or urban that would not be up here speaking if their community would receive one-third to one-half less than it did a year ago and I don't think we are being unreasonable at all in objecting to 816 the way it now stands. You couldn't go home and neither could I, can I, if we let this happen. I know I haven't come up with a better solution even though we have tried. I still think the bill that Senator Schmit has worked on on a revenue sharing basis is probably the long term answer to our problem but we do not have the time to work on that this year. Senator DeCamp has circulated letters that he has gotten from the Attorney General saying that he will not fight the distribution that we used last year and that we are taking our case to the Supreme Court to see if the Lancaster District Court ruling was correct. I happen to be one that doesn't think it is correct. I think that, I'm not an attorney, but I've talked to a good many people who are attorneys who can't figure out how you can tack the distribution onto a lot of target such as real estate taxes and have it be declared unconstitutional because it follows history or something else, or that the Attorney General or the court feels that perhaps we should dole it out on a needs basis rather than on any other basis. I didn't know it was a welfare program when we started out. So I cannot accept 816 as it is. I will not beat around the bush. Buffalo County...

SENATOR CLARK: You have one minute left.

SENATOR KAHLE: ...of which I have a part of and the City of Kearney which we're part of that Kearney School District, will gain rather than lose from last year because of the

high population. All the rest of the area that I represent will lose from a third to a half of what they got last year, not only at the school level but also at the county level. So with that, I suggest that we either amend the bill that we had last year or into this bill or come up with a better solution than 816. Thank you.

SENATOR CLARK: Senator Schmit. Senator Hefner.

SENATOR HEFNER: Mr. President and colleagues, I want to make a few statements here this afternoon. If you'll notice in your bill book I did vote to advance this bill to General File and the reason I voted to advance it to General File is because I felt that we needed a bill up here to determine how we were going to distribute the \$70 million, the \$70 million from the personal property tax relief fund. I think all the committee members voted it out of committee as amended. We didn't have a printout at that time and after I received the printout, why I was kind of shocked at what some of the counties and some of the school districts in my legislative district would receive. They stand to lose over a hundred thousand dollars, some of them as much as 30% on up to 50% and of course this loss would have to be replaced with property taxes and of course you know how people feel about property taxes anymore. Also I started receiving a lot of letters and a lot of telephone calls from various subdivisions of government asking me how I expected them to pick up this great a loss with property taxes and of course I didn't have an answer for them. I want to commend our Revenue Committee chairman, Senator Carsten, for all the work that he has done on this and we've worked long and hard hours. I think some of our committee meetings ran quite late into the evening but I do not feel at this time we've found an appropriate distribution formula. And of course, the way it looks, to make it constitutional, we'd have to go on a population formula and of course you know what happens when we do that, the rural areas lose, the urban areas gain and I think that it is just a little bit unfair. So at the present time I am willing to go along with last year's formula. I know that if it is challenged by some person or some local government, the courts will probably find it unconstitutional but I'm hoping that we can pay it out for another year this way and then have an interim study when we have a little more time and try to find a solution to the problem that we have.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I do want to rise in opposition to Senator Carsten's amendment. I am very sympathetic to Senator Carsten's situation. I know as the chairman of the Revenue Committee he has worked very hard to try to effect a reasonable solution for the

unconstitutionality of the personal property tax relief fund and the probable unconstitutionality of the governmental subdivision fund and finally the committee advanced under his guidance and leadership, LB 816. What he would do with this amendment is to remove one of the attractive features of LB 816 which is to have the state finally take over the county medicaid share. Now I want you to think about why that is not a bad thing to do. One of the principal features of the personal property tax relief fund and the governmental subdivision fund has been that those two funds were capped. The governmental subdivision fund was capped at 12.6 million and the personal property tax relief fund was capped at \$70 million. So that meant that there was, the two funds when combined have a total ceiling or limitation of \$82.6 million. Now those funds were originally designed to, in effect, replace or provide to local governments some compensation for losses in their tax bases but as you recognize one thing that has happened is that, not only when their tax bases were lost, obviously revenue growth was lost and that revenue growth is lost because they no longer have the appreciating values, for example, from business inventory or the appreciating values, for example, from the farm equipment or the farm livestock. And so it has always been a real problem with a capped fund. Now the Medicaid's share of the new formula works a little differently obviously than a fund. It really relieves county government of an expense and the expense has always been a noncapped expense. It is an expense that grows at the rate of about 15% annually. Now it may well be that in due course we'll have better control over our health care costs and when we do that expense won't grow so dramatically. But by providing county government with this kind of relief, finally relieving them of the Medicaid obligation, we literally relieve them of an item that is always growing in their budget and, in my opinion, to some extent that offsets the negative aspect of the capped personal property tax relief fund and governmental subdivision fund. So I think that this is one of the times that I would be compelled to oppose the chairman of the Revenue Committee. I do know that he is trying to effect a real accommodation but I think in the final analysis that the better part of wisdom or the better part of valor is to relieve the counties of an expense item that has been growing more prodigiously than virtually any other item in county government, their share of the Medicaid costs. So at this time I would ask you not to vote for the Carsten amendment.

SENATOR CLARK: Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, I, too, want to congratulate Senator Carsten for all his hard work and I do want to tell you he did work hard but as some of the other senators have indicated, when 816 came out of the committee

I voted for it. It was kind of a weak vote. I had some misgivings about it but my feeling was more to get something out here on the floor so we could look at it and possibly even amend and after I received many letters from schools, counties, that the impact of 816 as it is right now would have upon them, it just became very evident that there is just no way that I could support 816 in its present form. I really don't think it is fair at this point and I really can't support it in the form that it is right there, so at this point I would be opposed to 816 and thank you.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I oppose 816 in its present form and of course with the amendment, the amendment basically does the same thing. In other words it wipes out all our distribution formulas now and for all practical purposes, if you come from any place other than Omaha and Lincoln, I don't think there is a hell of a lot of reason to come back once you do this. Because first of all you will have acknowledged that we're the only state in the United States where our district judges says population is the only thing in the world that we can deal with in here so that is what it has to be on everything we deal with. That is about where we are at. I think we have to find out what our limitations are in that court. Now I am going to offer an amendment to extend our existing formula for one year and, indeed, I full well recognize the risks that we might have to have a special session but I assure you, the risks of doing anything else and circumscribing your rights as legislators for the foreseeable future because of folding immediately and not even finding out from the Supreme Court which would have to have five justices say we were wrong instead of one district judge who happens to be from Lincoln all his life, I think if you don't at least take the case to court you are making a serious mistake. I also submit to you that if you change things now as is being proposed, there isn't a man in the room or a woman, has any real idea of how it affects their area except kind of halfway remotely. But if you are other than Omaha, and I love my city brethren in Omaha, help them get those sales taxes so they can tax each other, but when they get dipping in our bucket and trying to take everything, what little crumbs we have had and run with them, that I think it gets to the point of unfairness. So I urge you to reject. If you are going to be fair at all, reject Cal's amendment and reject the committee amendment and try to extend things for a year. And I'll, assuming I ever get a chance, offer that amendment here after these are disposed of one way or the other.

SENATOR CLARK: Senator Haberman. He's not here, alright. Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, members of the Legislature, I would rise to support the Cal Carsten amendment. I visited with the mayor of Grand Island this morning on the phone. He informs me that under the formula that Johnny DeCamp is talking about, because he has been a frugal mayor and has actually cut the amount of money that Grand Island has been raising in taxes, that it has cost the City of Grand Island \$40 thousand a year. It will cost them another \$40 thousand if we stay on the old formula. Under Cal Carsten's formula we'll of course gain money. I have to admit that I've said to many people on this floor that normally I would make a judgement based on what I thought was good for the State of Nebraska. I think all of you know that I represent the City of Grand Island and since, under the Carsten amendment, the city will benefit, the county will benefit and the schools will benefit in Hall County, I'd have to stand to support the amendment.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I've heard many times discussion on this floor relative to the relative merits of the many bills that have been proposed by the Revenue Committee. I want to point out I'm sorry I cannot support Senator Carsten's amendment to the committee amendment. I think the reasons have been given by Senator DeCamp. I believe they are an accurate representation of what will happen. I recognize again that Senator Carsten has worked a long time on this and is trying to do something which will resolve the problem and I would just like to disagree and say that if you can't resolve it with some equity, then I think it had better be left in an unresolved position. I'm going to just say once again and it's never been talked about at great length on this floor, but if the matter of revenue sharing cannot be resolved equitably and I think on this Senator Carsten and I agree. It is kind of interesting that many of the businessmen who supported the removal of the tax fund, personal property, have now lost interest because in Lincoln and Omaha they have taken the tax off of that personal property and business inventory and now under this type of formula they will receive the lion's share of the revenue sharing money which means that they will once again get a property tax break. When the chickens come home to roost and the harsh reality of economics are brought to bear upon them, there will be perhaps and I'm sorry to see it, the reimposition of the taxes upon business inventory and at that time again the businessman from Lincoln and Omaha will rediscovers the rural areas of Nebraska and will come back and will want some help to get some relief from their inventory

taxes. I would suggest that given the action of this body and the history of this body that that relief will not be forthcoming. There have been some very serious efforts made to attempt to resolve this problem. Once again, as many times before, my message may fall on deaf ears but let me tell you that when the message comes from the folks at home it will be a different message because the facts are going to be brought home to them at the county treasurer's office when they pay their taxes and they are not going to like it. I would think you would have to review those figures carefully. I do not have them on my desk but review them. And while only yesterday we heard the pleadings from the City of Lincoln for some relief, as we heard from years past from the City of Omaha to give them some special help and there isn't any doubt in the minds of most of us that the population shift will eventually place the control of this body with the urban legislators. For that reason there ought to be some concern on the part of all of us to be equitable because the time will come when equity is not going to be a matter of discussion on this floor. But you cannot in good conscience, notwithstanding my good friend Senator Howard Peterson's revelation that Grand Island is going to do all right this time. Eventually the old wheel comes full circle, Howard, and picks us up and squashes us. So I would hope that you would not accept the amendment to the committee amendment and that you would at least in the absence of the willingness of this body to take a good long look at a major effort to redo the revenue situation of this state, at least extend the old formula for one more year. I would have to say this in retrospect to what Senator Kremer said about 726 when he said he didn't like to shoot the duck on the set. I wish the Revenue Committee, Senator Carsten, would give me a chance to shoot 964 out of the sky. I would be willing to take my chances on the floor but unfortunately I've not been able to get that bill on the floor for four years, notwithstanding no serious opposition to the bill. Instead we'd work at it piecemeal bit by bit, piece by piece...

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: ...the cities, the counties, the schools, none of them know where they are at from year to year. We are creatures of habit. None of us likes surprises. Local governments cannot work with surprises. You're going to give most of the local governments with the exceptions of Lincoln and Omaha a very serious surprise if this amendment is adopted, one which will come back to haunt you in time to come.

SENATOR CLARK: Senator Newell, then Senator Haberman.

SENATOR NEWELL: Mr. President, members of the Legislature, I rise to support the Carsten amendment and I know that Senator Johnson has had his opportunity to speak against the amendment and I don't rise without some trepidations in terms of this issue. Basically the Carsten amendment will deny my county sizable reduction in property taxes due to a very heavy cost we have in Medicaid. Now I really would rather see, and Cal knows this, I would really rather see his amendment not go on but on the other hand, I think that we're trying to work out here an issue in the most philosophically correct manner we possibly can, an issue that has been before this body many, many, many times, an issue that has been before the courts. The courts have indicated on numerous occasions we can't distribute the money like we have. There is no way to keep the old formula unless you want to put back some personal property and that goes back to the heart of the issue and that is the equity of how we exempted those people in the first place. But the situation here is Senator Carsten is making an honest attempt to try to lessen the impact in terms of the Medicaid money and distribute that formula to the counties in a much more equitable manner. Senator Schmit opposes that. Senator DeCamp opposes it because they cling to this desire to flirt with danger in the distribution of the \$70 million. They want to beat back 816 because it is an election year, because it is the right thing to do back home for home consumption and I can appreciate that. I can not only appreciate that, I can even respect that but the truth of the matter is this is an issue that has haunted us long and will haunt us more if we don't resolve it and in a desire to compromise, I would urge my urban colleagues, especially those from Omaha, to support this proposal because in the end it will make 816 fly more easily and in the end it probably is as fair and as much as we can expect at this time. Lincoln legislators, it is a wash. It won't hurt bad to vote for Senator Carsten's amendment. People like Senator Remmers and some others, I think that frankly this is a reasonable compromise. We don't want to debate this issue long so I support it and I would urge you to support it also.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, Senator Newell, I'm surprised at you, saying that we're doing this because it is the right thing to do at home. Senator Newell and all the rest of the Omaha senators, I'd like to have you take a look at this passout that I put on your desks. Now this passout says that agriculture puts 3.6 billion dollars a year into the City of Omaha. It says that every paycheck in Omaha is affected directly or indirectly by agriculture, 3.6 billion. Now in LB 816 in two categories out

of three, my agricultural district loses over \$1,300,000. The schools in one county in my district lose \$226,000 or 50%. The Douglas County schools gain 4. plus million. So not only does agriculture put 3.6 billion, Senator Newell and Mayor Doyle, into Omaha, Boyle, thank you. He had so much trouble getting on a horse the other day I got his name mixed up. We not only put 3.6 billion into Omaha, now you want to rape us out west for a couple of million and I don't think that is fair. Let's stop and think that agriculture is Nebraska and you don't want to kill the goose that lays the golden billions of dollars. They are in trouble out there, real trouble. So let's do not pass the amendment. Let's try the formula one more year and I am asking you to stop and think what you are doing to agriculture if you pass this the way it is now. Thank you, Mr. President.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I hate to support this measure in a lot of ways because a lot of the rural areas are going to lose significant amounts. But in the Revenue Committee we've worked on this year after year and it is the eventual fallout of LB 518. There is no other way that I can see or has been presented to the Revenue Committee to constitutionally distribute this money and I think it would be irresponsible not to move out with a distribution system that will be held constitutional so that we don't go into a special session of the Legislature to get that money out. I think anything short of its passage will probably mean a special session of the Legislature and the delay in passing those funds out. The only real mistake this Legislature made was the passage of 518 with the pretext that we could continue the distribution of the funds and funded by the sales-income tax system. It never was going to work and never will because the Constitution requires that there be some reasonable rationale for distributing these funds and we have not had a method that would do better than this for the rural areas offered to the committee that appears in any way to be constitutional. So I certainly support the Carsten amendment and the passage of this bill so that these funds are passed out to the subdivisions of government. I feel it is the only realistic choice, the only reasonable thing for this body to do so I urge the adoption of the Carsten amendment. Those of us that opposed 518 took a lot of flak in doing it from some of the rural areas but it was obvious that this problem was going to come about in the future and I think it is time we do the only responsible thing and assure the continued distribution of those funds in a constitutional manner.

SENATOR CLARK: Senator Kahle, for the second time.

SENATOR KAHLE: Mr. President, I didn't get it all said the first time I guess. I'm a little bit surprised and hurt at the attitude of Senator Newell who is of course running for the county board in Douglas County. If his county were losing 50% of that instead of gaining \$4 million, I think he would pipe a much different tune. He wouldn't get six votes. I'm also disappointed perhaps in Senator Peterson because now that Grand Island is going to fare pretty well, why, he has abandoned ship. There just isn't any way we're going to be able to solve this problem if we don't work at it and I just cannot see how this body can "shnooker" those of us that live in the less populated areas to this extent. If your own budget would drop the amount that we are talking about, and I have letter after letter and figures after figures that I could quote you, Franklin County and the schools alone will lose \$147,000. Kearney County will lose \$229,000. Nuckolls County will lose \$150,000, \$157,000 and Webster County will lose \$88,000. Now Buffalo County will gain \$96,000 but that is not distributed equally either. The city, I'm sure the larger towns in the area like perhaps Ravenna, Gibbon, maybe Shelton, I don't know, but Kearney will get the biggest share of it and that is where I pay taxes so I ought to be glad too but I can't do that. I have to look at the whole picture of the State of Nebraska. We have our own problems out there. They have a lot of problems besides this particular funding. There is a lot of transportation involved. There is a declining enrollment involved. There is a poor farm economy as several of you have mentioned. There is an uprising against the property tax and what we're doing is just rubbing salt right into the wound. I don't know, perhaps the way the tide is turning you are going to pass this amendment and the bill and if you do, you have "shnookered" and slapped in the face hundreds and hundreds of school districts in small communities in outstate Nebraska. Thank you.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Call the question if there is no other speakers.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 28 ayes, 4 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Carsten to close on the amendment to the committee amendments.

SENATOR CARSTEN: Mr. President and members of the Legislature, first of all, I want to say to Senator Johnson, one of my most faithful and hard-working committee members, who has stood up and opposed my amendment, was one along with me that charged our Revenue Committee to take the bull by the horns and put something to the floor with some leadership role. So we advanced 816. I really feel a little let down, Senator Johnson, that we have done that and with my amendment helping a little bit more, that you have taken the position that you have, but be that as it may. I know you are sincere and I appreciate all your help. But, ladies and gentlemen, you are sitting here today gambling on one of the biggest races as far as governmental subdivisions are concerned that you have for some time. Do you want governmental subdivisions to get the money when they are supposed to have it whether it is correct and just or whether it isn't at all? And I suggest to you with all the sincerity that I have, that you will be back here trying again, along with the Revenue Committee to figure out a just and equitable distribution formula as I honestly believe that you are going to find the court decision, if and when it comes, if you don't adopt this, that you are going to be in the same boat. There has never been an approach that we have examined on the distribution of these formulas that has not, Senator Kahle, "snookered" somebody, nor will you ever, to the best of my knowledge and ability, find a solution that will not "snooker" somebody. It is impossible. We have tried time and time again to find one that is as near equal as we can and we have, Senator Johnson, on the floor now, that leadership role with this bill that you and I worked so hard and pleaded so desperately with the committee to do, to pass for something of a permanent nature. I would hope that this body is as concerned about the constitutionality of the distribution of these dollars as I am and that the people that are relying on it can be assured that it is going to be forthcoming regardless of the amount that they get there and know that it will be there. With that, Mr. President, I again urge you to think seriously when you vote on this amendment to the committee amendment and keep that in mind. Thank you, Mr. President.

SENATOR CLARK: The question is the adoption of the Carsten amendment to the committee amendments. All those in favor vote aye, opposed vote nay. It takes a simple majority. Have you all voted? Once more, have you all voted? Record the vote.

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LB 816

CLERK: 22 ayes, 15 nays, Mr. President, on the adoption of Senator Carsten's amendment.

SENATOR CLARK: The amendment to the committee amendment is adopted and now we are on the committee amendments. Senator Carsten.

SENATOR CARSTEN: Now, Mr. President, I move that the committee amendments as amended be adopted.

SENATOR CLARK: Is there any discussion on the committee amendments as amended? Senator Sieck.

SENATOR SIECK: Yes, Mr. President, members of the body, I didn't enter the discussion here before because I was getting some information. I cannot support this and one avenue that we haven't discussed is the amount of sales tax that our cities are getting from the rural areas. I discovered that Omaha is getting over \$1 million tax over and above from the farmers, from the rural areas, not from their city with their city option tax, just with their city option tax. So that tells me that they are getting a considerable amount of money from the rural areas and yet they want \$4 million more and that kind of hurts when I am going to lose \$90 thousand with this new formula plus giving them Lincoln and Omaha because of their city tax from the rural area and I just cannot accept this. What we need is a sales tax over the whole works and distribute it evenly. Maybe we should have adopted Senator Vickers' amendment the other day and had a city option tax in every city so we'd all be paying it but the farmers would be sold down the drain. But I had a little bill up here last year and that is where I got these figures from, so I know that this is a fact, that these figures are right and that we are losing that kind of money. So I just cannot support something like this. Thank you.

SENATOR CLARK: Is there any further discussion on the committee amendments? If not, Senator Carsten, do you wish to close?

SENATOR CARSTEN: Mr. President and members of the Legislature, I want to first of all, compliment the urban senators for the support of this amendment even though in the case of Omaha they are going to lose a little money. I want to also say in my closing that this body in the last couple of years turned down a proposal that came as near to being equitable as anything that we have proposed with a little bit of population thrown in and it was close, yet it was turned down. As we move down through the years, and I'm speaking to the agricultural area, and I know that it is from that area that

we're having some opposition and I can understand why. We're not going to have any chance at all and it seems to me that you have three choices. You gamble with the present distribution formula and coming back and spending a lot of dollars, spending a lot of time when some of us need to be home campaigning and trying to make a living, back here trying to figure this out. The other thing that is solid that we tried to do a couple of years ago and got out to bits with was the reinstatement of the assessment process and I still believe that that is the one that is the most accurate that could be used, be documented and be unquestionably sound. In light of the fact that we don't have that before us but have this in the amended version, I would move that these committee amendments as amended be then adopted.

SENATOR CLARK: The question before the House is the adoption of the committee amendments. All those in favor vote aye, opposed vote nay. It takes 25 votes.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? A record vote has been requested. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 1265 of the Legislative Journal.) 29 ayes, 14 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. The next motion.

CLERK: Mr. President, Senator DeCamp had an amendment printed. That was found on page 1042. He wishes to withdraw that and offer instead an amendment to the bill that is Request #2850, Mr. President.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, so you know the substitute, it is identical to the amendment in the book. It has the emergency clause and it has a numerical correction on statute numbers, that's all. Mr. President and members of the Legislature, we've battled over the issue of distribution of property tax relief money for about a dozen years and of course the issue of what is constitutional or not constitutional comes up regularly but I want to review the history, review what this amendment will do and lay out loud and clear, that if we go ahead on this proposal as adopted, if we do go ahead, I think it will write for the State of Nebraska as the only state in the United States the principle that if you want to give money out, if you want to do needs, if

you want to address anything, you do it strictly on the basis of population because that is what that formula amounts to completely. Each year you come back, you just juggle which pot you put it in but it all ends up on population. Now, what is the history? First of all, understand this Legislature has plenary power to tax. That is our authority. That is our constitutional power. When we eliminated the personal property tax or made adjustments in it we played ten or twelve years trying various things. One year we said we'll eliminate part of it and then reimburse for the part lost. Well we found that wasn't so workable so we made some other adjustments. Finally we said, it is just an unfair tax. Let's eliminate it. When we eliminated the personal property tax we eliminated the revenue from it but we did not eliminate the responsibilities that that revenue was covering, the schools, the cities, so on and so forth, and so that burden of what that personal property tax was financing fell onto real estate and so we said, okay, as we have many times in the past in here, one of our big concerns is too excessive property taxes. Property tax is too high. And so we've had a number of methods to mitigate the pain of excessive property taxes, whether it be homestead exemptions or special things for the elderly, whether it be various formulas in school aid but the idea was mitigation of excessive or too heavy property taxes. Now that's all the distribution formula that we have now has in it, a mitigation or a system by the Legislature to reduce property taxes in areas where they are too excessive. Why? Why did some of the rural areas get good percentages of the "famous \$70 million?" Because when you eliminated personal property taxes on tractors, plows, grain, cows, piggies, those things were located in the country. There are very few feed yards in Lincoln and Omaha for example. And so the new burden fell upon the property located in the area where that personal property had been taxed, the country a lot. So when we offer a mitigation scheme to ease property tax burden, it seemed quite reasonable to relate it directly to the property that was affected, real estate, and that is what the current formulas do or the ones proposed. Now everybody says, "Ohhhhh, it is unconstitutional, it is unconstitutional." We have one district judge who has said that by his interpretation it was capricious and arbitrary. He would have to say it was arbitrary and capricious if he was going to say it was unconstitutional. Do you think it is arbitrary and capricious? Apparently not. You've consistently discussed and debated it and support it providing the relief based upon the valuation of property and that is all I am suggesting that we extend that formula one year and, yes, go to court and find out if indeed the State of Nebraska in its handling of the \$70 million is going to be limited to only using population. And I repeat one more time. Once you agree to that concept and limit yourself there by never even taking the issue up in the court, you have really narrowed

yourselves for all the future. Now, yes, Omaha and Lincoln, the temptation is indeed strong to seize the moment to grab the bucket of money and run and, yes, indeed the counties say, well Senator Cal Carsten's last amendment gives us a little bit more money now, eases it a little bit but you're like Jacob and Esau. You're running in and you're saying, oh golly, I'll take the pot of porridge now and trade away my birthright, trade away your rights for the future, trade away your system of taxation. I urge you to adopt this amendment and I sincerely believe that a Supreme Court, knowing the facts, particularly the record we've established, that we don't think it is arbitrary and capricious. I happen to believe they will say, yes, if you're providing property tax relief which is a legitimate function of the Legislature, then you can provide it based upon the value of property. There isn't anything more logical, I don't think. The Supreme Court, or I should say, that district judge made one big mistake as have some of the attorneys and some of the individuals in here that are opposing this and that mistake is they say we're trying to reimburse for the amounts lost for personal property. That is not the purpose. We can't do that probably. What we can do is mitigate overall property taxes, high property taxes, which resulted from eliminating the revenue from personal property by a use of a sales and income tax distribution formula such as we're doing and that is what our purpose is, to mitigate excessive property taxes and mitigate them particularly where they receive the most damage as a result of elimination of personal property. I do urge you to adopt it. Let the Supreme Court tell us what our limits are as legislators, our constitutional limits, not a district judge, let us not throw in the towel before we've ever stepped into the ring. And you rurals, realize that you are giving away your future. You're giving away your future clear and crisp. Yes, you say, well maybe we can handle it next year. Let's be practical, fellows. You're not going to have more numbers next year. You are going to have fewer. If you win the Supreme Court decision, you're way ahead. If you lose, you're certainly, certainly no worse off than you would be than if you go ahead with what you've just done. I urge you to adopt the amendment.

SENATOR CLARK: We're going to quit at four-thirty. We have twenty-two minutes left. We've got six speakers on. Senator Newell is next. Not here, Senator Wesely. Oh, there is Senator Newell. Go ahead.

SENATOR NEWELL: Mr. President, members of the Legislature, Senator DeCamp argues that one little old district judge has ruled and it don't mean nothing. We really have to go to the Supreme Court. The Supreme Court has ruled too, by the way.

The Attorney General has indicated this is not the only state in the Union as the Attorney General provided that information for the Revenue Committee last year saying that most other states in the Union have some sort of basis for the distribution of dollars, tax effort, need, not population. And so here we have Senator DeCamp arguing this point. He is saying, if you adopt this bill, it is entirely on population. What has population got to do with anything? Well frankly, I think Senator DeCamp knows better than that but I expect it does play well, probably does play well in Neligh, Nebraska, and I can appreciate that. But you know, in the end this formula says, for the distribution of \$40 million the money is distributed on the basis of head count per student, not on the traditional formula which has equalization and incentive aid, but basically only on head count and why? Because that was the most rural oriented way we could distribute the money under the formula and still have a rational reason for doing it. That is not pure population. That is basically what rural senators have fought for for years and years and years. I remember the debate on school aid when we used to think we could raise the sales and income tax where we thought we had extra money that we could provide some property tax relief and the debate was always urban-rural. There is too much equalization in this formula. We need it based on one student, one dollar, or two dollars or three dollars but that is the way it ought to be distributed. That is what has been argued in the past. Now it is being distributed that way but it is a change from the old formula that was even better. And why was it better? Senator DeCamp argues that point. He says, look, this money came to replace the personal property taxes that were lost, the piggies. Remember the piggies? And the tractors. Those were exempted. Now I want to remind this Legislature and I suppose that you all will remember it wasn't me asking that the piggies be exempted. It wasn't me asking that the tractors be exempted. Heck, I didn't even want the inventories for the businesses exempted. It was those same senators that are arguing now the inequity of this formula that wanted that exempted. They got it exempted and they wanted to use sales and income tax dollars which basically come from other areas of the state to go and replace the lost taxes that they asked for, the tax exemptions that they asked for. Now I don't want to fight that old question of whether those should have been exempted or not but Senator DeCamp brings these issues up and I can't let them go without responding. Those are lost issues. The exemptions are in place. Those are lost issues. We have to find a constitutional way, a reasonable way of distributing the \$70 million and a reasonable way to distribute the 12.4. This is the most favorable formula to rural areas that can be devised that is based on need. We're not

putting it into state aid to education because that is too favorable to urban areas so we say, straight head count. That is what the rural areas have always benefitted from and that is exactly what Johnny has argued in the past and that is what they are getting. It is not as good a deal as they've got now, that's true, but there is no constitutional way to do that. You took away Medicaid. It cost \$3 million to Douglas County. That was a pain. That was a hurt. I hated to see that amendment get on there.

SENATOR CLARK: You have one minute left.

SENATOR NEWELL: At the same time I recognized it was fair and I supported it but you know, this formula as it is now, as Senator Carsten has made it, is a reasonable formula. It is a fair formula. It is as fair a formula and as rurally oriented as you can make and the only thing that you can do differently is what Johnny is proposing. He is proposing flaunt the courts, be irresponsible, forget your responsibilities, risk it, risk it, risk...get a special session, risk everything you possibly can and I wonder if most of us understand exactly why. I don't think that risk is right. It is not fair. We won't be doing our jobs if we do that and I think this Legislature recognizes it. This is the best formula that can be devised considering the constitutional questions...

SENATOR CLARK: Your time is up.

SENATOR NEWELL: ...and I urge you to reject the DeCamp amendment.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Voting on ceasing debate. Record the vote.

CLERK: 25 ayes, 6 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Mr. President and members of the Legislature, I hate the lay of the land. You know you can kind of look

across here and see where she starts rolling and dipping and I don't like the way it looks. I've stood at this microphone back when everybody was in a fervor to change all the railroad taxes and I begged and I pleaded you, I said, you're cutting your own throats. It is a siren song you're hearing. Two years later you came back and let me change all the railroad taxes back because you'd all cut your own throats. I stood at this microphone and we all did the famous land use laws and I said, you're doing it a lot different than you think you're doing. You haven't seen information yet. We came back and we repealed most of them with offers from the very people that had sponsored them once they found out what they had done. Mr. President and members, I'm suggesting that those incidents were penny ante compared to what you're about apparently to do and, yes, I suppose if I were in Omaha or Lincoln I'd get the lust to reach my hand in the bucket and grab when the opportunity was here but I'm not sure that even will pay off in the long run. I doubt there are many of the rural senators have any idea of how this affects you. I really say that. And whatever figures you're looking at, forget them. Whatever figures you think you've got, they don't mean anything and here is why. Because you're eliminating any link to any formula. We are not using a formula anymore. We're simply doling out dollars which will be an annual event and whoever has the dominance besides how many dollars go into which bucket. So if you think this thing, whatever you're getting now, isn't going to hold true a year or two or three, a formula at least ties you into something predictable and workable and is not capricious. This is capricious. It is up to the whim every year of whatever the group manages to put together, 25 votes to put more dollars in this bucket, that bucket or that bucket. I simply urge you to adopt the amendments and as I say, I hate the lay of the land the way it looks at this point.

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

CLERK: Senator Clark voting yes.

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

CLERK: (Read record vote as found on pages 1269-1270 of the Legislative Journal.) 18 ayes, 25 nays, Mr. President, on the motion to adopt the amendment.

SENATOR CLARK: The motion lost. The next amendment.

CLERK: Mr. President, Senator DeCamp would move to indefinitely postpone the bill and that would lay it over unless the introducer would agree to take it up at this time.

SENATOR CLARK: Alright, we have eight minutes left.

SENATOR DeCAMP: Mr. President, I'll withdraw the motion.

SENATOR CLARK: What is the motion riding on the desk?

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

SENATOR CLARK: Senator Carsten, do you want to take it up? Alright, Senator Haberman.

SENATOR HABERMAN: Thank you, Mr. President. Mr. President and members of the Legislature, Senator Carsten's Revenue Committee has done a good job. He put in a lot of hours but I ask you, Senators, and I ask you, Senator Newell, how many of you can tell me right now what happens to your districts in dollars and cents? Do you gain or lose in the schools, in the county and the cities? How can you vote for something when you do not have the information? You don't know what the formula, you don't know what the bill is going to do to your schools and your counties and your cities. Right or wrong, you don't know. You're voting on something that you don't know anything about because you don't have the figures. Now how can you stand here and intelligently vote on something when you don't have the figures of what you are voting on? You're voting on a pig in a poke. So whether the figures are right or wrong, you don't know what you're voting on. I do, all except for the cities because I dug it out and it took my aide hours and hours and hours to do it but nobody had any time to do it. Other senators now have their aides working on digging out what exactly happens to each district. Sure Senator Newell is going to stand up here and say this is good because he knows he is going to make a lot of money but the rest of you senators who are on the borderline, you don't know where you're at and I say to all of you, even you senators from Omaha, just because you gain a lot of money, you're voting blind because you don't know. It is not Senator Carsten's fault or the Revenue Committee's fault you don't know because they couldn't get the figures either. And it behooves me that this body, this body that can condemn a man to the electric chair can't get their hands on the figures they need to know what happens when we pass a bill and I say we're wrong to pass a bill without having those figures. Now if this can't wait a week or ten days until we can get the figures, then everybody who votes for this has got a lot of explaining to do to the taxpayers and to their constituents because you are voting blind. At least you know what you are doing on the death penalty. You don't know what you're doing on this bill. So that is what I am objecting to and I'm saying again,

Senator Carsten and the committee can't get this information yet. It is not available yet but it can be made available and this body should have it and until we have it, we shouldn't move this bill. We don't have a right to move this bill. What do you think the people are going to think if we vote for something we don't know what we are voting for and that is exactly what we are doing. So until we get those figures, until we actually see what is happening, I don't think this body should advance this bill. Now if it can't wait a day or two until we get the figures, then there is something wrong somewhere and maybe Omaha is going to end up shorter than they think because you are voting without the figures. So I say to you, at least be up front with the people when you cast your vote and say, I know what I voted on but you can't because you don't have the figures. So I ask you to support the kill motion until those figures are available to every senator on this floor as to what happens to his schools, his cities and his counties and again I say, it behooves me that this most powerful body in the State of Nebraska can't get the information that we are entitled to but we can get it with a little time and I believe Senator Carsten will agree with that. With a little time we can get this information and I think we should have it before we do this so I am not criticizing Senator Carsten and the committee but I am criticizing the entire body that votes for this without those figures. So I ask you to support the indefinite postponement. Thank you.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I rise to oppose the kill motion and in answer to Senator Haberman's accusation, I want you to know that I am not, nor is my committee, intentionally trying to pass something that you don't know anything about. I exhibit before you a handout that our committee staff put together with the help of the counties, the cities, the schools and had it circulated, the best figures and information available at that point about a week and a half ago. That, my colleagues, is information that you can use and, Senator Haberman, I say to you and I appreciate your position, you have to represent your people and if they are being hurt some, I admire you for standing up and defending them as I would anyone, but the information to the best of our ability to put together with the help of those that are in the position to have that information, has been placed before you. We're not hoodwinking you. We're not trying to do anything underhanded. We hope that we are above board with everything that we try to promote. Thank you, Mr. President.

SENATOR CLARK: Senator Hoagland. The question has been

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LB 816

called for. Do I see five hands? I do. All those in favor of ceasing debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: We're voting on ceasing debate. Record the vote.

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

SENATOR CLARK: Debate is ceased. Senator Haberman, do you wish to close?

SENATOR HABERMAN: Mr. President, members of the body, if Senator Carsten thinks I implied that they hoodwinked us, I am not implying that they hoodwinked us. I have the sheet and Senator Carsten gave it to me and I've had it for a week. It shows the population and the percentage and the allocation but it doesn't show whether you won or lost. It is just figures. You can't tell by looking at this whether anybody gained or lost. It shows a difference, for example, Fremont, two million seven, total pay new, total pay old, two million difference, seven hundred thousand. It doesn't show the difference here in class of schools to pay new two million, to pay old one million, difference eight forty-six. It doesn't show us the schools and the cities and the counties. Is this right, Cal, or am I wrong?

SENATOR CARSTEN: May I answer, Mr. President?

SENATOR CLARK: Senator Carsten, answer the question.

SENATOR CARSTEN: Yes. Senator Haberman, it does not show a plus or minus but you can add or subtract and that will give you your answer.

SENATOR HABERMAN: This has the schools and the cities and the counties? All three? Okay, and what we talked about then down in the office yesterday didn't mean anything because we do have the information? Explain that, will you?

SENATOR CARSTEN: It is there only it does not show a plus or minus. You have to apply that yourself, yes, and if that is in error, I do apologize for it. We will try and correct it if you would like.

SENATOR HABERMAN: Okay, does it show the formula too? Is this on the formula? Okay. So what you are telling me then is when it says Farnam Village, population 268, percentage point 2.3, allocation \$4 million, that doesn't tell me whether they are up or down. Right? It doesn't tell us whether it is up or down so I still say you don't have the information be-

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LB 816

cause it doesn't show what they got before.

SENATOR CARSTEN: Tha may very well be true but I can tell you it is the latest and best information that we have.

SENATOR HABERMAN: Okay, Senator Carsten, that I agree with you on.

SENATOR CARSTEN: Can I make just one short comment?

SENATOR HABERMAN: Sure.

SENATOR CARSTEN: We are in the midst of making phone calls to counties because it is distributed by the counties to the cities and at a point when we get that compiled, you will have it.

SENATOR HABERMAN: Thank you, Senator Carsten. Thank you very much. That is just my point. They have to contact the ninety-three counties and actually get down and beg those counties for the information because they have asked for it many weeks ago and haven't got it and until they get the information from those counties as to how it is broken down to the each subdivision, they can't tell us how it is coming out and it is not Cal's fault or the committee's fault. So I say until the phone calls are finished, until the counties have given us the information that they have to have and we have to have that information...

SENATOR CLARK: You have one minute left.

SENATOR HABERMAN: ...we have to have that information to know the whole story, I don't think we should move the bill. That is where I stand and, Senator Carsten, thank you for helping me that we don't have all the information and we do have to have it. We have to get it from the counties and that is going to take time so I ask you to support the kill motion, to not to advance the bill until we have the information. Thank you, Mr. President.

SENATOR CLARK: The question before the House is to indefinitely postpone 816. All in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? A record vote has been requested. Record the vote.

CLERK: (Read record vote as found on page 1270 of the Legislative Journal.) 14 ayes, 26 nays, Mr. President, on the motion to indefinitely postpone.

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SENATOR CLARK: The motion lost. The next motion.

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

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I move that LB 816 be advanced to E & R initial as amended and just a couple of comments if I may, Mr. President, on behalf of that motion. I, as chairman of the Revenue Committee, and our committee stands ready and willing to work with any one or as many of you as care to, to try and make this bill better between now and Select File and I welcome all of your support and help in that endeavor. We're in this together and I want you to know that. We're not trying to hog anything but let's do make an honest attempt to get this back to the people the way that we intended to do it that is constitutional. Thank you.

SENATOR CLARK: On the advancement of the bill, Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I welcome Senator Carsten's invitation to work together but I would have to say that I take it with just a grain of salt because for four years I've taken to that body, that committee, a bill which has never had serious opposition, a bill which has had strong support and a bill which does treat equitably the problems of distribution of funds. And as I have said many times and I have talked individually with every single member of that committee from time to time, and they have reinforced my conviction that it is a good bill and yet, notwithstanding that, we find ourselves today voting to advance a bill which by the most, I would say, generous assistance, cannot be considered to be equitable. Now equity again is a matter of whether you have the votes or not. I recognize that and as Senator DeCamp has said, that many times on this floor we advance a measure in haste and repent in plenty of time and I have been on that side also and Cal has from time to time reminded me of it with his usual good grace. But I would say this, as Senator DeCamp and others have said, Senator Haberman, that the time will come when the members of your district are going to ask you and if they should ask you tonight what the bill does for you or what the bill does in the matter of equitable treatment in the area of property taxes, I would hope that you are better prepared to answer it than most of us will be because the evidence is not there. The record is not clear except from this standpoint. You are turning your back upon any kind of method of distribution of funds other than population. As Senator Newell said, he didn't

ask to have the farm equipment taken off the rolls. He didn't have the piggies asked to be taken off the roll but I can understand that. He doesn't own any piggies. He wouldn't know what to do with a combine if he had one nor would I know what to do with some of those things that Senator Newell works with. We go back a long time on this kind of an issue and we have never said that we would not pay taxes upon those items of personal property which were exempted. What we did say was that we would tax them differently and the bill which I proposed to you voluntarily increases the amount of sales tax that a farmer or a businessman would pay because we know that we have no longer the responsibility of paying that inventory tax or that personal property tax but by so doing, we would hope that there would be some consideration for those areas which have traditionally been the repository of those personal property taxes and which have received some remuneration from the state funds. I'd suggest that when the time of accountability comes that it will be a little difficult for some of us to explain and I'm not going to read those names off on this floor because I can tell you very frankly, and I want to go back to the taxes we relieved on the railroads. I was one of those with Senator DeCamp who vigorously opposed that change in the formula which benefitted a very few areas at the expense of many and we lost. And then later on fifteen people rushed over to sign Senator DeCamp's bill to make some kind, some partial correction and that wasn't so bad but then last year one of the elected people in my district, speaking at a local service club, made the point and did it honestly, he made an error honestly, but he said he'd asked me to help him correct that problem and I had refused. The record is clear, the documentation is there, the transcript is clear where I stood on that issue but still 30,000 people in my district think that maybe I didn't know...

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: ...what I was doing on the railroad taxation issue. The record is clear here, ladies and gentlemen, and when the people in your district ask you the question you must fall back upon the record and when you do that and the record indicates that you did not vote as your district perhaps, as your district humanity would vote from the standpoint of equity, then the explanation and the burden of it will be upon you. I would ask you not to advance LB 816. It is not an equitable bill. There are better solutions and they are certainly available to this body. I do not believe that this body will once again, drive itself off the cliff in this kind of an action. I'd ask you not to support the bill.

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LB 816A, 816

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, I move the previous question.

SENATOR CLARK: Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 2 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Carsten. No closing. The question before the House is the advancement of the bill. All those in favor vote aye, opposed vote nay. Have you all voted on the advancement of the bill? Record the vote.

CLERK: Senator Haberman requests a record vote. (Read record vote as found on page 1271 of the Legislative Journal.) 27 ayes, 16 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. Before we leave we are going to take up the A bill, 816A.

CLERK: (Read.)

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: I move for the advancement of 816A.

SENATOR CLARK: The question before the House is the advancement of 816A. Senator Kahle, did you want to talk on the advancement of 816A?

SENATOR KAHLE: Well in view of the late hour, I'm hoping more of you go home so that we wouldn't have enough to vote on it, to be real honest with you, because I think we're making a big mistake here this afternoon. While I didn't get to talk on the time before, I hate to use this time when we are talking about the A bill but the A bill of course is the important part of the whole thing. We brought out a number of times we do not have the figures. The figures that the Revenue Committee has supplied are useless unless you have some more information. I've had people come up here all afternoon. I've had my staff working on it. I've been trying my best to get some information for a few counties so I know that you people are voting and not knowing what you are voting on. I would suggest that you vote no on the

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LR 242, 245, 246, 247,
251, 252, 254
LB 127, 726, 816, 816A

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Reverend Vernon F. Jacobs, Holy Cross Lutheran Church in Omaha.

REVEREND JACOBS: Prayer offered.

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

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

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

CLERK: Mr. President, two little ones. On page 1356 on line 33, after the word "last" insert "few". On page 1362 instead of "(5)" insert "(6)".

PRESIDENT: I'm glad they are just little ones.

CLERK: They're just little ones.

PRESIDENT: The Journal stands corrected. Are there any other messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 726 and recommend that same be placed on Select File with E & R amendments attached; 816 Select File with E & R amendments; and 816A, E & R amendments attached. Those are all signed by Senator Kilgarin. (See pages 1364 through 1367 of the Legislative Journal.)

Mr. President, LRs 254, 252, 251, 247, 246, 245 and 242 are all ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 254, LR 252, LR 251, LR 247, LR 246, LR 245, and LR 242.

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

PRESIDENT: All right. Senator Burrows, were you starting to vote on Final Reading, or did you wish...I was just....thank you. Okay, I just had to say that. I looked over there and saw Big Red and I thought, I wonder if he is starting to vote on Final Reading, but we are going to get started on Final Reading right now. So if the Sergeant at Arms would secure the Chamber and all members

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

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

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

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

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

CLERK: (Read LB 208 on Final Reading.)

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

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

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

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

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

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

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

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

PRESIDENT: All provisions of law relative to procedure hav-

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

March 29, 1982

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.

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LB 531, 928, 816
LR 276

that I basically believe in the philosophy of the citizen legislature. The lay person legislature. I do not believe that it is good government for the legislative branch or the legislators to be professional politicians who are in this business of legislating every day. Our role is policy makers. Our role is best served if we have more time at home among those who we represent to keep our, to keep our feelings closer to those people. I believe that you would be surprised how well this amendment would be supported if it got on the ballot.

PRESIDENT: Motion is the Warner motion to return LB 531 for the Warner specific amendment. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Warner, do you want a roll call vote? Record the vote.

CLERK: 16 ayes, 24 nays, Mr. President on the motion to return the bill.

PRESIDENT: The motion fails. Anything further?

CLERK: Nothing further on the bill Mr. President.

PRESIDENT: We are ready then to read LB 531 on. . . Oh that is right it was returned, so it is on, it has been returned so it is on E & R for Engrosment. So we are ready then, that ends Final Reading for today. Do you have some things to read in Mr. Clerk?

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 816 in the Legislative Journal.

New resolution Mr. President. LR 276 by Senators Haberman, DeCamp and Koch. Read LR 276. That will be referred to the Executive Board for reference, Mr. President.

ASSISTANT CLERK: Mr. President, LB 928 was introduced by the Appropriation Committee and signed by the members thereof. Read title. The bill was referred to the Appropriations Committee. The Appropriations Committee did place the bill on General File and there are committee amendments, Mr. President.

SENATOR CLARK PRESIDING

SENATOR CLARK: Before I call on Senator Warner I would like to introduce 90 fourth graders from Miller Park in Omaha, Senator Duda's district. They have three teachers with them. They are in the south balcony. Would you stand and be recognized.

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LR 277, 278
LB 408, 753, 755, 756, 761,
816, 933

why you shouldn't. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I think what Senator Beutler is trying to get the Legislature to do is what a group of philosophers known as the School Men used to do. They were renowned for being able to split a philosophical hair between the North and the Northwest Side. Now when you find a subject which is related to another subject but you say they are different because they are found in different portions of the statute books, I think that is straining at a gnat while maybe at another point swallowing a camel. From my experience with traffic citations, I had to do research in the statutes and there is legislation dealing with citations found in Chapters 39 as well as Chapter 29. They overlap. They supplement each other. And if one provision were amended, then I am certain that the amendment could be made to apply to the other part also despite the fact that they are in different chapters. So I want that statement into the record and I will not make a formal challenge of the Chair because the Chair has ruled consistently on this point despite the fact that I disagree. I also learn, and I saw what happened yesterday, Mr. Chairman, so I will not make a formal challenge.

SENATOR CLARK: Senator Beutler. All right, we will go to the next amendment. The Clerk wants to read some things in first.

CLERK: Mr. President, if I may very quickly, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 755 and find the same correctly engrossed; 756, 933, all correctly engrossed.

Senator Koch would like to print amendments to LB 761; and Senator Chambers to 761.

Mr. President, new resolutions, LR 277 (read). That will be laid over. LR 278 (read). (See pages 1489-1491, Legislative Journal.)

Mr. President, Senator Cullan would like to print amendments to LB 753.

And I have an Attorney General's opinion addressed to Senator Vickers regarding LB 816.

Mr. President, the next motion I have on LB 408 is a motion to indefinitely postpone the bill. That is offered by Senator Wesely.

SENATOR CLARK: Senator Wesely.

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LB 875, 892, 893
LB 127, 573, 633, 668, 739, 751,
761, 766, 790, 816, 817, 852, 869

and nail him then and we can go on with the proceedings so that we can proceed with the business.. Would that be okay with you?

SENATOR HIGGINS: I don't know whether I want to vote to stay here or not because I don't know if it is going to do any good, because I don't know what might be on special order tomorrow and the next day.

SENATOR NICHOL: Well, I don't know that we are going to resolve that by debating that and I would really strongly suggest that we stick to the procedure that we are in right now. If you don't get a.....

SENATOR HIGGINS: I wish we would have stuck with the procedure we voted on two weeks ago.

SENATOR NICHOL: Let's get in our seats, please, so we can continue with the roll call vote and we will get going here. You have been very patient and I appreciate it but let's try to hang on there a little bit longer. Maybe we can get this bill passed or on its way. Proceed with the roll call, please. Please go to your seats.

CLERK: (Read the roll call vote as found on pages 1592 and 1593 of the Legislative Journal.) 23 ayes, 15 nays, Mr. President, on adoption of the amendment.

SENATOR NICHOL: The amendment is not adopted. Shall we move on to the next one, Pat? Do you want to read something in first?

CLERK: Very quickly, Mr. President. I have an Attorney General's Opinion addressed to Senator DeCamp, one to Senator Sieck and one addressed to Senator Warner. (See pages 1593 through 1597 regarding LBs 816, 127 and 893 in the Legislative Journal.)

Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading yesterday, Mr. President. (Regarding LBs 633, 790, 573, 668, 739, 751, 766, 817, 852, 869, 875 and 892.)

Mr. President, the next amendment I have is one offered by Senator Burrows.

SENATOR NICHOL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman and members of the Legislature, this amendment simply strikes the language that

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LB 408, 760, 816, 967

SENATOR CLARK: The bill is advanced. We will now go to item five, Select File.

CLERK: Mr. President, if I may right before that, Senator Haberman would like to print amendments to 408 and 816.

Mr. President with respect to Select File, LB 967, I have no amendments to the bill.

SENATOR CLARK: Senator Kilgarin. The advancement of 967.

SENATOR KILGARIN: Are there E & R amendments?

SENATOR CLARK: No.

SENATOR KILGARIN: I move we advance LB 967.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 760.

CLERK: Mr. President, I have no E & R amendments, I...

SENATOR CLARK: The Call is raised.

CLERK: I do have an amendment from Senator DeCamp. On page 677 of the Journal.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I'll withdraw that. They have settled on the committee amendments, this would cut a little more, I'll just withdraw it.

SENATOR CLARK: That amendment is withdrawn. The next amendment.

CLERK: Mr. President, I now have an amendment offered by Senators Wesely and Clark. It is referred to on page 1264 of the Journal. You will find it in your Bill Books, it is Request #2842.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: This is an amendment that was originally carried by Senator Schmit and there were some concerns that Senator Schmit had with the amendment that were brought to Senator Clark and myself. We have since revised the proposal to try and deal with some of those concerns. What the amendment would do is an attempt to try to provide an incentive

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LB 568, 378, 816

feel that strongly about it, I'm willing to stay here later if you want to, but I would just as soon we finish this up now. Thank you, Mr. President.

SENATOR LAMB: Motion is the adoption of the Hoagland amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? It requires 30 votes. Have you all voted? There are four excused. Record.

CLERK: 22 ayes, 18 nays, Mr. President, on the motion to suspend the rules.

SENATOR LAMB: The rules are not suspended. Mr. Clerk, would you read in the material you have.

CLERK: Mr. President, very quickly I have a request from Senators, Labedz, Higgins, Rumery and Kremer to print amendments to LB 378.

Mr. President, Senator Carsten would like to print amendments to LB 816.

SENATOR LAMB: Senator Von Minden, would you care to adjourn us until 9:00 tomorrow morning.

SENATOR VON MINDEN: Mr. Chairman, I move to adjourn until 9:00 tomorrow morning.

SENATOR LAMB: A machine vote has been requested. Those in support vote yes, those opposed vote no. A simple majority required.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? A Call of the House has been requested. All those in support vote yes, those opposed vote no. Record.

CLERK: 18 ayes, 2 nays to go under Call, Mr. President.

SENATOR LAMB: House is under Call. All legislators please record your presence. All unauthorized persons leave the floor. Senator Cullan. Senator Landis, we do have all of the persons here. Did you request a roll call? Please call the roll, Mr. Clerk.

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LB 127, 127A, 408, 602A,
605, 753, 755, 756, 816

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend Eddy Hallock, Southview Baptist Church here in Lincoln.

REVEREND HALLOCK: Prayer offered.

PRESIDENT: Roll call. Senator Goodrich, would you push the button and then we can get going. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal stands correct as published. Any messages, reports or announcements?

CLERK: I have an Attorney General's Opinion addressed to Senator DeCamp. (See pages 1755 and 1756 regarding LB 816 in the Legislative Journal.) Senator Labedz would like to print amendments to 602A; Senator Beyer to 408. (See pages 1757 through 1760 of the Journal.)

Mr. President, the bills that were read on Final Reading yesterday are now ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LBs 127, 127A, 605, 755, and 756. Anything further, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: We are ready then for agenda item #4, motions, commencing with LB 942.

CLERK: Mr. President, I don't have any motions on LB 942 this morning.

PRESIDENT: Senator Warner....no motions, all right, so 942 is out. What about 753?

CLERK: Mr. President, Senator Warner would move to return LB 753 to Select File for a specific amendment. That amendment is found on page 1727 of the Legislative Journal.

PRESIDENT: The Chair recognizes Senator Warner.

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LB 928, 816, 816A

party this afternoon at 2:30 in the Bill Room. You are all invited to go down there and partake a little bit. Also, Senator Marvel has some guests in the north balcony. There are seven 8th Graders and they are from Pauline, and the teacher is Kathy Adelson. Would you please stand and be recognized, please. Welcome to your Legislature.

CLERK: Mr. President, while we are waiting, Senator Kremer would like to print amendments to LB 816 and 816A. (See pages 1770 and 1771 of the Legislative Journal.)

SENATOR NICHOL: Senator Carsten.

SENATOR CARSTEN: Mr. President, point of personal privilege if I may, sir, please.

SENATOR NICHOL: State your point, please.

SENATOR CARSTEN: I said in my remarks that it would become effective in 1931...I have been reminded.

SENATOR NICHOL: And which date did you want.....

SENATOR CARSTEN: I was not talking about Ray Wilson's anniversary. It is January 1, 1983 and for the record I thought it ought to be corrected because '31 is long gone by. Thank you very much, Mr. President, I appreciate it.

SENATOR NICHOL: You are welcome. We will move on to LB 928.

CLERK: Mr. President, the first item I have on 928 is the E & R amendments.

SENATOR NICHOL: Senator Kilgarin.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 928.

SENATOR NICHOL: All those in favor of adopting the E & R amendments say aye. Opposed nay. They are adopted.

CLERK: Mr. President, I now have an amendment from Senator Warner on page 1500.

SENATOR NICHOL: Senator Warner.

SENATOR WARNER: Mr. President, I would ask to withdraw the amendment on page 1500.

SENATOR NICHOL: Is there any opposition? They are withdrawn.

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LB 726, 488, 816, 942

Senator Kilgarin, Senator Wesely, are you here? Yes. Senator Lowell Johnson, Senator Peterson. Senator Landis, I see him, he is here. Senator Pirsch, I know I see her. And Senator Schmit, I see him too. Senator Schmit, do you want to push that light and we are ready, I think that is it. All right, we have them all here now. Call in votes will be accepted or do you want to just go ahead and save time and have a roll call vote?

SENATOR VICKERS: Go ahead.

PRESIDENT: All right, we will have a roll call vote on the advance of LB 726 to E & R for Engrossment. Everybody is at their desk. Proceed, Mr. Clerk, with a roll call vote to advance.

CLERK: (Read the roll call vote as found on pages 1839 and 1840 of the Legislative Journal.) 22 ayes, 18 nays, Mr. President.

PRESIDENT: The motion fails. The bill does not advance. Okay, do you want to...the Clerk has some matters to read in at this time.

CLERK: Mr. President, just one item. Your Enrolling Clerk respectfully reports that she presented to the Governor at 4:30 LB 942.

PRESIDENT: Senator Lamb, what do you wish to do? Do you want to get started on 816? You know it will take...it could take the rest of the day I guess.

SENATOR LAMB: Mr. President, I will move we adjourn until nine o'clock Tuesday morning.

PRESIDENT: 9:30 or....

SENATOR LAMB: Nine o'clock.

PRESIDENT: Nine o'clock Tuesday morning. Motion to adjourn. What? (Microphone not on).....hear that. We are not....we are still under Call, are we not? So just check in, just everybody check in at this point. We will have everybody check in before we do anything.

CLERK: Mr. President, Senator Fowler would like to print amendments to LB 488 in the Journal. (See pages 1841 and 1842 of the Journal.)

PRESIDENT: The House is still under Call so let's all check in. Senator Cullan, do you want to put on your light.

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Senator Wesely is gone. Senator Duda, do you want to.... Senator Goodrich is here. Does somebody want to push Senator Goodrich's...push Senator Goodrich's button there if somebody is standing over there. He is standing right here. Senator Vickers, I know he is here. Here comes Senator Remmers, he is here. Senator Haberman, where are you? Senator Haberman, I think, is the one that we are waiting for. There he is. We are just showing our presence because the House is under Call. The question is...everybody at your desk, the question is to adjourn until 9:00 a.m. next Tuesday morning. All those in favor vote aye, opposed nay. That's all it takes. Have you all voted? Record the vote.

CLERK: 20 ayes, 23 nays to adjourn, Mr. President.

PRESIDENT: Motion fails. All right, we will proceed then with the next item on the agenda which is LB 816. Mr. Clerk, where are we on 816?

CLERK: Mr. President, I have a series of things on LB 816.

PRESIDENT: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, we are now moving into a bill of utmost importance to the whole State of Nebraska and one that has sort of been pointed to all during this session. I fear as we move on at 4:53 we are going to continue to lose a member now and a member then and I think on this issue that we should have as many of the members as we possibly can to vote on this important question. Even though the vote was to stay, I am willing to go ahead if that is the pleasure of the body and let the vote go as it may. But it is an important one and one that we should not do in haste and would hope that perhaps you would think about that as we start through this before too many more leave. Thank you, Mr. President.

PRESIDENT: Senator Labedz. Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, I would like to ask the Clerk an important question. I guess it is important because you know if we adjourn today, we have but two legislative days left and 816 has to be acted on on Tuesday and the amendments have to be engrossed and it creates a real crisis for this body especially if the obvious and rather difficult situation of the many, many, many amendments that are pending. Could the Clerk tell us how many amendments are pending, maybe even graphically

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show us the amendments that are pending to 816?

PRESIDENT: How many amendments have we got?

CLERK: Senator, at last count there were approximately 54 amendments filed to the bill.

SENATOR NEWELL: You see, members of this body, if we don't take up 816 today, then there is only but one day left for the filibuster to be successful. If we start early in the morning, you know, we will then have to deal and process all these amendments and, frankly, I think that is a mistake, a dangerous mistake for this body to make. We ought to deal with 816 and if we have to stay tonight with those kind of amendments pending without some sort of understanding or agreement that we will have an up or down vote on this and a little fairness, then I think we ought to stay until the hour it takes to process this and to deal with LB 816.

PRESIDENT: Senator Carsten, did you have a specific motion with regard to your statement to lay over or to do anything like that?

SENATOR CARSTEN: No. No, I did not. I had no motion....

PRESIDENT: You were just addressing....what we are trying to figure out is we were just speaking to the bill, you see.

SENATOR CARSTEN: Yes, I understand that.

PRESIDENT: Okay. Now there are some E & R amendments, as I understand, that we really should be taking up first, so this is what the Clerk and I are discussing. So we probably should take up the E & R amendments and then get involved in the speaking. I will hold the speaking unless... Senator DeCamp is next. Let's take up the E & R amendments first, shall we? Okay, Senator Kilgarin, if we would take up the E & R amendments.

SENATOR KILGARIN: I move we adopt the E & R amendments.

PRESIDENT: Motion to adopt the E & R amendments on LB 816. Any discussion? If not, all those in favor signify by saying aye. Opposed nay. The E & R amendments are adopted. Senator Kilgarin. Oh, now we have got the amendments.

SENATOR KILGARIN: I move to advance the bill.

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PRESIDENT: Now we have got the whole series of amendments. All right. Now, we still have to have something to speak to so we had better take up..we just as well start with the first amendment and then you can speak to it and say, you know....yes, sir, Senator Carsten. For what purpose do you arise, Senator Carsten?

SENATOR CARSTEN: Point of personal privilege.

PRESIDENT: (Gavel). Let's have some order while we listen to Senator Carsten. State your point, Senator Carsten.

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SENATOR CARSTEN: A point of personal privilege and information, Mr. President.

PRESIDENT: Yes sir, go right ahead.

SENATOR CARSTEN: As I understand, Mr. President and members of the Legislature, most of the amendments that are up there on 816 have been filed by Senator DeCamp and if I may ask Mr. President, Senator DeCamp if this is true.

PRESIDENT: Senator DeCamp, do you wish to respond to that.

SENATOR DeCAMP: That is right. Senator Cal and I have talked about this. Go ahead, Cal.

PRESIDENT: Go ahead, sir.

SENATOR CARSTEN: If in the event then, Mr. President, that we could get a commitment out of Senator DeCamp that he would withdraw most of those amendments save one principal amendment of his on Tuesday, I would then move that we could and would recommend we pass over it for today, with that understanding. But, without that understanding I could not make that motion, Mr. President.

PRESIDENT: Senator DeCamp, do you wish to respond to that?

SENATOR DeCAMP: Mr. President and members of the Legislature, Senator Carsten and I agreed on this sometime earlier already that those amendments on Select File would be withdrawn so long as we had a fair shot with as many people, in other words everybody here at the main amendment that I wish to propose.

PRESIDENT: One other thing that the Chair wants to insert in here. Has anyone checked with the Acting Speaker to see if he is going to put this on as a priority item on Tuesday then?

SENATOR DeCAMP: I don't think that there is the slightest doubt that the Speaker knows that the. . . .

PRESIDENT: Where is Senator Lamb? Why don't we get. . .

SENATOR DeCAMP: . . . seriousness of this one.

PRESIDENT: . . . let Senator Lamb speak for himself. Where is he? Well I would think that because he has to set the agenda right now anyway so he ought to let us know, I think he should let us know if that is going to be on there to

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assure those of you who want to take it up Tuesday.

SENATOR NEWELL: Mr. President, I have to ask.....

PRESIDENT: (Gavel). Go ahead, Senator Newell.

SENATOR NEWELL: Mr. President, I have to ask one other question and that is, besides Senator DeCamp's amendments are there other amendments to 816? Because, here is my concern and I think we all understand this concern. If we are going to get a filibuster anyway and we are not going to deal with this issue this year, if that is the intent of some members of this body, then I think we need to know that so that we can decide whether we stay, deal with the filibuster mess, work it through or whether in fact, it is going to be a very serious attempt. I can concede to Senator DeCamp and Senator Carsten's proposal and I think many other members of this body could if we understood that there would be a fair and honest shot to deal with LB 816 and not a filibuster so that we can have an honest vote to try Johnny's amendment, an honest vote to move the bill.

PRESIDENT: All right, how many other amendments are there? Just in answer to his question. Yes, Mr. Clerk, you tell him.

CLERK: Mr. President, Senator Haberman has a series. I believe Senator Kremer has one or two filed. Senator Vickers has one or two filed. Senator Nichol.

PRESIDENT: Senator Nichol and Senator Chambers have one. Well, Senator Lamb is here now so we can address our...the question, Senator Lamb, was whether if this were put over, if LB 816 were put over to Tuesday, would you make that the number one priority bill so that they would have assurance that it is going to come up on Tuesday, since that is the last day to really take it up?

SENATOR LAMB: Mr. President, I think you understand the problem when we get down to the last few days. We have scheduled for Tuesday Final Reading about two hours. Then we have a number of motions which we have not honored at this point in regard to returning various bills for various reasons. Some of those on are on Final Reading and have been on Final Reading for some time, bracketed up at the top. So there are on the agenda 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12 of those. And then back to Select File and 816 is on the top of that list.

PRESIDENT: Well then do I understand that all this would take place first if I understand what the Acting Speaker is saying that all these other items, Final Reading, motions,

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all would be prior to the consideration of 816. Unless you want to....

SENATOR LAMB: That is the way it sets.

PRESIDENT: That is what you are going to....

SENATOR LAMB: Yes.

PRESIDENT: That is what you are proposing. All right. When would that bring 816 up then? Depending on how long they debate on the motions I suppose. You have heard... there is a question of the Speaker...Acting Speaker at this time. Senator Higgins.

SENATOR HIGGINS: Mr. President, I would like to ask the Acting Speaker a question.

PRESIDENT: All right, proceed.

SENATOR HIGGINS: Mr. Acting Speaker, do we have your guarantee that no other bills will be brought up and put on Special Order as has been done in the past over senators' priority bills? In other words, will there be some bills brought up under Special Order and this will all just be down the drain?

SENATOR LAMB: The order which I read you, Senator Higgins, is the order....(interruption).

PRESIDENT: (Gavel). Let's listen to Senator Lamb now.

SENATOR LAMB: I don't have any bills on Special Order.

SENATOR HIGGINS: There won't be?

SENATOR LAMB: I don't have any plans to do that, no. This is the order right here that we established, and there just isn't enough time to do everything.

SENATOR HIGGINS: Thank you for your answer.

PRESIDENT: Senator Marsh, do you have a question?

SENATOR MARSH: Thank you, Mr. President, I would like to personally express a desire to give Senator DeCamp an opportunity to explain what he would like to do with 816. I will listen carefully and I would like to take action on 816 tonight so that we are not so jammed up next week that we cannot do a good job on the remaining items. 816 is

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before us now. We have acted on the amendments which have been adopted. We are now ready for other amendments and that is the top item as I understand it. I am willing to give a fair share of my listening energy. I would hope that a majority of the persons in this body would give a fair share of their listening energy so that we can do justice to 816 and move it tonight.

PRESIDENT: Senator Lamb, if there isn't anything further, we are not getting anywhere very fast, we just as well go and start the amendments on 816. Yes, Senator Newell, what do you wish?

SENATOR NEWELL: Mr. President....

PRESIDENT: We don't have anything before the House so we better get started on the amendments.

SENATOR NEWELL: All right, Mr. President, I would like to make a motion to....

PRESIDENT: Put it on the desk. Senator Haberman, for what purpose do you arise? We actually have some motions to take up. It isn't that we don't have anything to do. Senator Haberman, go ahead.

SENATOR HABERMAN: I make a motion to adjourn.

PRESIDENT: All right.

SENATOR HABERMAN: Until....

PRESIDENT: Until we vote on....no, there is nothing... yes, that's right, there has been nothing in between, Senator Chambers, because we have not taken up the first amendment yet.

SENATOR HABERMAN: Well....

PRESIDENT: We are still really where we were, Senator Chambers, really. So you can do that. You can make a motion.

SENATOR HABERMAN: I make a motion....until April the 13th at 9:00 a.m.

PRESIDENT: Senator Koch. Intervening, you are talking about the E & R amendments.

SENATOR KOCH: Mr. President, respectfully a point of order. We did take the bill up. We adopted the E & R amendments.

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We are on the bill right now.

PRESIDENT: All right. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I hate to say this but I think when something does intervene then a motion to adjourn is in order. What I was going to say was nothing had intervened.

PRESIDENT: Yes, I think that that exactly made the point, Senator Chambers.

SENATOR CHAMBERS: So I stand corrected.

PRESIDENT: Yes, I think that that makes the point. Now you can take it up because there has been an intervening motion. Yes.

SENATOR NEWELL: I have a motion on the desk.

PRESIDENT: Well, now we do have a motion. The motion is to adjourn. It doesn't give way to anything else. So now....and I am telling you with the mess we are in right now, I ought to just call a voice vote and be done with it.

SENATOR NEWELL: Mr. President, can I explain my motion?

PRESIDENT: All right, I'll call....I will just show you that I will let you decide. We will have a machine vote on....all those in favor to adjourn until nine o'clock Tuesday morning vote aye, opposed nay. It takes a simple majority. Will everybody vote please. We are voting on adjourning until nine o'clock Tuesday morning. Record the vote.

CLERK: 17 ayes, 22 nays to adjourn, Mr. President.

PRESIDENT: All right, take up the first motion on LB 816, Mr. Clerk. The first amendment, whatever it is. That is the only way we can go now. You are set to take up the bill so that is....on Select File that is the way you have got to go. You have got to take up the amendments in the order they are on the desk.

CLERK: Mr. President, Senator DeCamp would move to amend LB 816, and Senator DeCamp's amendment is on page 1265 of the Legislative Journal.

PRESIDENT: Senator DeCamp, is this the amendment you are going to go with?

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SENATOR DeCAMP: Mr. President and members of the Legislature, we screwed around here for about 15 minutes talking nonsense now I would like to talk kind of serious. There is a lot of people here in a hot mood. You are dealing with the biggest issue in the state for the future. Now I have agreed to the Nth degree that I as one individual can promise, I will promise for on behalf of everybody I can that come Tuesday we will make this the priority. There are about three or four people that I know would be critical votes. This is a close issue. It might have 21, 22, 25, 26 issues for the amendment, but it is going to affect your life, your districts for the future, and making a hasty decision now I don't think is wise. Twelve years I have been here I have never filibustered and I have done everything to break filibusters no matter what side of the issue I was on. I am willing to do the same thing here and make sure that this bill gets treated properly win or lose, but I am not willing to do it in the environment of a five-ten deal in the afternoon taking it up. I repeat again, I am willing to be as fair as anybody so long as everybody is here, can hear the arguments on both sides and aren't doing it late in the afternoon when one side or another is too emotional or it is just too hot. I think more people are interested in getting home right now and there might be a hasty decision that's foolish on this. So I would still urge us...I would still urge us to get out of here this afternoon and take it up Tuesday. If we have to do it the other way, you are forcing people who don't want to filibuster into that position. And there are some experts on filibustering in here because last year it was at this same time that Senator Landis and Beutler got up and filibustered the Christian Schools bill. I am saying we don't want to have to filibuster this. What we want to do is have a legitimate vote come Tuesday. That seems to make a little bit of sense to me.

PRESIDENT: That is addressing the first DeCamp amendment. The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, I would like to talk to the DeCamp amendment also.

PRESIDENT: I hope so, sincerely.

SENATOR NEWELL: I want to say that I am opposed to the DeCamp amendment but I do think he has a heck of a point on being fair, and the question of fairness here is how we resolve what will be fair. There is a prospective situation here that needs to be dealt with, the question of whether or not we will be able to deal with 816 first

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thing and whether we get some commitments by others not only Senator DeCamp that there will not be a filibuster. Now I happen to have a motion up there which I would like to take up, and that is a motion to suspend the rules and the Speaker's order and put 816 as the first order of business Monday morning...Tuesday morning, Tuesday morning. And if Senator DeCamp would come back, I would ask him a question if he would find that acceptable. I can appreciate Senator DeCamp put an honest attempt to try to get his amendment on and I can appreciate that and would coincide with that if I thought we also would get an honest attempt to move the bill if his amendment doesn't go on or move the bill with his amendment if it should happen to pass. But the question of honesty is not just Johnny's alone. There are other players here that also have to be fair and I think one way of ensuring that is to make it the first order of business Tuesday morning. Senator DeCamp, can you concede to that sort of point?

PRESIDENT: Senator DeCamp, do you want to respond? Of course, Senator DeCamp doesn't have that within his power to decide whether that is going to be the first thing, right, Senator DeCamp?

SENATOR DeCAMP: Well, that's not smart, Ernie.

PRESIDENT: You may answer if you want.

SENATOR DeCAMP: I, to the degree that I as one individual can, I sure think that is reasonable. I think you ought to listen a little bit to Senator Carsten who has worked on this and it's a committee bill, it's his....

PRESIDENT: Well the Chair has....if I may interrupt, Senator DeCamp, the Chair has a suggestion. I am going to call the Legislature at Ease for a few minutes and ask Senator Carsten, Senator DeCamp, whoever else wants to join with the Speaker, Acting Speaker Lamb, and see if you can't resolve some way to treat this so that we can all come together and do something and know that we are going to do it. So let's stand at Ease until that is done. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I don't want to make anything more difficult than it is but here is what I have to object to, and I hope you will allow all personalities to drop out of it and concentrate only on me if there has to be a personality condemned. For too many times the Legislature has allowed itself to be controlled by three or four people. Now that might be all right for the rest

of you but it is not all right with me. It is an important issue but there are other matters that are equally important in the legislative process and how we function. Now Senator DeCamp had indicated that I know how to bring everything to a stop in the Legislature. Senator DeCamp and others know how to do that too and you thought I was going to bring things to a stop on the death penalty, didn't you? But the reason I didn't have to do that is because I knew this moment was coming because it comes every year. Now I, for one, am not in favor of allowing three or four people to have a meeting no matter how well-intentioned and determined what the Legislature will do because if that becomes what is attempted, I maybe can't get amendments on this bill in time to stop it but I can amend other bills and do in fact bring everything to a halt and have you crawling on your knees up to me begging me to give you a chance instead of saying, he is blackmailing the Legislature, he is coercing us and we will not tolerate it. I told you when you accused me of those things I would have a chance before this session was over to throw it back in your teeth and that is what I am doing now. But that is not all I am doing. I am saying that a point has to be reached where the members of the Legislature realize that we function as a whole. No one of us should have more to say than the other about how this body functions. I think the position of Speaker, I will say it again, has been politicized too much. A mistake was made in giving the job to a person out of respect and admiration who was not up to the job physically or mentally. Now we are in a shambles and the legislative process is unraveling. The rules that we said we abide by we have thrown out the window. When you talk about issues being germane to bills, when I bring it up you vote one way, then when it is necessary to do something else you vote another way. So what we see happening these last days is that there are no rules of the Legislature. It is the power of the fastest gun and for most of you there are two or three people in here who have the fast guns. They reach for their holster and you run for your hole intimidated but that won't work for me. I don't care what happens with 816. I don't care. I have an interest in LB 408 which follows it related to radar. That is trifling and insignificant now. All of these bills that remain mean nothing. The process itself is being thrown into a shambles and I find it ironic that those of us who are called radicals or leftists or whatever are the ones constantly making a plea for you to observe the system. That is the job of the conservatives. So if you want to stand at Ease and, Mr. Speaker, I told you in the first place that I am not talking personalities now, you

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happen to be in the Chair, but if you want to go on and stand at Ease and let them have their meeting and let them dictate to you what they are going to do, you can do it, but I am going to plot my course independently of that action and when I say plot I mean it in every sense of the word and the only way you will stop me is to say openly, Chambers, because you are here, we are not going to observe a single rule as the Acting Speaker has done with reference to two resolutions that I have had pending. He refuses to schedule them. That has not happened to a white senator in this body. Now he can like me or hate me but I want it made publicly known this session that this is one of the worst operating things that I have seen since I have been down here. The session has fallen into a shambles, rules mean nothing. There is total disorder and chaos, but the reason you don't call it chaos is because white people are doing it. But imagine what it looks like to me sitting here who am supposed to be lawless watching this breakdown in the authority. I say that to you and if the Speaker does not schedule my resolutions, I am going to bring it up Tuesday. Every time you have any matter for discussion I am going to bring it up. I am going to take a point of personal privilege. I am going to call you racists, bigots, ignoramuses, dunderheads and whatever else. While I am speaking I have this final thing to say. This morning Senator Hefner said, the way Senator Chambers is shooting his mouth off today he must have brushed his teeth with gunpowder. Well, all I can say is this.

PRESIDENT: Half a minute, Senator Chambers.

SENATOR CHAMBERS: Senator Hefner must have a bullet proof head because not one of the things that I shot at him made a dent of any kind.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I would suggest that we work through this Gordian knot in public and not in private and remain in session. I also want to indicate my preference for staying through and working out this problem right now, or as a second but also acceptable alternative that we lay down a procedure that will allow a reasonable amount of debate and discussion and eventually a vote on the merits on LB 816 at the very beginning of Tuesday morning. Let me defer a question to Senator Lamb. As Acting Speaker, do you have a suggestion at this point, Senator Lamb, for how we should proceed?

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SENATOR LAMB: Okay, I would like to....

PRESIDENT: Senator Lamb, go ahead.

SENATOR LAMB: Mr. President, pardon me....

PRESIDENT: As the Speaker I might just remind all of you that the Speaker can speak out on procedure at any point in the proceedings according to your rules, so go ahead, Senator Lamb.

SENATOR LAMB: We have six bills scheduled for Final Reading, two hours worth estimated on Tuesday morning. Then we have all these motions that I talked about before and we have told those people we would give them their shot, and my problem is I don't know how long 816 is going to take and how long all these other motions are going to take so that if time would run out and we would not get to all those then I would have reneged on what I have already said. So at this point if this group would decide by 30 votes to put LB 816 right after Final Reading on Tuesday morning, that would solve the situation as far as I am concerned.

SENATOR LANDIS: Mr. Speaker, this is the remainder of my time.

PRESIDENT: Yes.

SENATOR LANDIS: May I ask Senator Lamb, is it not physically possible to have those motions as we go through Final Reading and as a more acceptable alternative....

SENATOR LAMB: No. No.

SENATOR LANDIS:if we have the 30 votes to put them before Final Reading.

SENATOR LAMB: No. We can start an hour earlier. We will do that. We can start at eight o'clock instead of nine o'clock, okay? And then we read this two hours of Final Reading, then if you get your 30 votes right here tonight, we will put 816 on right after that and then we will go into the regular schedule as we have laid it out.

SENATOR LANDIS: Okay, that is acceptable to me. I will be happy to make that motion to override the Speaker.

PRESIDENT: Well, there is a motion before the...we are really speaking to a motion and this was just a procedural

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interruption....

SENATOR LANDIS: I believe....

PRESIDENT: Interestingly enough only the Speaker, the Acting Speaker could do anything about this at this time. All right, there is one...there is a motion. Read the motion, Mr. Clerk. There is a motion on the desk. Senator Dworak.

SENATOR DWORAK: Point of clarification, please.

PRESIDENT: State your point, go ahead.

SENATOR DWORAK: From Senator Lamb. We know what will happen if we get the 30 votes. I think we ought to know the alternative that if we fail to get the 30 votes, then where are we?

PRESIDENT: Do you want to explain that, Senator Lamb.

SENATOR LAMB: Alternative? I would still start at eight o'clock without any argument.

SENATOR DWORAK: When will 816 come up then, Senator Lamb?

SENATOR LAMB: I don't know how long it will take to get through these motions. We have scheduled this two hours of Final Reading and then about ten or twelve motions.

SENATOR DWORAK: Well, would it not...excuse me, Senator Lamb, wouldn't it be that if we do not get the 30 votes, we are on 816 and stay in session right now, isn't that the alternative?

SENATOR LAMB: Well, that's right, sure.

SENATOR DWORAK: Thank you.

PRESIDENT: There is a motion on the desk.

CLERK: Mr. President, Senator Newell would move to amend the Speaker's agenda for Tuesday to provide that 816 be the first item on the agenda after Final Reading and Final Reading shall be the first item of business on the agenda that day.

PRESIDENT: All right, now that is to overrule so that does take the 30 votes. All right, question is...now how long are we going to talk about this? Senator Newell.

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SENATOR NEWELL: I don't think we have to talk long. I think that we ought to vote on it. I am sure this is a good faith effort on everyone's part. I will be surer on Wednesday than I am today but I would urge those people to vote for it and we will try to work on good faith.

PRESIDENT: We don't know who wants to talk on this. Actually there is a motion, so hold up your hands. Senator Marsh, and Senator Chambers is next.

SENATOR MARSH: Thank you, Mr. President and members of the Legislature, I am not one who is willing to suspend the rules to change the Speaker's orders. This morning before we had done all the talking we had done I was one who wanted to leave by five. I now know clear down to the marrow of my bones that if we do not take 816 now, we do not have a fair chance of handling any of the rest of our responsibility in this body. It is important for us to say, do you feel that 816 is important? And I say I believe 816 is important. I believe it is important to give the major...and I am saying Senator DeCamp, the opportunity to share his major amendment with this body. I am saying I am willing to listen to the arguments for and against. I am also saying that I would like to be at Maundy Thursday services but my responsibility extends to doing a good job with this body and that means staying here tonight to take care of 816, not postponing it because this body has not any day yet accepted the responsibility en masse that we need to do. Why would you think it would start on Tuesday to do so?

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I have but two things to say.

PRESIDENT: (Gavel). Now let's...if you are going to listen, please listen.

SENATOR CHAMBERS: I have but two things to say. I am not going to vote to suspend the rules and I am going to vote no on 816.

PRESIDENT: Okay. All right, anything further? Any further discussion? All right, the question is motion to overrule the Speaker's order and to put this 816 on right after Final Reading and the understanding is from the Speaker it would start at eight o'clock, as I understand it on Tuesday morning. All those in favor vote aye, opposed nay. It requires 30 votes to overrule the Speaker's order. Technically

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we are under Call, so if anybody talks about having a Call of the House why we will just have to check everybody in again because technically we are still under Call. Everybody should be at your desks. Have you all voted? Senator Newell, we have waited quite a while, what do you want to do? You can have yourself...about all you can do is have a roll call vote or if you want to check everybody in as you did the other day, I will even let you do that. Senator Newell.

SENATOR NEWELL: Mr. President, I would like to....

PRESIDENT: Record the vote. Record vote has been requested. Who requested the record vote? I heard it back here.

CLERK: Senator Fenger.

PRESIDENT: Senator Fenger. All right, record vote has been requested. Proceed.

CLERK: (Read the record vote as found on page 1841 of the Legislative Journal.) 30 ayes, 11 nays, Mr. President.

PRESIDENT: All right, motion carries and the Speaker's order has now been changed to that effect. Now, do you have any matters to read in? Anything else to read in? Just a minute.

CLERK: Mr. President, Senator Beyer would like to print amendments to LB 408. (See pages 1842 and 1843 of the Legislative Journal.)

PRESIDENT: Senator Lamb, I guess we just as well go ahead and we now...it is in order to move to adjourn again. All right, Senator Lamb.

SENATOR LAMB: Mr. President, I would move to adjourn until eight o'clock Tuesday morning.

PRESIDENT: Motion now is to adjourn until eight o'clock Tuesday morning. All those in favor signify by saying aye. Opposed....all right, okay. I will do it one more time but I will tell you this, I am getting exasperated by this. Next time I am going to warn you I am going to call the vote viva voce. Next time I am going to call it by voice and then we are going to adjourn. So all those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: Mr. President, with regards to LB 816 the E & R amendments were adopted by the Legislature on last Thursday. I now have a series of amendments pending, Mr. President. The first is offered by Senator DeCamp.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I have an amendment there. What I would like to do is substitute the one that I have there for the one I'm handing out so that we have one shot. In other words, the one I've got there I just substitute the one I am handing out. It is a different amendment.

SENATOR CLARK: Are they passing it out now, Senator DeCamp? Is there any objections? If not, so ordered. Senator DeCamp, you can start explaining the amendment. They are passing it out now.

SENATOR DeCAMP: Take Senator Clark one up there in case you haven't.

SENATOR CLARK: You go ahead, Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, really I would kind of beg that you listen because this is kind of an important amendment one way or the other and I full well realize that as it looks now there probably might be a vote or two or three or four short of adopting it and I think we will all be the worse for it. I'll start out by telling you a little story that you are all familiar with. Mr. Ghotbzadeh, the famous Iranian foreign affairs representative during the famous hostage crisis, used to get on television back when we were debating the personal property tax last time and he used to rant and rail against the Americans and give us the blazes, so on and so forth, and about the time he was doing that I mentioned on the floor that in that debate, that Mr. Ghotbzadeh should treat people a little nicer when he was at the top because there might be sometime when he wasn't at the top and they would remember it. Well if you read the paper the last couple of days you see the gentleman has now been arrested and they are talking about hanging him in the morning almost because somebody else is now in control. Last year and the years before when I dealt with personal property I had one plea I made regularly to the body to both sides and I said to my rural comrades, treat the cities fair because, fellows, one day there will be a day of reckoning. One day they are going to outnumber us and one day if we don't treat them fair it will come back to haunt us. And so over the years I sponsored legislation such as the Omaha sales tax, such as the famous sewage bill

that got Omaha \$75 million in sewage funds from the federal and state government and one thing after another, knowing that the cities had their problems and they needed our help. Okay, I'm asking for some fair treatment for the other parts of the state today and I want to clear up several myths that exist in the minds of Omahans and in the minds of rural Nebraskans. The amendment I offer is a valuation formula. Now you adopted this formula the last time. When I say "you" adopted, I mean simply the Legislature with an overwhelming city vote against some of my very good friends from the rurals who could have gotten a lot more money otherwise, Senator Schmit, Senator Kahle, Senator Hefner, all fought this formula and I argued, treat the cities fair with this because some day you'll want fair treatment from them. So the first myth that I want to clear up is that this is an old formula that particularly helps the rurals. In fact, it was a formula and it is going into effect July 1, that gives dramatic increases to the cities, \$2 million to Omaha, a million and a quarter to Bellvue, a million to Lincoln and we have to give up that money under this formula and the votes that put it on were the city votes last time to get fair treatment and now here is the big secret, and I almost hate to reveal it and there might be people in the room with red faces. I see they are both gone from their seats. I didn't write that formula. That formula isn't Johnny DeCamp's formula. Last year or whenever it was we were fighting this battle I went to the two individuals I felt most represented the cities in this issue and most understood the issue and I said, Vard Johnson and Davy Newell, what would be the fairest thing for the cities? What would you write if you had your choice? And so they did and that is the formula we're talking about now. It is the Vard Johnson-Davy Newell formula that they want to now repudiate but that was acceptable as being fair to the cities when we first did it. Vard Johnson said to me, well, look, if we're talking about property let's talk about all property, tie it to valuation and so I did. And Davy Newell said, that's not good enough if we're talking about property, let's talk about the property that is in the cities, cars, business equipment, let's include that, and so we did and that is the formula I am trying to hold onto that the rurals are trying to hold onto, a formula that was designed to be eminently fair to the cities and was actually authored by two individuals from the cities who now want to say, it is terrible and evil. And we do get cut tremendously in the country. But we think we can survive and we think it is fair and we think we can live with it and we would ask you to hold onto it. Now the second myth that seems to be circulating goes something like this. Oh, we've all been shocked, we're in a state of disarray because a district

court judge said that formula is unconstitutional. Wait a minute. That was the whole basis of adopting it at the time. We knew the Attorney General was questioning it. We knew he had a different philosophy on whether you could tie it to valuation and we knew, we absolutely knew we were going to get a district court decision saying it was either constitutional or unconstitutional, one way or the other, and it would be appealed to the Supreme Court and the whole purpose was we would delay implementation until this next year so that we would get that court test. Now we're ready for the court test and you want to act like there is a big, new shock. We knew this. This was the whole purpose of adopting it. The record is replete with it. That was the idea of using that Schmit formula for two years. The next myth I want to get cleared up. The figures that you have gotten so far compare the Schmit formula and the dollars there with the 816 formula but the 816 formula should be compared, if anything, with the formula here, what the law is, what it is going to be July 1, 1982. That is what you haven't seen. That is what I hope to get to you here in the next five or ten minutes. And under that, as I say, Omaha gets dramatic increases. Bellevue almost doubles but there is a point where you can't push too far and ask for too much. You can't just take everything. Now what does the amendment do, so you do understand it. Very simply this, it says we go ahead exactly as we agreed, exactly as we agreed last year. We finish the court test and if it is constitutional, we go ahead with valuation distribution. Okay? And if it is unconstitutional, if a court says it is unconstitutional, the amendment simply does this. It says, okay, go on to 816 so we don't have special session, so we don't have this, so we don't have that. All the amendment does in essence is say, live up to the agreement we had a year ago to go ahead and test valuation in the courts so we'll know it for this and a number of other purposes in the future on all our laws and if we are wrong, then we take our lumps after we've completed the agreement.

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

SENATOR DeCAMP: Now I did talk to the Chief Justice about the problems of getting a decision down. The case is already before the Supreme Court. In fact, they held up filing a brief to wait and see what we do. He told me, and he said I could say this on the record, that the court understands the issue and the problem, that about eight to ten weeks after the arguments there will be a decision down. That would mean you would get your decision at the latest, by my calculations and he agreed with me, by the latest, by about September and if they went ahead and completed the briefs immediately, probably by July because they are going

to be in session in June and July he assured me. So the argument that you are going to delay something or hinder something because of a court decision is simply not there. The court can and will get the thing processed. It is all ready to be done, the case is before it. The first distribution which is another myth that needs to be cleared up, the first distribution under this formula is by...

SENATOR CLARK: Your time is up, Senator DeCamp.

SENATOR DeCAMP: ...by December 20, 1982, and I guarantee you, no matter what formula you adopt, you are going to have to change to that date I think for cash flow problems and otherwise. So I would urge you to accept the amendment and go ahead with this proposal.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, as you recall I was very much in opposition to Senator DeCamp's proposal originally, knowing that there was a case pending that I felt was going to be very detrimental to the distribution of these monies to the governmental subdivisions and I think basically the reason for the Revenue Committee's proposal in the original of LB 816 and as it still is, is based on that very basis. We did not want to see that money held up again as it has been in the past to the detriment of governmental subdivisions. I rise this morning before you with a different philosophy I suspect than what I originally had and rise to tell you my personal feeling and believe you me, I have spent considerable amount of time wagering this in my own mind as to what is not good for whom or what is bad for whom, but what is right procedurally. And the conclusion that I have come to, as I understand and have been informed by the Attorney General, that what Senator DeCamp is doing with his amendment now does provide that that test in the Supreme Court we do desperately need for decision making down the road. I honestly believe that the Supreme Court from what I can learn is very mindful of the seriousness and the deep concern that the whole state has for this, that they will move as expeditiously as they possibly can and certainly I would hope that we would have that decision before they take their August vacation. It does seem apparent that that can very well be true. Now in the event that they uphold the previous decision, and this is unconstitutional in their minds, then 816 would become effective. We would not be called back here in a special session to rewrite the formula in a hurried fashion. I would suggest to you that in light of our present circumstances with the economy, with the actions on the federal level and with the return to local control, that we are facing probably two or three or possibly four alternatives and with that in mind...

SENATOR CLARK: You have one minute left.

SENATOR CARSTEN: ...with that in mind I suggest to you that our Revenue Committee in this interim, with a couple of proposals that have been presented to us in this session, will be looking at this overall picture and I would hope that also in this interim that the workers for various approaches would sit down with me and look at this total picture and then rather than continue to fight one another, we may be able to come up with an agreeable procedure. With that, I would suggest to you that you give careful consideration to this amendment which, if it is constitutional, will remain in place but if not, there is a backup for it ...

SENATOR CLARK: Your time is up.

SENATOR CARSTEN: ...which the Revenue Committee has presented to you. Thank you, Mr. President. I would hope you would think about this very seriously when you cast your vote.

SENATOR CLARK: I would like to announce that we have 25 seniors from Deshler, the teacher being Ron Streit. They are in the North balcony near Senator Apkins's district. Will you stand and be recognized, please. Also under the North balcony we have the daughter of Senator Beyer, Dianne Schnell, Mrs. Connie Walters. They are with the Sarpy Superstars 4-H Club from Gretna, Nebraska. They are visiting the capitol today. Would you stand up and be recognized, please. Welcome to the Legislature, all of you. The next speaker is Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I would very much like to vote for this amendment because I think it would favor the rurals in holding and retaining at least a share, a large share of what they have, but I will have to oppose this amendment because I don't think it is workable, simply unworkable. If the district court decision is upheld and either way it goes, the subdivisions will have to budget on the basis of the lowest amount of state dollars that they might get, to have sound, fiscal planning throughout the year. This will shove money onto the real estate tax system either way the court decision goes and I do not feel that it is probable the court decision will uphold the existing law and distribution formula and overturn the district court decision. I think we're taking a long shot bet if we adopt the amendment on this basis. But even if this happens, we are going to create surpluses for the subdivisions whichever way it goes. They are going to have to budget on the basis of the lowest amount they might get through either

formula. It simply boils down to that and by passage of this amendment we are assuring real estate tax increases across the state regardless of the outcome of the Supreme Court decision. There is no way a subdivision can think that they will be sound in their fiscal budget policies if they budget with the higher amount that might be possible under a two way possible formula. I urge the Legislature to look at this aspect of it. We are now in a situation that I don't like and I don't feel responsible for because I originally opposed the passage of 518 which created the problem that we're in today. I believe that this Legislature must take the appropriate action, pass LB 816 and assure the funds will be distributed constitutionally and there and go to the subdivisions in the amounts that they will know what is coming. Without 816 as originally drafted we are going to shove real estate taxes upward for the year and create surpluses in many of the treasuries in many of the subdivisions' funds. I urge you to oppose this amendment and vote LB 816 across the board so we're through with this issue once and for all this year. I think it is the responsible thing to do.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, I rise to oppose the DeCamp amendment. You know one of the things that strikes me and I think it is important to mention to the members of this body is that Senator DeCamp has had tremendous sincerity in regards to this issue. He is concerned about his district which is a very noble and understandable sort of thing and Senator DeCamp has been persistent. Lord knows he has been persistent. I want to remind this body of the number of times that Senator DeCamp has asked the Attorney General for his opinion and the Attorney General being a decent man and a hard working man, brings back those opinions to Senator DeCamp and Senator DeCamp is generally unhappy with those opinions and so he rewrites them and sends them back again and the Attorney General sends back the same answer and Senator DeCamp rewrites them and sends them back once more. You know what we have here is five years of toughing it out. A lot of court cases, a lot of times to the trough, a lot of times we have recognized and been told and the evidence has been very clear, it just isn't constitutional. Now this Legislature enjoys the issue of personal property tax. I mean it has to enjoy this issue because it deals with it each and every year and we generally will listen to the arguments made by the Attorney General or by the Supreme Court or by the district court, we will generally heed those arguments, if they say something is unconstitutional, then, by golly, we understand it. We're going to try to either make it constitutional or we're not going to

deal with it but on personal property tax, and its replacement funds, we have said consistently, we don't care what is constitutional, we don't care what is fair because there is an underlying issue of fairness here. Many of the counties that Senator DeCamp is crying for gets more state aid than they pay in sales and income tax and frankly state aid is only half the budget. That is an amazing situation. If you look at the per capita charts that I sent out, you will see that what we have done is we've allowed many counties to have, not only their cake, that was the tax exemptions, but they are allowed to eat it, too, and they still have the cake. This issue is one of equity also but this Legislature for four years has said, you know, we ought not talk about equity, we ought not talk about constitutionality, we ought not talk about what is fair. We ought to do what we have always done because it benefits certain districts and to me it seems it is right. Well I think we have a situation today where we are asked to accept the DeCamp amendment and the DeCamp amendment simply says, look, we'll do what is unconstitutional unless the Supreme Court itself, not a district court, says John, not a lonely old district court, we want to be locked in as locked as we possibly can. We want the Supreme Court to tell us what to do, not just some district court, not the Attorney General, not anybody else and they haven't specifically said no yet to this issue. They have said no to so many other associated issues and related issues but those are to be forgotten. This is a more specific thing, therefore, it should be considered. Now let's talk about the difficulties with the old formula. Let's talk about the difficulties we are creating for local governments. The old formula was a two tier opinion, two tier system, and basically...

SENATOR CLARK: You have one minute.

SENATOR NEWELL: ...well I won't talk about the two tier system if I'm that short of time. I'll talk about local governments. We're going to have a lot of local governments that are going to have to set their budgets this year and they are going to set those budgets long before the Supreme Court can act and they are going to set those budgets not on 816 and not on 284, they are going to choose the lowest dollar amount and they are going to budget that lowest dollar amount and if they are right, everything will be okay and if they are wrong, they will have overbudgeted substantially. They will have a great surplus and there will be a great problem with the 7% lid because those are revenues which they can spend then next year. It is a way of getting around the 7% lid and I want to say that Senator DeCamp...

SENATOR CLARK: Your time is up. Your time is up, Senator Newell.

SENATOR NEWELL: Thank you.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would like to also oppose the DeCamp amendment. This is the first time in four years in the Legislature that I have spoken on this particular issue although it has been troublesome to me all along. But I wanted to go back and be sure I think everybody understands clearly what happened when this original deal was made on personal property tax exemption but I'm not sure that everybody understands the double benefit that accrued to the people in the outstate counties. First of all, when property, personal property was exempted by law those who benefitted by that exemption or by those exemption most were the taxpayers, the personal property taxpayers basically in rural areas. So that was their first benefit. They benefitted the most but then what do we do? We turn around and benefit the rural taxpayer the most a second time by manipulating the redistribution formula in favor of those same counties. So a double benefit accrues to those particular taxpayers if you'll look at it in terms of taxpayers. So the businessman in Omaha, for example, who was not benefitted as much by the exemptions in the first instance and then that same businessman is asked to take more money out of his pocket to help those who receive the bigger exemptions and I can see no justice in that kind of logic whatsoever. But if that is bad, consider the urban wage earner. He benefitted very little or not at all from the original exemptions and the burden on him is then doubled. He makes up the taxes that were exempted in his local area, the businessmen and the farmers who were exempted, he makes up those taxes. Then in addition the wage earner turns around and pays out more of his taxes to the outstate counties to help them make up for the exemptions so that the urban wage earner is hit twice real hard by that original deal and from the point of view of the urban wage earner, that original deal can be characterized as nothing less than a swindle. The total state aid to Lincoln, Lancaster County, we were ninety-second out of ninety-three counties despite the fact that we pay a much, much higher percentage of the sales and income taxes. 10% of the people live here and yet we are treated like the ninety-second county. So my point is simply this, that there was no justice in the original formula whatsoever. So now looking at how the money should be distributed, what is the philosophy that this Legislature should adopt? What are the philosophies that you can adopt that makes sense? It seems to me that the only one that makes any kind of sense is to give back to the counties in state aid approximately what those counties pay in in state and income taxes, state sales and income taxes. But this is the way it should be,

the only equitable way it can be unless there is some overriding social purpose that would dictate departure from that particular principle and to my knowledge, and I have not heard on the floor anyone state, any social purpose as to why we should depart from that particular principle...

SENATOR CLARK: You have one minute left.

SENATOR BEUTLER: ...making an analogy to the federal government. How would you feel on general revenue sharing if the federal government decided to give more money for some reason to Louisiana or to Nevada or to Connecticut? Unless you believe that there is some overriding social purpose to that kind of maldistribution, I think you would agree that it should not be done and bringing that back on the state level, unless you can conceive in your mind of some overriding social purpose to giving more money to the rural areas, then I submit to you that you should come back to the only principle that is a just principle and that is distributing the money more or less in accordance with how much the taxpayer, the income and sales taxpayers in particular areas pay into the government. Thank you.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, there have been some things said that don't add up very well. But to start with I think that I'm concerned about how this vote is going to come out mainly by senators who represent cities outside of Lincoln, Omaha and Bellevue in thinking that their area is going to get a bonanza out of this set up, forgetting about their trade areas. I'm glad to report that the City of Kearney which has a large trade area to the south which I represent, a large trade area to the north that Senator Lamb and Senator Wagner represent, while the City of Kearney would gain under this and even Buffalo County would gain under the 816 formula, the City of Kearney has gone on record as being opposed to 816 because they know where their bread is buttered and where the trade area is. It just ceases to amaze me people like Senator Beutler keep telling us that, my goodness, look at all the sales tax that we're collecting in Omaha and Lincoln and Grand Island and Columbus and Fremont and those counties are suffering because they don't get it back. Where in the devil do you suppose that trade is coming from that goes into those areas? We just...my family just bought some new machinery and I bought some pipe yesterday for our irrigation. We paid some twelve hundred dollars in sales tax that is going to be credited to Buffalo County and I live in Kearney County so it doesn't mean a darn thing and I get awful upset when you do that because if you will look at those figures, every

trade area has a larger percentage of sales tax collected per person than a county that doesn't have a trade area. So the only way that we're going to get that money back on an equitable basis is to use some other formula rather than the sales tax formula. Property tax I thought was a good one because that does designate the wealth of the county and it has a great amount of relationship of what we lost when we lost the personal property tax in those areas. If you had property, real estate, you also had personal property. So it really does bother me that we keep bringing this up, that, oh, my goodness, look at all the sales tax in Omaha and Lincoln and Grand Island and Kearney and any place where they have a shopping area. One thing that might work, if you're going to distribute the money in this way, why we should take the sales tax off of farm machinery because that is where the whole inequity is. I probably buy the same amount of clothing, food, supplies that you need to run a home as the people do in Omaha and Lincoln but I wonder when they have had to pay the kind of sales tax that we have to pay when we buy new machinery. I called this morning to find out what a new tractor costs. A new 4440 which is a large tractor, John Deere, costs \$50,000. If you have a good dealer that is hungry, why he is going to take some percentage off. Let's say he takes off from 10 to 20% which is not uncommon in these days. So that tractor then would be worth about \$40,000 and the sales tax on \$40,000 would be \$1,200. Now you are talking about adding a half a percent and we've already passed the bill I guess. That adds another...the tax then would be \$1,450.

SENATOR CLARK: You have one minute left.

SENATOR KAHLE: So this is where the inequity is. We keep hearing, oh, my goodness, you guys are ripping us off because we pay all the sales tax. You don't pay all the sales tax. That is a misconception entirely. I support the DeCamp amendment. I think it is one way to find out. I just cannot believe that the court is going to rule that if we use the value of real estate as a guideline that it is not constitutional. It is certainly alive. We have messed with that every year and the assessors have changed values. If you don't believe it, just look at your own tax receipt and if that isn't current, I don't know what is. So I think we should support the DeCamp amendment and let the court make the decision. We really have nothing to lose because if we are wrong and the court rules against us, I guess all I can say, we've been ripped off for the next...probably hundred years, I don't know how long. Thank you.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President, colleagues, I'd like to arise to oppose the DeCamp amendment. I am tempted to call the question but I think it is probably too early in the debate to do this and I know other people want to speak. Let me keep my arguments brief. Others have discussed I think quite well the substantive issue of the LB 816 formula from the point of view of Omaha, Lincoln and other urban legislators along the Platte River and I won't repeat those arguments but I think they are valid. Let me talk instead about the fundamental policy problem I have with John's amendment in that he would, in effect, delegate this very important substantive issue to the Nebraska Supreme Court. You know so often in the four years that I have been in the Legislature I have heard legislators complain about the courts usurping legislative prerogatives and usurping legislative authority, really deciding more questions than they could or than they need to. I think in most cases those arguments are spurious but nonetheless I think there is a feeling in the Legislature and in certain areas outside the Legislature that the courts really get too involved in making policy and too involved in legislative decisions. Now the problem, one of the fundamental problems with John's amendment is here we are relinquishing the very important legislative policy decision to the Supreme Court. We're asking them by way of ruling on a constitutional question of the constitutionality of the current formula to essentially make that decision for us. Now this is clearly a legislative decision, one that is appropriately decided by the elected representatives of the million and a half people that reside in Nebraska and I think it is important for us to make that decision right here where it belongs. These policy decisions in this particular milieu, in this particular area are really not appropriately delegated to the courts and I don't think we should do that by way of John's amendment, simply bucking it over to the court so that they can make these tough decisions for us. Now in addition to that, I know that Senator Newell and others are going to talk about how absolutely essential it is that the political subdivisions, at the very latest by August 15th for their internal budgeting purposes, know exactly how much state aid they are going to receive. Others will argue that the political subdivisions of course in developing their budgets no later than August 15th if they have not heard from the Supreme Court under Senator DeCamp's amendment will have to assume the worst and have to assume it will get the least amount of money available under the two formulas. A lot of political subdivisions are going to raise property taxes in order to take care of assuming the worst case in order to make up the revenue difference. Now we also know that the Supreme Court is probably going to have a very difficult time making this decision by July or August. The May call in the Supreme Court has already been published. It was published yesterday, dated

April 12, and on the call of cases that are going to be heard in May this case is not listed. Indeed, John has indicated that the briefing schedule has been postponed. The case cannot be called for argument until the briefs are completed and the briefs haven't even been completed yet. Also yesterday there was published the proposed call for the month of June and this case was not listed on the proposed call. We know from Senator DeCamp's conversations with members of the court that it will take eight or ten weeks after the case is argued before it can be decided. If it were argued in May, and it is not on the May call, it couldn't be decided until July. If it were decided in June, and it is not under the proposed call for June, it couldn't be decided until August and we know that the political subdivisions have to have an answer by August 15. So practically speaking...

SENATOR CLARK: You have one minute left.

SENATOR HOAGLAND: ...practically speaking I just don't see how the court is going to be able to get to this matter on time. If they do, it will only be because they are feeling tremendous pressure and I think we're probably somewhat less likely to have a truly sound decision by the Nebraska Supreme Court if they are fighting a deadline and if they do, in fact, decide the case under tremendous pressure. So for these reasons, these procedural reasons alone, I'd ask that you vote against the DeCamp amendment. Thank you.

SENATOR CLARK: Senator Fenger.

SENATOR FENGER: Thank you, Mr. President, fellow members, a year ago when we discussed LB 284 I think I was one of the most ardent proponents of the DeCamp formula of distribution. As a matter of fact I felt so strongly that the record should show that I was one of a few people who voted against 284 on Final Reading in order to show my support for Senator DeCamp. Today, however, I have to oppose this amendment because now, a year later, in essence the DeCamp proposal says three things. Number one, it says the Attorney General's opinion of the third year distribution in LB 284 is wrong. Number two, it says the district court decision of Lancaster County is wrong. Thirdly, it suggests that the Supreme Court of this state will affirm Senator DeCamp's opinion at some future time. Now after two sessions of sitting in the back of these chambers I've gained a rather healthy respect and admiration for Senator DeCamp's ability and his expertise but, ladies and gentlemen, in my humble opinion this proposal is carrying "trust me" just a little too far. You know the biggest fault of the DeCamp proposal at this time is simply this. Every school district in this state, every city, every village and every county is

going to be preparing budgets probably without a firm knowledge of how much state support it will receive. Now perhaps some of you are comfortable putting those local political subdivisions in this situation but frankly I am not and I would urge defeat of this proposal at this time. Thank you.

SENATOR CLARK: Senator VonMinden.

SENATOR VONMINDEN: Mr. Speaker, members of the body, I rise in support of Senator DeCamp's amendment. In my district it really makes no difference which way I go. Two counties are penalized and one county gains. The rurals are penalized. I rise mostly, 284 last year gouged the farmers quite a bit. It was the most perfect bill. If it was the most perfect bill a year ago how could it be so unperfect this year? I would like to say to the body also, approximately a little over a year ago Senator Goll made a statement. He said, how agriculture goes, so goes small towns. So goes main street, I think he said. I want the body to think about that, how agriculture goes, so goes the State of Nebraska. Again, I want to say, 284 was voted in last year by I think about 34 votes to 11 against it and the A bill about 36 to 9. If it was a good bill a year ago, it certainly has to be a good bill this year. As far as being unconstitutional I think Senator DeCamp's is real fair. If it is unconstitutional, we revert back to 816. I certainly think we should go along with Senator DeCamp's amendment. Thank you.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise in support of the DeCamp amendment although I also am not enthused with it. I do not believe the amendment adequately deals with the problem of revenue distribution to local subdivisions. We've talked about it many, many times. We will continue to talk about it as the balance of power shifts from one area to another, the issue will shift and the emphasis will shift. Senator Hoagland says that we should not abdicate our responsibility to the Supreme Court. I'd like to remind him that back before the time that Senator Hoagland was a member of this body the Legislature made a decision and they said that we will exempt from personal taxes certain classes of property and we will tax that property differently and then the state will send back to the local subdivisions the revenues they have lost. As Senator Kahle pointed out, certain classes of property pay substantial amounts of income tax, pardon me, substantial amounts of sales tax. Those taxes are paid

by the individual. When I buy a combine in Columbus the City of Columbus credits that as having come from Columbus but it is paid by a Butler County farmer. There isn't even an International dealership in Butler County anymore so we buy our property, our equipment in either Columbus or we buy it in Fremont or we buy it in some other area. I've handed out, and I don't think you will read it, but I've handed out this Chamber of Commerce report about the agricultural impact upon the City of Omaha, 3.6 billion. I've stood here many times and talked about the interrelationship and the interdependency of one area upon the other. It is very easy today to put together, and anyone can do it, 25 votes when you come to dividing up the pot. There are those kind of allegations of unfair treatment, one entity by another. I do not believe that can be held true if you go back and review history. If the decision is to be made based upon who has the 25 votes, then all you need to do is to put together 25 legislators who receive the bulk of the funds and then you have achieved equity, if that is equity. But I want to point out to some of us who have been here a little longer than others that the decision to exempt personal property was not made by a few people. The issue was carried to the people of the State of Nebraska and they authorized the Legislature to exempt certain classes of property from taxation at the local level and then this Legislature said, we shall return to that subdivision those funds that have been lost. Those early attempts met with frustration because of the so-called frozen class and the idea was adopted by the Attorney General and was pursued by the court which made it difficult if not impossible for this body to reimburse the local subdivisions for the funds lost. Now the reason we tried to do that is because that's also where those taxes are still being collected. The tractors and the livestock and all that is still out there in those areas and when you buy a tractor or a combine you pay that 3½% sales tax on it. It goes into the state treasury and I'm not going to argue about that...

SENATOR CLARK: You have one minute.

SENATOR SCHMIT: ...because it's not going to impact upon you anyway but I just want to say this, that at any time that the pendulum swings too far in one direction it eventually swings back and those of you who come from areas outside of Lincoln and Omaha who today may be able to look at the figures and say, well my community does better under this formula than under the DeCamp formula, remember this, that as time goes by and the balance of power shifts a little bit more toward the metropolitan and primary class cities, maybe your city, your first class city will be excluded from

those which will receive the favored treatment and there is nothing here that ties any amount of money to Douglas County, Dodge County or Butler County. It is an arbitrary decision of this Legislature...

SENATOR CLARK: Your time is up.

SENATOR SCHMIT: ...and it may very well in the future exempt your county and leave you without the kind of base which you need.

SENATOR CLARK: Senator Sieck.

SENATOR SIECK: Mr. President and members of the body, I'm going to support Senator DeCamp's amendment. I have some fear about it but I feel that this is the best solution and I did support him in years past in this particular avenue. I felt that was the most fairest. I stand opposed to 816 as it is written. I feel that it is using completely population as a basis for the formula and it is quite altogether against what was originally proposed. The tax replacement of personal property tax was supposed to be based on personal property tax lost and that is what it was said back in 1967 but we're steering clear away it. As you will note in the information that we received those who were paying a good share of the personal property tax will now be taking a loss. All the large population centers will gain if you will look at the history of what sales tax is paying. You will find that the rural areas are paying a tremendous share of a property sales tax. An average farm pays from a five hundred to a thousand dollars in sales tax every year in repairs and equipment. That is a lot of money. That is almost more than we paid in personal property tax where in the cities you will find that this is considerably lower. I was recently told by a colleague that food tax is actually a loss to the state. This is hard for me to believe but if this is the case, then who is paying the sales tax? It is rural Nebraska. We are going to be shocked out in rural Nebraska by 816. Many of our people don't know what is happening. To contest the present formula and if it doesn't work, then we will go to population basis and I feel we should let the courts do it. The courts have done this many times in other legislation that has been passed and we need to do this. I feel that the cost of government should be paid where it is accumulated. In other words, those who ask services from the government should be paying a lot of that cost. I feel that if we collect taxes at the local level at a much greater proportion than we do presently, we could completely do away with this funding and keep it for the state government. Maybe that is what we should do. We should just do away with this bill altogether and put it into

the state coffers. I, for one, would be willing to do this. Then we could find a system that maybe would work a lot better for us and get it down to the local level. I know that Senator DeCamp has a proposal, myself and Senator Remmers have a proposal. We need to take a look at these things. Anytime you get free money, it seems like free money from the state, it doesn't have as large an impact as when you get it at the local level. If we come up with this proposal, I'm sure that Senator Fenger's proposal is going to get a lot of support.

SENATOR CLARK: You have one minute left.

SENATOR SIECK: I personally am disappointed at what our urban leaders are proposing and advocating. I know that many of them are angry at the personal tax exemption but if you look at the other states around us, you will find that they have all taken the personal property tax off and I do feel that it is good for the State of Nebraska. It was an unfair tax. It was using the production materials to produce income for a tax and to me that is wrong.

SENATOR CLARK: Your time is up, Senator Sieck.

SENATOR SIECK: Thank you. I urge you to support Senator DeCamp's amendment.

SENATOR CLARK: Senator Nichol. Is Senator Nichol in the room? If not, then Senator Fowler. Senator Nichol. Senator Marsh, for what purpose do you rise?

SENATOR MARSH: I beg your pardon, I thought the person you called on called the question.

SENATOR CLARK: Oh, no. Senator Fowler...wait a minute, here is Senator Nichol now.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I'm sorry I was detained a minute, but I would just say that we talk about being fair one way or being fair the other way or it was advantageous to my community last time or it is advantageous to my community this time. I think with all this philosophy talk that is going around we may just be considering whether it is good for my district or not. Really what I think we are talking about is money and what it does for my district. I think a lot of this other rhetoric is simply trying to sway us mentally rather than talk about money.

SENATOR CLARK: Senator Fowler.

April 13, 1982

LB 816

SENATOR FOWLER: Call the question.

SENATOR CLARK: The question has been called for. I see five hands. All those that wish to cease debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 3 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Yes, Mr. President, I'd ask for a Call of the House first to get everybody here since they are going to have to be here anyway and it will save time if we get them here now.

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

SENATOR CLARK: The House is under Call. All legislators will return to their seats and please stay in your seats. We will have the Sergeant at Arms keep you in your seats if necessary including Senator Chronister. Will everyone check in, please. We have 81 fourth graders from Golden Hills School in Papillion, Nebraska. They are in the north balcony, I think. Will you stand and be recognized, please. Welcome to the Legislature. Senator Lowell Johnson, will you check in, please. Senator Schmit, Senator Hoagland, Senator Burrows. Senator Burrows and Senator Marvel are excused. Senator Goodrich, Senator Schmit, Senator Wiitala. Senator Higgins, would you push your green light, please. Senator Schmit and Senator Wiitala are the two we are looking for. Did you want to start in on your closing? We've got Senator Schmit and Senator Wiitala absent. Senator Chambers, would you push your green light. Go ahead, Senator DeCamp, you've got two of them missing right now, Senator Wiitala and Senator Schmit.

SENATOR DeCAMP: Mr. President and members of the Legislature, one of the disadvantages of being here quite a while is you learn to count and I have done that and it is kind of dismal and so I would like to predict that what is going to occur here in the next five minutes is probably going to be akin to the shock heard around the state, so to speak, for the

future and I would like to more than anything, tell you about that future. Senator Newell has explained it to me graphically in the last week or so. It is the Newell formula that he has been working on for years that is now the 816 formula. Senator Newell said to me, Johnny, you are going to lose, you are going to lose, you are going to lose, you are going to lose and he said it doesn't matter if you lose this year because next year we are going to have more and the urbans are going to beat you and we are going to start doing what we want, and he is right. And I repeat, that is why in the past I have made a religion almost of trying to look at the entire state, what is good for Omaha, what is good for Lincoln, what is good for Neligh and look at the entire picture rather than a very isolated picture. Now the first thing I want to warn you about is you do not have a formula in 816 as it now exists. What you have is simply three buckets, cities, counties, schools and each year it is simply a contest to see who can muster votes to put money in different buckets in whatever quantity. It is simply a numbers game with no predictability and no tie to anything stable and no real goal on property tax relief or anything. It is simply a contest of numbers and, yes, you've got the numbers. You've got them now and I realize that but as to some of those arguments raised against the amendment by Senator Fenger, for example. Senator Fenger said, well, we've discovered there is an Attorney General's opinion and a court case against this bill. There was the Attorney General's opinion and we knew very well that we'd probably have a district court decision against us. The whole idea last year was to generate the Supreme Court decision so we would know for the future our limits on everything. And, Senator Fenger, and I know you're sincere in this because no man ever saw so much money flow so fast to one place as it is going to flow to Bellevue under the new proposal, but Bellevue and Senator Fenger should realize as Scarlet O'Hara said, "There is always tomorrow," and tomorrow this Legislature might wake up and realize that Bellevue for example is the only place almost on the planet where vast amounts of money from Washington are not deducted from the vast amounts of money from the state. They have a special deal. If we ever treated Bellevue the way other states do, they'd lose as much or more than they gain but we haven't. We've tried to be fair. We've tried to look at the entire picture on Bellevue and said, you've got a specialized situation. We'll give you the state aid dollars, we will give you the equalization formula which benefits you from your lack of property and we'll give you your Washington dollars without even counting them against all that. So look at the whole picture, Senator Fenger. As to Senator Beutler proclaiming that Lancaster County is ninety-second out of the ninety-

three in receipt of money, my God, is there a fool in here that is going to believe that? What he did was he took dollars going to local government, counties, cities...

SENATOR CLARK: You have one minute.

SENATOR DeCAMP: ...and those kinds of things which in the rural areas go through local subdivisions. Not counted in that money, not counted in those figures are the monies going through state agencies, universities, prisons, mental health places. This city is almost going to sink under all the government money sinking into this town. You may come back here and the capitol will be gone because of all the money here. So to proclaim that Lancaster County is suffering some dearth of money is pure and sheer folly. Let me just say I know what is going to happen here, as I say, in the next couple minutes but I think you are being penny-wise and pound-foolish and you may literally make the shock that is heard around the state and destroy that ability to look at the whole state as an entity in what is good for Scottsbluff and Lincoln, for Grand Island and Neligh, for farmer and laborer, and I'm afraid it is about to happen and it will...

SENATOR CLARK: Your time is up.

SENATOR DeCAMP: ...revolve for the next many years.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Senator DeCamp, there is three that are not voting yet.

SENATOR DeCAMP: Is this a record vote?

SENATOR CLARK: This will be a record vote if you'd like. Do you want a roll call or not?

SENATOR DeCAMP: Well, I'll have a roll call I guess.

SENATOR CLARK: All right record the vote, a record vote.

CLERK: Mr. President, Senator DeCamp requesting record vote. (Read record vote.)

SENATOR CLARK: I personally didn't hear anything about a roll call although I asked if you wanted one. You said, no. Oh, you asked for it? I'm sorry, I didn't hear that. All

right, we'll have a roll call vote if you asked for it. I didn't hear it, I'm sorry. The Clerk will call the roll. All senators will be in their seats. For what purpose do you arise, Senator Dworak? All right, for what purpose do you arise?

SENATOR DWORAK: Hasn't the vote been announced?

SENATOR CLARK: No, it was a mistake as far as I am concerned. You can blame it onto me. I didn't hear him ask for a roll call vote. Others must have heard it. It was not announced.

SENATOR DWORAK: Are we going to be able to call for a roll call after votes been announced then in the future?

SENATOR CLARK: No, it was not announced. It was not announced. The vote was not announced. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 1859-1860 of the Legislative Journal.) 23 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion lost. The next amendment.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator DeCamp. It is on page 1368 of the Legislative Journal.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I will withdraw that amendment and any others I have.

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

CLERK: Mr. President, if I may right before that, I'd like to read some items in.

SENATOR CLARK: All right.

CLERK: Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning. (Re: LB 378, 378A, 693, 760, and 967.)

An Attorney General's opinion addressed to Senator Chambers regarding LB 825. (See pages 1860-1861 of the Journal.)

Senator Higgins offers explanation of vote and I have two letters from the Governor. (Read. Re: LB 531 and LB 942. See pages 1861-1862 of the Legislative Journal.)

SENATOR CLARK: Mr. Clerk, I've got an announcement here, too. There are cookies and lemonade in the Rotunda to celebrate the Governor's proclamation today of Victim's

Rights Week from April 18 to April 24. It says, "Please join us to meet Marlene Young from Washington, D.C., who is the Executive Director of the national organization of Victims' Assistance. Signed, Carol Pirsch." The next amendment.

CLERK: Senator Newell would move to suspend Rule 6, Section 5, Rule 7, Section 3 and vote on the advancement of LB 816 without further debate or further amendment.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, I filed this motion some time ago fearing that there might be a number of amendments offered to 816 to prevent its being dealt with this session. Senator DeCamp per his agreement has withdrawn those amendments but there are still other amendments pending on LB 816 and I think that I, for one, and I think that Senator DeCamp can agree, provided an opportunity to have the best shot that was available through the DeCamp amendment. Now frankly, that has been the essence and the primary issue of this whole debate. LB 816 is needed if we are going to avoid a special session. LB 816 is a distribution formula which, even though there are people that aren't happy with it, is the most rurally oriented formula that can be devised and yet be constitutional. And so I offer this amendment so we can prevent a great deal of time on this issue, get an up or down vote on 816, see whether or not we can deal with it as we are intended to and I would urge this body to consider this amendment very seriously so that we can, in fact, get to other more pressing business. Thank you.

SENATOR CLARK: Senator Koch. Is Senator Koch in the Chamber? Senator Haberman. See if your mike works. It is not working. Use the other mike, please.

SENATOR HABERMAN: Mr. President, members of the Legislature, I rise to oppose this amendment. I passed out a little slip of paper and I hope you look at it. It says, "Growing debts, slumping profits plague farmers." If you pass LB 816, you won't see headlines like that because there won't be any farmers. Now Senator DeCamp touched a little bit on what I am going to talk about and Senator Newell has been screaming about it for two days, state aid, state aid. Well for the information of this body, at the present time there is a form of state aid in the amount of \$39 million going to Omaha and Douglas County. There is \$4,400,000 from the school lands fund and they have a hundred and fifty-nine acres. There is \$1,569,575 from property taxes from the school land that was sold so that is double dipping.

And there is \$33 million payroll at the University of Nebraska at Omaha so those farmers helped pay that \$39 million. We all pay it. That is state aid. Now let's look at Senator Beutler. What happened here in Lincoln? Would you believe Lincoln gets \$244,219,369 in what I call state aid? Senator Beutler, that is \$244 million. You get \$17 million from the school land fund and you have a thousand acres. You get \$74 million from the wages at the University of Lincoln and \$152 million, Lancaster County does, from the state payroll. Now if that isn't a form of state aid, I'll sure throw in with you because the farmers that you see that are going broke don't receive any of this. They pay it. So that is what we have been saying. Let's be fair, let's don't be greedy and grab it all. I have to remind you again, Senator Newell, that \$3.8 billion goes directly to the City of Omaha from agriculture but with the vote can I change anything? I don't know. But I want the body to know and I'll repeat it, \$244 million to Lincoln and \$39 million to Omaha, let's call it indirect state aid. Now what happens? Two counties, one of my counties put into the school land fund \$428,000 and they get back \$179,000 so they lose \$248,000. Another one loses \$246,000. Douglas County gains \$4 million. Lancaster County gains \$100,000. So things aren't equal in other things. Let's let the courts decide. One says it is constitutional, the other says it isn't constitutional. Why are the urban senators afraid to let the courts decide?

SENATOR CLARK: You have one minute left.

SENATOR HABERMAN: I'm not afraid to let the courts decide, but as I say, there is more to the picture than just the nickels and dimes, there is the millions of dollars that you gain or lose on this issue. So I say to my urban friends who helped you with your sales tax, it was western Nebraska who has helped you all of these years, don't let us down now. You will survive. The newspapers say that the City of Omaha had \$3½ million surplus. You've got the money so let's don't stick it to the rural areas over this issue, let's be fair about it and let's do not get the 30 votes. Let's see what Senator Kahle's amendment will do and let's go from there. Thank you, Mr. President.

SENATOR CLARK: Senator Newell, I understand you want to withdraw it?

SENATOR NEWELL: Yes. Mr. President, Senator Carsten and some others who have some very serious amendments asked that I withdraw the motion at this time. I would like to have unanimous consent, however, to bring the motion back up after we've processed some amendments.

SENATOR CLARK: It is withdrawn now. The next amendment.

CLERK: Mr. President, the next amendment I have is offered by Senator Vickers. Senator Vickers' amendment is on page 1545 of the Journal.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, could I lay that motion back for a little bit and let Senator Carsten go ahead with his amendment?

SENATOR CLARK: All right, we will pass over it. Senator Carsten, on his amendment. Or is his the next one? Senator Haberman's amendment is ahead of yours, Senator Carsten. All right, we will pass over that and go to Senator Carsten.

CLERK: Mr. President, Senator Carsten's amendment is on page 1659 of the Journal.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, regardless of what happens from here on I do feel that this amendment of mine is essential to the bill and what it does is delay the payment until December that conforms to the same thing that Senator Koch did the other day with schools and I think that it is essential that we put it on and I would move for the adoption of that amendment with my thanks to Senator Newell and Senator Vickers and Senator Haberman for doing this. I would so move for the adoption of my amendment. It only defers the payment until December.

SENATOR CLARK: The question before the House is the adoption of the amendment. Is there anyone that wishes to speak to that? Senator Schmit.

SENATOR SCHMIT: Mr. President, I rise in support of the Carsten amendment and I want to point out to you and I use this opportunity admittedly to speak against the bill as it stands because I'm telling you very frankly that when those facts come home to bear there is going to be a great many people who are going to be tremendously surprised.

SENATOR CLARK: Senator Schmit, we're only on the Carsten amendment. Please stick with that one.

SENATOR SCHMIT: Thank you. In regard to the amendment, that amendment is going to delay the day of reckoning for a certain period of time. It is not going to delay the

facts and when that time comes there will be counties and cities and schools which will find themselves in a serious situation and that will be the responsibility of all of us. So while I support the Carsten amendment I'm asking you to take a good, long look at what you are doing anyway.

SENATOR CLARK: Is there anyone else that wishes to speak to the Carsten amendment? I've got about five or six or seven lights but none of them seem to want to talk to that amendment. Then the question before the House is the adoption of the Carsten amendment. Do you want to close? Okay. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The Carsten amendment is adopted. The next amendment, please.

CLERK: Mr. President, we then revert back to Senator Vickers' amendment on page 1545.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I think this amendment stands about as much chance as a snowball in an oven but I believe that a little bit of philosophical discussion about what we are doing here this morning is in order. What my amendment would do very simply is to take the \$82.6 million that we're discussing about in LB 816 and put the whole works in the state aid to education. Now I'm not going to say that that is going to help my district because it is not. In the end property taxes are still going to go up in my district generally. In the end it is still going to help the more urban areas of this state which is exactly what LB 816 is going to do, and all designed about. The \$82.6 million would be distributed on the foundation basis, the population of the school itself. The thing I think we need to stop and think about is what is the responsibility of this state as far as property tax relief is concerned? Where is the biggest problem as far as property taxes are concerned? Now I had a bill, LB 210, that is going to die in a couple of days that would have put more monies into the schools of this state from the sales and income tax and I have firmly believed all along that that was the direction we should go in regards to property tax relief.

The largest users of property taxes in this state obviously are the schools. I think it is pretty clear as to what our responsibility, the state, is in the area of property tax relief when we look at the various political subdivisions that live off of property taxes. Now my philosophy all along has been that those entities of government that benefit my property to some degree probably should be supported with property taxes but those entities of government and that is basically the schools, who have no direct correlation back to my property should be supported more with sales and income tax. So it seems to me that is the direction this Legislature should go and we should make those decisions as to what we are going to do as far as property tax relief based on the responsibilities that we see ourselves and I think the Constitution is pretty clear when it says the Legislature or the state shall provide a system of education. So if the state is to provide it, it would seem logical to me that the state should provide more funds for it. It happens to be that we're the ones that have the ability to collect sales and income taxes. Therefore, it would seem logical that this large amount of sales and income tax dollars that we're talking about for property tax relief should go out to that entity that we, in fact, do have some responsibility to. Now there has been much discussion this morning on 816 that I didn't enter into relative to where the sales and income tax dollars come from and as Senator Kahle and others pointed out it is very difficult to pin those dollars down because shopping centers, shopping areas generally get more sales and income tax dollars...or sales dollars, sales tax dollars that obviously might come from other areas but I submit to you that we all have schools, we all have school districts, whether it be a rural Nebraska or in urban Nebraska. Senator Schmit on this floor many times has talked about revenue sharing in a bill that he had in about the fact that sales taxes to cities were unfair. I've talked about that myself and about the various methods that we might use to assist the property taxpayers. Again, I remind you that all of us as property taxpayers find the biggest burden on that property taxes going to our schools and again I would remind you that we all live in school districts so, therefore, if those dollars that come that we send back to assist the property taxpayer were sent back through the school districts then those of us that live in rural areas would receive our share to some degree at least which certainly seems to me to be the issue that we're talking about here today with 816. We've dealt with this every year that I have been down here and as Senator DeCamp pointed out to you a little earlier, those of us on the rural side of this issue are slowly losing out to those on the urban side and the first thing we do when

we start talking about how we are going to distribute these monies is to look at our districts, add and subtract and see whether we gain or lose. And I suggest to you that instead of looking whether we gain or lose, we should take at least one small look as to what our responsibility is as to where we send these dollars. Now quite frankly I don't think it is our responsibility to send sales and income tax dollars to the counties or the cities if those functions of those entities are to provide services for property. So for that reason this amendment I offer to you in a serious nature all recognizing that the votes are not here for it. I don't think this body is ready to deal with that yet. I think this body is still ready to try to decide whether or not we can get more for our area as opposed to some other area. I suggest to you that that is not the way we should be looking at this. So for that reason, Mr. President, I offer this amendment in all seriousness and I guess I'll just let it sit there for a little bit and see what type of comments we might get and I would urge for its adoption. Thank you.

SENATOR CLARK: It is now twelve o'clock and I'd like to announce that we have twenty-four more amendments on this bill. I have none myself from here on, however, we have twelve motions coming up. We then have sixteen on Select File. Anything that is going to pass the Legislature this year must get off today, go down to E & R and come back to E & R and be put on Final Reading. Otherwise those bills will not be heard this year. You can filibuster this bill all day long if you'd like. It makes no difference to me. I'll be here but just so you know what you are doing. Senator Vickers, would you like to recess us until one-thirty. We have one thing to read in first.

CLERK: Mr. President, Public Works Committee will meet underneath the north balcony at one-fifteen, that is Public Works underneath the north balcony at one-fifteen.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, I move we recess until one-thirty this afternoon.

SENATOR CLARK: You have heard the motion. All those in favor say aye, opposed. We are recessed until one-thirty.

Edited by Arleen McCrory.
Arleen McCrory

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LR 381
LB 816

SENATOR CLARK PRESIDING

SENATOR CLARK: Please check in. The Clerk will record the attendance.

CLERK: Quorum present Mr. President.

SENATOR CLARK: Do you have something to read it? Go ahead.

CLERK: Mr. President, very quickly, a new resolution offered by Senators, Labedz, Goll, Wiitala, Barrett, Apking, Vickers, Peterson. Read LR 381. That will be laid over, Mr. President.

SENATOR CLARK: Senator Vickers, I think we were on your amendment. I think we were on your amendment.

SENATOR VICKERS: Mr. President, in the interest of time and getting some things done, since there are some other bills on the agenda that I would just as soon get too, I would ask unanimous consent to withdraw that amendment.

SENATOR CLARK: It is withdrawn. Thank you.

CLERK: Mr. President, the next amendment I have is by Senator Haberman.

SENATOR CLARK: Where is Senator Haberpersion? Senator Haberman, within hearing distince? Senator Haberman, we are ready for your amendment.

SENATOR HABERMAN: Mr. President, members of the Legislature, my amendment, is a hold harmless clause on LB 816. Hold harmless clause means that no one shall receive less than they are receiving now. Those that gain shall receive what they gain. So following along with Senator Newell's argument what is fair is fair. It is fair that we be able to keep what we have been receiving and it is fair then that they should receive and reap the benefits of LB 816. Now the argument that this is unconstitutional or will not be constitutional is not a valid argument. Because, Section 39-2402 already has a hold harmless clause in the highway allocation fund distribution. So, it is a real simple little amendment. It just says that everybody will receive the amount they are receiving now. Those who receive the gains will receive the gains. And, the fight is over. So

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I would like to ask you to support my hold harmless clause amendment to LB 816.

SENATOR CLARK: Is there any discussion on it? Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature I need to ask Senator Haberman a question or two. Senator Haberman, I'm sure that you are familiar with the fact that we are changing the distribution formula. We are going. . .breaking these dollars out and sending them through the state aid formula under foundation aid and to the counties under effort and to the cities in terms of population. Now your hold harmless amendment basically, basically, would simply leave everything the way it is today, isn't that correct? Under 284. Would make no change. You are basically offering a kill motion, if you will, on LB 816.

SENATOR HABERMAN: No, that is not true.

SENATOR NEWELL: What is your intent Senator Haberman?

SENATOR HABERMAN: My intent is that the formula be changed or whatever necessary, if we have to pump more money into the kitty we pump more money, that nobody receives less money than they are receiving now, and those who receive more money under the formula get more money.

SENATOR NEWELL: Right, Senator Haberman. . .

SENATOR HABERMAN: Now how that kills the bill, I don't understand. It says that, if you read the amendment it doesn't have anything about that, Senator Newell, so I don't see how you can . . . go ahead and ask me another question, I'll wait.

SENATOR NEWELL: I think when we work on my time instead of yours, this is my time, so I will discuss this. I don't see in the Haberman amendment the additional monies necessary to create a hold harmless clause. I think Senator Haberman, if he is serious about this amendment, he ought to offer it either as a kill motion or he ought to offer whatever appropriations is necessary to make it work, or he should just strike the language under LB 816 and insert the language under LB 284. If he is serious, he would do it that way. Because in fact, I think this is one of those frivolous amendments that do not, is not intended to do anything other than gut LB 816 and not in a very forthright way, either. So, I would encourage my

colleagues to oppose Senator Haberman's attempts to play games with this bill, reject them and let us move on to more important issues.

SENATOR CLARK: Senator Schmit. Senator Schmit, did you want to talk on the Haberman amendment?

SENATOR SCHMIT: Mr. President, members of the Legislature, I support the Haberman amendment. I think the issue has been discussed for a long period of time. I know that it perhaps falls on deaf ears to argue about equity. I think perhaps that it is kind of interesting that certain individuals have spoken to me over the lunch hour about the necessity of voting for a certain kind of formula because their city or their district happens to come out ahead. It is kind of interesting also that some of those same people have spoken in terms of interest in statewide or district wide offices. I guess I would have to ask myself how you can travel across the State of Nebraska and talk to 500 villages and cities, most of which will come out on the short end of the present proposal and try to speak in terms of some kind of equity for the area. I think that we have got a situation which is rapidly deteriorating. I know that it is always interesting to see how the issue shapes up. But, it is going to be real difficult as the issue develops to try to put together the necessary votes, I suppose, for some of those bills which are very important to all of us. I think you are making decisions here that will have a profound impact upon government, not just in the city of Lincoln, but across the length and breadth of Nebraska. As I said earlier, decreasing property valuations across the entire state are going to throw many cities and counties, school districts into a financial crunch that will be absolutely impossible to cope with. You must remember that many of those second class cities and villages, and of course all of the school districts, do not have the ability to levy a sales tax, get themselves out of a spot. So, as a result, when the issue is determined, it will be embarrassing indeed for some of us to have to say that we did this or we did that because it was good for my own little part of the world. I would ask you to support the Haberman amendment.

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President, members, I must have an exceptionally good district because I haven't had one single person talk to me about supporting 816. And Buffalo

County, the City of Kearney especially, and Grand Island, that is Hall county, not one person has come to me. So I think they are pretty fair and reasonable and I think that means they know that 816 is not a fair bill. It does not distribute this money the way it should be. I certainly support practically anything that will change 816. We need to get a balance. We need to do it fairly, we need to do it honestly and for the good of Nebraska and good for each one. Please, do this.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those wishing to cease debate will vote aye, opposed vote nay. Record the vote.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Haberman, do you wish to close?

SENATOR HABERMAN: Mr. President, members of the Legislature, it is fun to call the question when you have got the votes. I know how the other senators feel. But here a few years ago when I was a freshman senator, more freshman than I am now, we had a railroad bill that I think Senator Cullan had introduced. My district lost about \$300,000. So, I came up with this same idea, this hold harmless clause idea and I was told at that time that it would never work because it was unconstitutional. At that time I didn't have the staff that I have now and I didn't know that the state was already doing this or I would have tried to have that hold harmless clause put on that train bill that Senator Cullan introduced that took so much money from western Nebraska and gave it to Alliance and his district. So, possibly the formula would have to be reworked. Possibly we might have to put some more money into this, we don't know. But, in all fairness, and I can see now that probably it isn't going to pass, but I felt duty bound and honor bound to give Senator Newell a chance to show his fairness that he has been asking for on the Legislative floor, with the hold harmless clause and if we have to kick more money into it, we will do it. So, with that, Mr. President, I would ask you to support the amendment. Then we will go on with 816. Thank you.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Once more, have you all voted please? A Call of the House has been requested and a roll call vote.

SENATOR HABERMAN: When the people get here, will you please explain the amendment, what it is.

SENATOR CLARK: A Call of the House, all those in favor vote aye, opposed vote nay.

CLERK: 12 ayes, 1 nay to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will return to their seats please and check in immediately, if possible. We have everyone in now. We will have a roll call vote. Could we have a little quiet. The Clerk will call the roll.

CLERK: Roll call vote. 21 ayes, 22 nays, 3 present and not voting, and 3 excused and not voting. Vote appears on pages 1864-65 of the Legislative Journal.

SENATOR CLARK: Motion lost. Next motion.

CLERK: Mr. President, the next amendment I have for the bill is. . .

SENATOR CLARK: Call is raised.

CLERK: Senator Warner, Mr. President, has the next amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, what this amendment is one that adjusted the community colleges from the two million to the \$2,187,000, time on the appropriation bill the majority of the body agreed to add a \$150,000 based upon the calculation that we made in the appropriation bill and as I understood the agreement, or at least what I stated I would do, is offer that difference of \$187,000 which was a part of 816 on this bill was an amendment so the community colleges total would \$2,187,000. I move its adoption. Because I said I would.

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SENATOR CLARK: Senator Kahle. Senator Newell.

SENATOR NEWELL: Senator Warner, can I ask one quick question? This does not, this is a shift of appropriations, isn't that correct?

SENATOR WARNER: It changes the two million to \$2,187,000 which I understood was the difference between what the community colleges were getting and what they would get under this bill as the revenue committee had originally calculated.

SENATOR NEWELL: Okay, and it takes that away from what side?

SENATOR WARNER: It takes away from the K-12 system, as I understand it.

SENATOR NEWELL: All right, on that basis and since it was. . . Mr. President, okay, since it was part of the overall budget bill, I would support Senator Warner's amendment.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate will vote aye, opposed vote nay. Have you all voted on ceasing debate? Record the vote.

CLERK: 27 ayes, 2 nays, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Warner, do you wish to close?

SENATOR WARNER: Just repeat again the discussion on 761. This is the dollar amount that it was felt was not correctly calculated based on what they had received this year for community colleges as a whole. This would put in a comparable amount to the current years distribution of \$2,187,000 as opposed to \$2,000,000 even.

SENATOR CLARK: Question before the House is the adoption of the Warner amendment. All those in favor vote aye, opposed vote nay. We have 27 retirees from the Goodyear in Lincoln that are in the north balcony. They are the guests of all of the Lincoln senators. Harvey Walls is

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sponsor. Would you stand and be recognized please. Welcome to the Legislature. The Clerk will record.

CLERK: 32 ayes, 1 nay, Mr. President on the adoption of Senator Warner's amendment.

SENATOR CLARK: The amendment is adopted. Next amendment.

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

SENATOR CLARK: Senator Kremer.

CLERK: The Kremer amendment is on page 1770 of the Journal.

SENATOR KREMER: Is that the first amendment or the second one? I want to withdraw the first one. That takes the money from the counties and puts it in NRD's.

CLERK: Senator, I think you have it drafted so both are in the same thing. I'll need. . . I only have one amendment from you up here.

SENATOR KREMER: There are two there. They were printed in the Journal. I'll explain what I am trying to do and I want it that way, even if we have to change it. What we are trying to do here is to reinstate the \$700,000 out of LB 816 that was appropriated for the operation of the Natural Resource District's. The first amendment took it away from the schools, the second amendment takes it away from the counties. I would like to withdraw the first one.

SENATOR CLARK: The Clerk will check with you there to find out which one.

CLERK: Senator, that amendment that you are talking about is drafted to the A bill, as opposed to 816 itself.

SENATOR KREMER: I think that is right.

CLERK: Well we are still on 816.

SENATOR KREMER: We are on 816.

CLERK: Yes.

SENATOR KREMER: That applies to 816 doesn't it? Where we take it from the counties?

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CLERK: But the amendment is drafted so it is an amendment to 816A Senator, rather than 816.

SENATOR CLARK: That is the next bill up.

SENATOR KREMER: Okay, we will just wait for the A bill. Thank you.

SENATOR CLARK: Next amendment. We have 78 fourth graders from Schuyler, Nebraska in the south balcony. Will you stand and be recognized please. Welcome to the Legislature.

CLERK: Mr. President, the next amendment I had was offered by Senator Haberman. I understand Senator DeCamp wants to substitute his amendment for the Haberman amendment.

SENATOR HABERMAN: I want the substitute. My amendment, that amendment which I have signed on with.

SENATOR CLARK: Is there any objection? We have one objection. That is all we need. Senator Newell objects. Do you want to move it? Yes, go ahead. State your point to the Chair.

SENATOR DeCAMP: Mr. President, I have the legislative debate from last year on the identical issue of substitution of amendments. That debate clearly reflects that when Senator Newell, on this identical issue, attempted to substitute an amendment that was way at the end of the line for one he had in order, it was ordered that he could against my objection. Then, I withdrew my objection and the record will show that Senator Warner then raised the question about substitution of amendments and Senator Carsten did the same thing so they would have a ruling, it is all in the record, three pages of debate on it, for the future on substitutions. It was established absolutely and clearly, and I have it here, that a substitution is allowed and will be the rule. Senator Carsten and Senator Warner as I said insisted that that be cleared up at that time.

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

SENATOR BEUTLER: A point of order Mr. Speaker.

SENATOR CLARK: State your point to the Chair.

SENATOR BEUTLER: If I can contribute to this Mr. Speaker

I don't think it has ever been the rule that you can substitute amendments one for another with the unanimous consent of the Legislature. I think that this whole charade is to cast bad faith on those who are on the opposite side of Senator DeCamp at this particular point and time. I would ask the Chair to uphold what has always been the ruling with regard to the substitution of amendments.

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

SENATOR NEWELL: Mr. President, I would ask a question of Senator DeCamp and Senator Haberman. Is this substitution, is it a clarification of the original motion? The original amendment or is it a new subject matter all together that you wish to bring up before a bunch of other issues. In other words, if it is just a rewrite or clarification I might not feel so strongly opposed to it, but if it in fact is, you are trying to put an amendment that you already have up there towards the end and you are trying to substitute it for something more earlier on, then I think my objection would not only be it would be even stronger. Could you answer that Senator DeCamp?

SENATOR DeCAMP: It is different.

SENATOR NEWELL: Thank you Senator DeCamp. With that in mind Mr. President, I not only renew my objection but I think this is highly out of order. We ought to go through these amendments, all forty some of them that are up there so we get to where they want to be. They can offer amendments like I have offered amendments towards the end, or like anyone else can offer amendments.

SENATOR CLARK: Do you remove your objection?

SENATOR NEWELL: No, I do not. In fact I more strenuously object.

SENATOR CLARK: Senator Haberman or Senator DeCamp, do you want to move?

SENATOR DeCAMP: What is the ruling?

SENATOR CLARK: I rule that you will have to move to do it.

SENATOR DeCAMP: Okay, then I won't do it.

CLERK: Mr. President, in that event, I now have a series of amendments from Senator Haberman, Mr. President. But, I believe he wants to withdraw those.

SENATOR CLARK: Senator Haberman, did you want to withdraw those amendments?

SENATOR HABERMAN: Mr. President, at this time I will withdraw my thirty amendments.

SENATOR CLARK: All right, they are withdrawn. Next amendment.

CLERK: Mr. President, the next amendment I have to the bill is an amendment offered by Senator Kremer.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: I think that we have it straightened out. It needs both the A bill and LB 816. LB 816 is the one I am talking about right now. I notice that Senator Warner got a lot of green votes when he said I promised to do that, so did I, so I expect the same green votes. What we are doing here, we are putting back about \$700,000 to be distributed among the Natural Resource Districts. They have had an appropriation of just a little bit less than that last year and that has all been taken away. I do this because we are loading a tremendous responsibility on the districts because of the legislation we have had passed and because of what they are going to have to do to carry out what is best for the State of Nebraska. We do take the \$700,000 away from the counties and we distribute it to the NRD's on the same basis that they tax the tax payers in their district. Now it is needless to say a lot more about it. I think it is important. If we don't do this I know they can get a little bit more money from the taxing of real estate but the lid bill, I mean the lid keeps them from doing that. There is no way that they can carry out the responsibility that we have given them unless we also give them the funds to do it. If we expect to get any federal help in the way of impoundment of some of the waters in our state, they are simply going to have to come up with some front end money. We are not going to get at the bill whereby the state gets involved so it is up to the NRD's to do it. If we aren't willing to do that I think Nebraska will suffer the consequence. I move for the adoption of the amendment.

SENATOR CLARK: Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, I too support this amendment. I realize that it is coming from the counties and it is the same tax base that would be impound upon, whether it is the NRD or the county. But we are setting an image to the NRD's and we are asking the NRD's now to take all of their money from the tax source, which they can do and which they will do. It would set a bad image to the Natural Resource Districts. I feel that this is very bad timing in that particular perspective. So, I encourage you to vote for this even though it doesn't make a lot of difference. One is going to have to go to the tax base as well as the other. If you are taking away from the counties they are going to have to go to the tax base, if you take it away from the NRD's they will have to go to the tax base. But, the public doesn't realize this. There are some districts within the state that are up to their limit in the mill levy so they will eventually suffer and they will not be able to get any money. So they will be hurt. I encourage you to support this amendment. I think it is an excellent amendment. Thank you.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, in this day of all days of urban-rural split, I find it hard to object to what Senator Kremer and Senator Sieck have just said, but it really doesn't do anything only makes the counties look bad and make the NRD's look good. So, I object to this transfer because it doesn't do anything. If you want to put money in NRD's lets do it right up front and lets not swipe it from somebody else. Thank you.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, the philosophy of 816 was to take away the small amounts of dollars that went primarily to property tax, provides services to property tax and to give those to other subdivisions of government. I will say that Senator Kremer's amendment takes it away from the appropriate place. It takes it away from the counties share of the funds and so therefore I could support it. I guess at this point I am not recommending one way or the other, the amendment is drafted. I probably will support it but I'm not going to ask others to support it if they don't want too. This is an issue of whether or not we should provide some state aid to Natural Resource Districts.

SENATOR CLARK: Seantor Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, the smaller subdivisions receive less than 5% of the total amount of dollars that is involved here, from the state level. It was our opinion in the drafting of this bill that these smaller governmental subdivisions were more closely related to the property than the other. I have an amendment up there that takes \$600,000 away from the schools, but it goes back to schools in ESU's. I intend to withdraw that at the proper time and I would certainly would hope that Senator Kremer would agree that his amendment would also be degrading to the bill and that inasmuch as belt tightening is in order, NRD's along with others are going to have to tighten also. I can not speak in support of his amendment, even though I have a lot of sympathy and support for NRD's but not at this point. Thank you.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Question.

SENATOR CLARK: The question has been called for. Do I see five hands? I see five hands. Those that wish to cease debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 26 ayes, 0 nays, to cease debate Mr. President.

SENATOR CLARK: Debate is ceased. Senator Kremer, do you wish to close on your amendment?

SENATOR KREMER: Thank you Mr. Chairman. I only want to point out one thing. I want to emphasize this. Last year, last year the counties received \$16,644,159. This year that has been increased to \$17,700,000. All the NRD's got last year was just a little short of \$700,000. They are getting none of that at all. I am, in this amendment, asking that we appropriate \$700,000, taking it away from the counties and giving it to the NRD's because of the shortage of money that they are going to have. The counties are still going to get a little more than they got last year, while if we do not adopt this amendment, the NRD's won't get any. It is only fair. The

funds in LB 816 is to be distributed among those that are in the subdivisions of government and we have cut these out entirely. I think it is only fair that we put this \$700,000 back where it is going to do the most good. Thank you.

SENATOR CLARK: The question is the adoption of the Kremer amendment. All in favor vote aye, opposed nay. Have you all voted on the adoption of the Kremer amendment? Once more, have you all voted? Record the vote. Senator Kremer.

SENATOR KREMER: We are getting close there are 20 votes there.

SENATOR CLARK: The machine is locked out now.

SENATOR KREMER: The machine is locked out?

SENATOR CLARK: Yes. Do you want a Call of the House and a roll call vote? Or do you. . .

SENATOR KREMER: Okay, lets go for a roll call vote. A Call of the House.

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

CLERK: 19 ayes, 1 nay to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Legislators will take your seats. All unauthorized personnel will leave the floor please. Will everyone register in please. Will everyone register in please. They are all here. Will you keep quiet so the Clerk can hear the response please. The Clerk will call the roll. All Seantors are to be in their seats please. Clerk will call the roll.

CLERK: Roll call vote. 29 ayes, 15 nays, 2 present and not voting, 2 excused and not voting, and 1 absent and not voting. Vote appears on pages 1866-67 of the Legislative Journal.

SENATOR CLARK: Motion passed. The amendment was adopted. Next amendment.

CLERK: Mr. President, next motion I have is from Senator Hoagland to suspend Rule 6, Section 5; Rule 7, Section 3; and vote without further debate and without further amendment on the advancement of LB 816.

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SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: May I inquire Mr. President, on how many more amendments are filed after this one?

CLERK: Senator there are four more amendments, five more amendments.

SENATOR HOAGLAND: I would like unanimous consent to move that motion, to withdraw it and then replace it after the four or five that are currently up.

SENATOR CLARK: It is withdrawn. Next amendment. While we are waiting here I would like to announce Helther McBride who is the mother of Senator Pirsch, whose birthday happens to be today and Mr. and Mrs. Kenneth Alderman who is Mrs. Pirsch's sister and brother-in-law are sitting under the south balcony. Will you stand and be recognized please. Welcome to the Legislature and happy birthday. Next amendment.

CLERK: Mr. President, the next motion I have is from Senator Haberman. Senator Haberman would move to indefinitely postpone the bill. That would lay it over unless the introducer agrees to take it up at this time.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: No, lets don't lay it over. Lets take it up right now.

SENATOR CLARK: All right, Senator Haberman. Its your motion to indefinitely postpone. You don't want that? It is withdrawn.

CLERK: Mr. President, the next motion I have is from Senator Kahle. This is the first one Senator, Request #1859.

SENATOR CLARK: Seantor Kahle.

SENATOR KAHLE: Mr. President and fellow members of this Legislature, I have anagonized long and hard over this issue, every since 1977 when I was a freshman. I write a weekly newsletter and five times in that newsletter I mention 518, which is the bill that brought this dilemma that we are struggling with today into being, at least put it in the shape that it is in today. I said at that time that I was very worried about 518, that I was afraid that it would not be funded. I really didn't anticipate

the difficulty in distribution that we have had. And, we have certainly had difficulty. But I said that I thought it would come to roost on property tax. I guess as Senator Warner said the other day, I'm not here to tell you I told you so, but I told you so. What I am trying to do with this amendment, and I don't know if it has support or not, but I know there are people out in the rotunda that are probably going to have a heart failure. But, I would put 10% of the personal property tax back on. What the bill says, it exempts 90% of it. Just so that you can discuss it together and save time, I also have an amendment up there that would do exactly the same thing and exempt 80%. Some of you may be afraid that there be some skullduggery going on within the counties that they would raise the personal property tax assessment in order to get more money. I assure you that they are going to pay 20% of it, those people out there are certainly going to be looking at it. So either way, whichever we find support for I would be willing to support the issue. What would happen, you may ask what would happen because we have 70 million dollars and we are not, we don't know, that won't cover the other 80% or the other 90%. We are not concerned about that. The bill states that it would be distributed on that formula, whatever it might be. In other words the counties would make the appraisal of the personal property and the local people would pay 10% of that appraisal as the levy was put against their tax and the state would then divide whatever money they put in, we are talking about 70 million today on a formula which would certainly be legal, it would certainly be correct and it would be back to the old grass roots. I know a lot of us said we don't like personal property tax, but I'm doing this because I just do not believe that our real estate tax, our real estate can stand the strain that is being put upon it. The only way I know is to get some funding out there from personal property, whether it be state money or whether it be local money. I think in the predicament that we are in, we need to look at that. The next revolt that we are going to have in this state is going to be from the property tax payers. It just can not put everything on to those people. Our state budget, we are holding it at even. You know what that does when the 7% is raised out in the hinterlands, it is going to go on property tax. So, I urge you to look at this, and I'm as serious as I can be. This is not a delaying tactic. I would hope that Senator Newell would support it because he and I were a couple of the guys weren't too sure that 518 was the greatest thing that God ever gave to mankind. But, I don't know how else we are going to do it and still get some funding out across the State of Nebraska that is

fair and equitable and for the reasons we set that 518 up for when it was passed. 816 is not the answer. The worst part of 816 is the fact that we are going to have it from now to kingdom come. You are not going to get it changed next year, if we allow it to happen this year. No one is. We are not going to have the votes, we probably don't have them today, we sure as the dickens won't have them after this thing once sets in and we are stuck with the distribution the way you are trying to do it today. So, what I am saying, I'm pleading with you, lets put a little bit of that personal property tax back on so that we have the necessary tool to distribute whatever money the State of Nebraska might be willing to put in there. I think we need some in there. I told you this morning, the taxes on machinery, we are not getting that back under the present formula. You would under this formula. The problem with the . . . across county lines that I mentioned this morning that we buy in one county and have our machinery and livestock in another. This would be solved because you go to your own county, make you assessment with the assessor for your personal property, doesn't make any difference where you bought it. That settles that argument. So, I just, I know that it is late in the session and I know that we are in a bind and many of you would like to get on to other bills, but personally I just can not accept 816, it just is too hard a pill to take. It doesn't relate to what we started out to do in 1977. So with that, I'm not even going to use up the rest of my time. The bill is written and now we have a draft from the bill drafters office that I have laid on your desk, it is a bit different from the one we drew up this morning, but it has the same things in it. The money would be distributed in seven payments to the counties and it would be distributed then on whatever the mill levy levied against their total fund amounts too. It is fair, it is equitable. We are going to have some people complain because they don't like the personal property tax, but it is too bitter of a pill to take, to lose that kind of funding out in the State of Nebraska. Somebody mentioned it before today, who knows what they want to change next year to change this funding around to make it again look better for those who happen to have the votes. Thank you.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: (No response).

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature,

I rise to oppose the Kahle amendment. Martin's points were well taken. At one time I was most anxious to see this kind of proposal take place. It has always been my contention, back in 1977, when 518 came about that we should be instead of extending that and finalizing the exemptions we should go back and roll them back until we no longer had that exemption. But the rural and urban forces that combine to bring us 1241 in the 1971 session and 518 in the 1977 session those forces says we don't want to pay the tax. And, they don't. They were successful. Now, the argument has always been the preferable way would have been to, in fact, if you are going to have this exemption just give the exemption, provide no state aid and that would have been the right kind of exemption to provide. I stood on this floor in 1977 and I said the only person who really understands this issue and is voting in the best interest and the long term best interest of their district is Senator Bill Burrows of Adams. He said, I should be voting for 518. I said at the time and the reason I should is it puts a 70 million dollar lid on this thing. I should have. I'm glad they beat me. At this point and time, I'm not really glad they beat me, but at this point and time I have been beat. When I am beat I understand that I have been beat. So to replace personal property tax back on the tax rolls, I'm opposed to it, I urge this body to be opposed to it. Those exemptions were given fair and square. The only question now is the distribution of the money. That is what 816 is about. Let me make one last point. Senator Kahle's amendment to put 10% back on is really an amendment to create the old coalition. That is what the amendment is about. If Senator Kahle would have put 100% back on, we would have understood what this issue was. But that is not what he proposed to do, it is only to put 10% back on to recreate an old coalition. With that in mind I hope that this body would oppose the Kahle amendment.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: (No response).

SENATOR CLARK: Senator Beutler not here? Senator Koch. Oh, the question has been called for. Do I see five hands? I do. Shall debate now cease. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

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CLERK: 14 ayes, 13 nays, Mr. President to cease debate.

SENATOR CLARK: Debate has not ceased. Senator Koch.

SENATOR KOCH: Thank you Mr. Chairman and members of the body. I rise to oppose Senator Kahle's amendment. To help you refresh your memory I was one of those who supported LB 518 and I still have no regrets. The only regret I have is the fact this body has not seen fit over the past several years to arrive at a formula which could be fair to all sectors involved. So what we are seeing now is a standoff as we have seen in the past couple years. This may be a momentary solution. But, the point I want to make is that for us to try to come back now and place 10% of the tangible property, whatever it might be back on the tax rolls is not in the best interest of those we once thought should be exempt and I believe we should exempt them still. In my mind that kind of a tax was always a liar's tax. It could never be traced or audited to be fair and effective to all people. I know how Senator Kahle feels about this issue. Presently he is on the losing side. But I have been on the losing side the last couple of years and I have been willing to put up with that but I'm hopeful that this 816, as we see it now, will pass. If we see fit to look at it again next year and a formula which we feel can be. . . where a group of us can sit down and derive a fair and equitable formula then I think many of us will accept it. I recall several years ago we got in this issue when we were talking about some population, some evaluation, etc. as being the fairest formula but that time the people that had the blue chips prevailed. Senator Schmit today was talking about that and I think it is unfortunate. I have never been one, since I have been here, who has paid the taxes, where it is going. I have tried to stay out of that issue. But obviously now, there is a time if you don't pay attention when you should and be fair and equitable, some day it may come back to haunt you. I can not support Senator Kahle's amendment. It is not fair this time to do it at all. But I would hope in the meantime we can resolve this sometime between now and next year there may be some cooler heads prevail. There may be some ways in which we can arrive at a fair and equitable formula. Right now, it is obvious that we are polarized and it is obvious that we are going to stay that way. So I reject Senator Kahle's amendment, hope we get on with the bill 816 as it is.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President and colleagues, I rise to support the Kahle amendment. What this does is exempt 90% of the personal property in the State of Nebraska. Of course I was one of those senators that supported 518 because I thought it had a chance to work. But after we have had it in effect four or five years we find out that it isn't working. I think that we have had a Constitutional problem with it every year. The Revenue Committee has worked long and hard on this project and we have not been able to come up with a fair solution. I realize that there are special interest groups working against putting some of the personal property back on the tax rolls. They say that if we exempt 90% this year we will come back and exempt 80% or 70 or 60 or 50 the following years. I submit to you that we can do this on sales tax. We can do it on corporate tax, we can do it on cigarette tax and all the other taxes and we are doing it. But, I don't think that we would on this. Senator Koch calls this tax a liar's tax. I feel that if we get the percentage down low enough, they will not chose to lie about the property that they own. I think that it would be a fair and just way to go and also a very equitable way to go. One thing about it we know that it would be constitutional. It would put the exact dollar back to the exact place where it belongs. I think this is what we are trying to do and I commend Senator Kahle for bringing this amendment before us at this time.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, you know it is always interesting to read history. You go back and you read the campaign brochure's of many of my colleagues and they spoke in boastful terms of how they removed the personal property tax, personal property from exemption. They removed it from the tax rolls. I voted in favor, I supported, I did this, I did that. There have been people who have gone on to greater heights from this body riding that horse. There are some here who intend to go on to greater heights and are aspiring to it and who will have one hell of a time getting out into the rural areas and explaining why they voted for 816 in its present form when it benefitted a small provincial area from which they happen to serve at the present time. I'm the foremost opponent of personal property tax. I don't think anyone ever doubted anyone. . . excuse me Senator Newell, anyone ever paid any tax in a significant amount doubted it unfairness. I think it is also interesting, of course, that my good friends, the attorneys almost

to a man oppose something that is equitable in this area, an attorney pays no personal property tax of any significance. It doesn't make any difference to them if you are exempt or not. What I am saying is this. The original intent was to remove the tax from personal property on an annual basis but to tax it on a sales tax basis. Then to send the money back to those local subdivisions. Under 816 we have lost all site of that kind of a philosophy, it has just become a question of how to get more money from state sales and income taxes to certain subdivisions. Now Senator Newell has said in very boastful terms, the State of Nebraska will never reimpose a tax on personal property. I wish I could take Senator Newell at his word. Now he is speaking for a wide variety of individuals here this morning, some of them I find quite difficult to believe to accept that leadership because they have never done so in the past. I may find it a little embarrassing to point out later on that they have accepted that. But the facts are that this body will have no choice at sometime in the future if the provisions of 816 are followed other than to reimpose the tax on personal property. Senator Koch you have been a very good supporter of the . . . efforts to remove the tax on personal property. But the Omaha businessmen who today have the best of both worlds because they have taken the tax off of their inventories and then have hidden out in the weeds, while the legislature fought this battle, will also enjoy the huge benefits of a reduced property tax. Well when they come a stomping out of the east wanting to have some relief, when an urban oriented, anti-business legislature reimposes the personal tax. I can see those new car dealers and those businessmen and Senator Goodrich talking about the unjust, unfair tax. There is no secret about the fact that the reason we were able to remove the tax was because we put together a coalition. Senator Newell has pointed out to you, very accurately, it is falling apart. You can sit up in the balcony, you can sit back in the rotunda but the facts are the farmers and the cowboys are fighting it alone. And, there are some businessmen who are chuckling because they got what they wanted. In other words they have got their cake and are eating it also. But, eventually, as I have said before, the wheel turns full circle. When it comes around again next time there will be a different cast of players, a different group of individuals. Senator Newell may by that time have been escalated to the lofty position of. . .

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: . . .the Douglas County Board. He will

have earned it. I'm telling you this. A man who has done what he has done, you can't blame him for representing his district, and he is doing it well. He is at least not aspiring to an office outside of his district. Now if he decides to run for statewide office it might be a little more difficult. But, I think you have to recognize what Senator Kahle is doing, well it may be an exercise in futility, it is nonetheless, it is facing up to reality. Unless you do that, sooner or later in this body, you find yourself disappointed. Not so bad to lose Senator Newell, I have lost before and I will lose again. I have done it many times. But the facts I want to point out here is when you lose you have to know what you are doing and there are some people on this floor who may be losing today and not recognizing their loss until it is too late. So, I support the Kahle amendment and ask that you do also.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, you now are faced with one of the alternatives of the problem that we have been discussing for a number of years and one that which some of us fought to keep in the early stages of this game for the very purpose for which we are arguing today. The relief of the property tax in its proper dollar amounts to proper areas from whence it was relieved. I would oppose, at this point, Senator Kahle's amendment. I don't believe at this late time is the time to bring this in to discussion and consideration even though I am very much in sympathy with his philosophy. I'm sure as has been said that in the event LB 816 passes that it is not going to be a popular statute and that as I said the other day this is not the end to the problem. Next year we are going to be back doing the same thing. In the meantime, I would certainly hope that there are those who are vitally interested and concerned about this that we might sit down together and work out a solution that is acceptable and equitable. I believe that can be done. But I think for the moment and for right now at this 58th day, that it really is too short a time to give this serious consideration on 816. It is one that we can look at and consider before another for sure, but I think today is not the right time. Thank you Mr. President.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Call the question.

SENATOR CLARK: The question has been called for. Do I see

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five hands? I do. All those wishing to cease debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Kahle, do you wish to close.

SENATOR KAHLE: Thank you Mr. President. Senator Newell mentioned that he would go along with the idea if we went 100% back to personal property. I would almost be willing to go 50%, that is where we left off in '77 I think we would still be able to distribute the 70 million dollars. I know that is not in the cards today. As far as personal property tax being a liar's tax, I don't believe that income tax is that pure either. I'll bet there are more liars in the income tax world today than there ever was in personal property tax. One of the reasons that I favored this sort of legislation lately is that many farmer, many business people as well do not own the property that they have their store in or the land that they farm. So what is happening, they are loading up the property tax on the person who owns the land, the guy that has the equipment and the livestock goes out, this year he is going out scott free, because he isn't paying any income tax either. He might pay a little bit of sales tax on some of the equipment that he is buying, but he is not buying much of that. I agree with Senator Carsten, I don't like to bring this up but this is a very serious matter and I wish I was as optimistic as Senator Carsten that we are going to do something about it after we pass 816. I think if you pass 816 you are throwing the baby right out with the bath water. Thank you.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote. Senator Kahle.

SENATOR KAHLE: . . . record vote.

SENATOR CLARK: A record vote has been requested.

CLERK: Read record vote. 19 ayes, 22 nays, 7 present and not voting, and 1 excused and not voting. Vote appears on pages 1870-71 of the Legislative Journal.

SENATOR CLARK: The motion lost. The next motion.

CLERK: Mr. President, the next motion I have is from Senator Newell to suspend the pertinent rules and vote without further debate and without further amendment on the advancement of 816.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: I'm going to withdraw it. Probably ought to take it up, but I figure if we want to talk for awhile we can talk for awhile.

SENATOR CLARK: Next motion. It is withdrawn.

CLERK: Mr. President, Senators DeCamp, Haberman and Schmit will move to amend the bill.

SENATOR CLARK: Senator DeCamp, do you want to take it?

SENATOR DeCAMP: Yes. Mr. President and members, this is a very serious amendment. I wish you would listen, I think it is a fair and necessary amendment and I want to speak specifically to Senator Carsten, Senator Warner, to Senator Newell, to Senator Johnson and some of those who really are concerned about this overall tax situation. This is what the amendment does. The amendment says on July 1, 1983, two things occur. One, this bill is terminated and two, the Omaha sales tax, the additional half cents which we gave for emergency is terminated. Now you are going to say, ah-ha, DeCamp has got a vindictive purpose, he didn't get his amendment so he is after Omaha. No. Now think back. What is existing law right now? You voted on it, you should remember it. Two things in there. You order in law that committee of Senator Carsten's, the Revenue Committee to present to the Legislature on January 1, 1983, in other words this next session, a rewrite and adjustment of the overall tax system. That is what you ordered. That is what has been promised and I think that is what Senator Carsten will provide. That rewrite would necessarily include a termination of this. Now if you will remember, even the valuation formula that I offered, that I had, had

a termination date originally of July 1, 1983. The Omaha sales tax originally had the termination of July 1, 1983. Why? Because we wanted that pressure to say that in the 1983 legislative session you would, as a legislature, look at the whole tax system and come up with something. Okay, why Omaha sales tax? It was an emergency measure to raise five and ten million dollars that they desperately needed. In fact, it raised twelve million dollars and in fact, did you know they had a surplus of three or four million, whatever it was. Under this bill alone they are going to get this year additional money another six million that they had never contemplated or anticipated. So, it is most reasonable that this emergency measure and restoring of the tax base to the state would occur. That is reasonable and fair and that was originally in the legislation of the Omaha sales tax, if you remember, that was in there. In fact, Omaha had accepted it. Had agreed to it and that is the way we were going. So I repeat. Existing law says, Senator Carsten by January 1, 1983 you and your committee will bring us the tax plan, the new tax plan for the state. This just says, on July 1, this system that we have got right now, this 70 million, the Omaha sales tax additional amount of Omaha sales tax, the half cent, that terminates. That means for sure we know that by January, Cal is going to have the plan here and the pressure is on to solve it next year. Now, I believe that it is eminently fair. I really do. I repeat that it was in the original Omaha sales tax bill. It was in the original 70 million bill. It is existing law now that they bring in this new tax proposal by January 1, 1983. I believe that it is, so to speak, the one thing the urbans can do to signify some honor and integrity in this matter to say, yes, we are working on a rewrite of a tax system as Senator Newell and others have stated and yes, we understand what we have got now is a one year deal until that is completed by the Revenue Committee and we agree come July 1, 1983, this will terminate and whatever we do in January will be the guiding thing. I urge your support and adoption of the amendment. Suggest that that would be somewhat fair and honest in light of everything else.

SENATOR CLARK: Senator Kahle, do you want to talk on the amendment? Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, I know that Senator DeCamp is not doing this for any vindictive purpose. It seems like that but I'm sure that is not his motivation or his desire. I know that Senator DeCamp meant

to keep his word when he said he wasn't going to offer but one amendment. I know that was his intent but sometime events get away from you and here we are, at this late hour, with one more Johnny DeCamp amendment. I know that Senator DeCamp meant to clarify what he meant by how much more money the City of Omaha gets. He said six million, the figure is more like \$650,000. You can look at the sheet the League of Municipalities prepared, which everyone in this body has and you will find that Omaha gets \$650,000 not six million. A slight, a slight little over sight? But it fits well, it fits well in the overall argument. So I'm sure that Senator DeCamp just didn't place the zero in the right place. So, I just want to say to the members of this body, that the purpose here seems rather clear to some of us but of course Johnny says that is not the purpose. I would urge this body to be responsible. We have tried to be reasonable throughout this whole debate. Gave Johnny the weekend to debate it. Gave him a good shot at his amendment. We pulled the motions to suspend so that we can have an honest debate, have sincere honest amendments and we tried to do what we can in regards to this. There is a lot of other issues that we need to get too and I think not only is this unfair but it would be most unfortunate if this body, at this late hour, stooped to these kinds of tactics. I urge you to vote against the DeCamp amendment.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, I move the previous question.

SENATOR CLARK: The previous question . . . all those in favor of ceasing debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on ceasing debate? Record your vote.

CLERK: 26 ayes, 2 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Mr. President, members of the Legislature and Senator Newell I want to get something cleared up with you and I want to get it pretty clear. In previous years on the personal property tax issue, I have heard you debate day in and day out fifteen and twenty amendments, days at a

time. The total time I took on my first amendment was 35 minutes on probably the most significant thing to effect the rural areas maybe in the dozen years I have been here. This amendment is in complete accord with everything that was in law of getting the tax system redone by July 1, 1983. Complete accord with everything that has been stated on this floor, day in, day out, year in, year out by you and all the members of the Revenue Committee. This simply puts the pressure on them to do precisely that. I have no doubt that Senator Carsten and the committee will bring that plan in by January 1, 1983. This simply puts the pressure to cause it to happen. Now with respect to \$600,000 or six million Douglas County clearly, which is the breakdown we have been able to get six million dollars more approximately. Would you concede that fact Senator Newell? I see you bobbing your head in some direction or other, don't worry about answering, I don't want to use up the time. Douglas County does get six million dollars more. What the breakdown internally, and Omaha makes up almost all of Douglas County, but it gets six million dollars more and that is a fact of life and that is fine. You have won that fight. All I am saying is live up to the other part. Since you have got this additional windfall of money, a year from now or a little over a year from now phase out that Omaha additional emergency sales tax. That was in the original Omaha sales tax proposals. That was actually agreed to by Omaha. That was agreed to, we were ready to vote on it and have it that way. With respect to the overall thing of the 70 million or the 80 million or whatever numbers it is now it is very simple. We are just saying that terminates July 1, 1983 too because that committee is going to bring in a rewrite next year. Now if they don't all you have to do is extend this. But, it seems eminently fair, if you have any sincerity about this issue at all, really doing it, you would live up to these things. I would urge you to adopt the amendment.

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

CLERK: Senator Clark voting yes.

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

SENATOR DeCAMP: Let it go.

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SENATOR CLARK: All right.

CLERK: 17 ayes, 20 nays, Mr. President, on the adoption of the DeCamp-Schmit-Haberman amendment.

SENATOR CLARK: Motion lost. Next amendment.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Kahle.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, this is exactly the same amendment I had a bit ago only it takes it down to 80% or 20% if you want to figure it the other way. I'm going to not pursue this, but all I can say is, while I am up here, is that we have really a dull, bleak future in out-state Nebraska if we let LB 816 pass today. So all I can say is I hope you will vote no when that time comes. With that I'll withdraw this amendment. I ask unanimous consent to withdraw the amendment.

SENATOR CLARK: It is withdrawn. Next amendment.

CLERK: Mr. President, the next amendment I have is offered by Senator Carsten, Hefner and Newell.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, reluctantly I offer this amendment now. Since Senator Kremer was successful in getting the NRD's into the picture we also have the . . . another subdivision that is concerned and is anxious to become a part of it. So I'm offering this amendment on behalf of the ESU's. It takes away \$600,000 from the school fund and leaves that at \$44,400. In my opinion it all comes out the same way but it does for their benefit make them look a little better and I would move, in light of this, since you have already taxed the counties for that portion of the NRD's you give consideration to the school fund for the ESU's to the tune of \$600,000 and I would move for the adoption of the amendment.

SENATOR CLARK: Before I call on the next speaker I would like to introduce Dr. Alama Barnett, the UNL School of Social Work-Human Behavior Social System's class, she has thirteen students, guests of the Lincoln senators. They are in the north balcony. Will you stand and be recognized please. Welcome to the Legislature. Senator Hefner is next.

SENATOR HEFNER: Mr. President and members of the Legislature, I rise to support this amendment. I think it is only fair that we give the ESU's their proportionate share from this fund. Of course a little earlier we did pass an amendment that took care of the tech colleges and also the NRD's. I think the ESU's are entitled to part of this fund and therefore I would ask for your support to this amendment.

SENATOR CLARK: Senator Vard Johnson.

SENATOR JOHNSON: (No response).

SENATOR CLARK: Is he not in the Chamber? Senator Koch.

ENATOR KOCH: Mr. Chairman, I move the previous question.

SENATOR CLARK: The previous question has been called for. Do I see five hands? I do. Shall debate now cease. All those in favor vote aye, opposed vote nay. Have you all voted on ceasing debate? Record the vote.

CLERK: 26 ayes, 6 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Carsten, do you wish to close?

SENATOR CARSTEN: Mr. President, members of the Legislature, I do need to clarify one more thing. As you recall we accepted Senator Warner's amendment that took \$187,000 out that was a part of the appropriations. This addition now would leave the schools with \$44,213,000 as opposed to the \$45,000,000. That needs to be clarified because the figure I gave you was not correct because of that \$187,000. With that explanation I would move for the adoption of the amendment.

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

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted on the Carsten amendment. Once more have you all voted? Record the vote. Senator Carsten.

CLERK: 11 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion lost. Next motion.

CLERK: Mr. President, the next motion I have is from Senator Hoagland to suspend the rules and vote on advancement without further debate and amendment on LB 816.

SENAOR CLARK: Senator Hoagland. Is Senator Hoagland in the room? It is withdrawn.

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

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature we used 35 minutes on my one amendment this morning, the major one, we used 11 on the last one. Maybe this one will take even less. Maybe it is a face saver and a polygraph test amendment. What it does is very simply this. It takes \$10,000 and it puts it into the existing valuation formula. Immediately you laugh and say, what good is \$10,000 going to do in the existing formula. It simply is going to allow a court test on the issue to be completed and that is all it seeks to do. You have won the battle of the dollars. All I am seeking is to, so-to-speak, win the battle of completing the court test to know what the limitations on the Legislation on future tax matters are. I would say whether you are Omaha or Lincoln or rural you ought to at least support this thing. I repeat, it does not take your \$82,000,000 away, it does not change any dates, it does not do anything other than take \$10,000 put it into a valuation formula so the court test would go ahead and be completed. I urge you to adopt the amendment.

SENATOR CLARK: Senator Vard Johnson.

SENATOR DeCAMP: I think of any legitimate reasons you would have for opposing it, but I'm sure I'll hear some. I might add also that everybody said that they were concerned about the courts delaying the distribution. There wouldn't be any delay because you have got your money in the other formula. There wouldn't be anything, except you might be afraid of what the court might show. That would be the only reason for voting against it.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, you know I think we have here something more than just a face saving proposal. Senator DeCamp argues that \$10,000

is no great proposal, no great amount of money. I don't know how we're going to distribute or what cost would be to distribute to the ninety-three counties this amount of money. Now let's just further envision that it goes to court, keeps this distribution formula alive. This distribution formula then next year can be appropriated too. It can be \$10,000, it can be \$15,000, \$20,000. It depends upon whether the court does hear it, if it does hear it. It creates more work for the Attorney General but worst of all, worst of all, it creates a situation that truly ties the Legislature's hands because we now have, if it works as Senator DeCamp says it might, we now have the situation where we go through, we litigate it. If the courts decide that it is, in fact, unconstitutional and I believe they would, then the Legislature has tied its hands far more than we have with just a district court decision. It means we cannot do anything in the future on any other kind of formula because we clearly have the kind of limitations that Senator DeCamp and the rest of us would really rather not have and I think at this time for the aggravation, for the principle, for all the things that Senator DeCamp argues for, it is not the right thing to do. I think it will create more problems, create more cost, create more confusion than it is worth. For that reason I urge this body to oppose the DeCamp amendment.

SENATOR CLARK: Senator Beutler. It would really help if you turn your lights on if you would stay in your seats.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, a question for Senator DeCamp, if I may.

SENATOR CLARK: Senator DeCamp, will you yield?

SENATOR BEUTLER: Senator DeCamp, there is a second section to that amendment which has to do with striking some sections and changing some dates and this is a section separate and apart from what you have discussed on the floor so far, or at least it appears to be. Can you tell us what that does?

SENATOR DeCAMP: Senator Beutler, I just called the bill drafter. They are on their way up. The amendment has as its sole goal to have the formula exist, be tested in the courts. They are going to be up in about one minute and they will answer that question. I think that is to make the dates coincide but I'm not absolutely certain and rather than answer I'd get the person that drafted it up here right away.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I think we should understand what the amendment does before

we begin to consider voting on it. Thank you.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President, colleagues, I would rise in opposition to this amendment also. Not only are we going to expend \$10,000 in funds but we are going to ask the Supreme Court to spend a lot of its resources and a lot of its energy rendering what essentially would be an advisory opinion. I don't know why we want to put the litigants through that and put the courts through that. That is going to be very expensive to the state for everyone involved. In addition to that, as Senator Newell indicates, if the Supreme Court does find this existing formula unconstitutional it is going to tie the hands of legislators that might like to use all or portions of this formula in future years. You know Senator DeCamp has often talked about our making short range decisions here which will turn out to be wrong or foolish in the long run and I think this may very well be one of those kinds of decisions. Just to keep this suit alive we are risking the good elements of the existing formula of being found unconstitutional and our inability to use that then in pieces of legislation in the future. So I don't really see that it does very much but throw money down the rat hole. So I would ask you to vote against this amendment.

SENATOR CLARK: Senator Fenger.

SENATOR FENGER: Mr. President, fellow members, I can't comment on the merits of the DeCamp proposal of course until we see it come across the desk but I was interested and recall last Thursday evening when it was under question, would this bill be discussed yet Thursday or would it be delayed until Tuesday? And I just want to read you a statement that was made. From the transcript it says, "Mr. President and members of the Legislature, Senator Carsten and I agreed on this some time earlier already. Those amendments on Select File would be withdrawn. As long as we had a fair shot with as many people, in other words, everybody here, at the main amendment that I wish to propose." I merely call that to your attention because it was a statement made by Senator DeCamp just last Thursday evening and I will leave whether or not he is carrying out the intent of that statement at your discretion. Thank you.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, I rise to oppose Senator DeCamp's amendment. I think there are valid reasons for this is that the Attorney General on several positions has stated that the formulas that we are now putting money in meet the test of constitutionality. Why do you want

to expend additional funds of money for something you already know? I'm not too sure that the Supreme Court and others have probably stated, sure, we'll get you an opinion here after so many months have gone by but when the Attorney General said the foundation and equalization section is with no problems of constitutionality and he goes on to say that other kinds of formulas that we have involved are not suspect, why do we want to continue to subsidize a case which obviously will mean nothing? The cases I think stand on their merit. So, therefore, I oppose Senator DeCamp's amendment.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, I guess I'm surprised that Senator Newell and others would object to this proposal by Senator DeCamp. As I understand it one of the main reasons for the passage of 816 is because the Supreme Court may rule against the current formula and thus force us into a special session. So this proposal that Senator DeCamp has proposed would merely let the court rule on that without running the risk of holding up the money. So it seems to me it is a fair, it is an equitable way to go and the one that should be pursued. I would ask that the amendment be adopted.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, for those individuals who are a little newer at this business I would suggest you would note if those who oppose the DeCamp amendment and then review also the many words that have been spoken here about how we are going to have a review of the taxing situation by the Revenue Committee in the State of Nebraska and we're going to come back next year, Senator Koch, and write a bill that is fair and equitable and so forth. Well if you are going to do that you want to be able to exercise all of the prerogatives that are available to you and certainly evaluation is one of them and unless the issue is resolved through a test we are not going to know that, are we? So of course it is to someone's advantage to deny that opportunity. So I guess you just ought to stop and think a little bit about whether or not in all the essence of fairness and so forth, that we really want anything that is fair. I think not. I think it has been demonstrated that it is not fair. There is not need to be fair. There is not need to be fair to have the votes to pass it. I have been on the winning side and I have been on the losing side and I'd rather be on the winning side but I will tell you frankly that there isn't any reason in the world that when Senator Hoagland says we are going to throw \$10,000 down a rat hole, we're going to throw millions of dollars into the sewer up in Omaha, Senator Hoagland. We've done it in the

past, we're going to throw more millions, continue to do so but \$10,000 is not significant. What is significant is the issue. The issue is whether or not valuation has any rightful place in the distribution formula back to the subdivisions. I think you will find that those of us in the rural areas think it does. Those of you from the urban areas think it does not, not unless it favors your position of course. But if anyone has any illusions, if you have been able to sustain any illusions throughout this debate that there will be any great wisdom forthcoming in another legislative session it will be directly proportional to where the votes lie. It will make a difference whether Senator Schmit is back here, Senator DeCamp is back here, Senator Nichol is back here, whether Senator Newell is holding forth in Omaha or whether he is back here. That is what is going to make the decision as to whether or not one formula is more equitable than another. But if you have any illusions that men of good faith and women are going to sit down, once you've got yourself a little bit better or a larger share of the pie and voluntarily surrender it, I think you will find out that it is not going to happen. The reason that I have fought so hard for four years for a revenue sharing bill and a bill that was eminently fair to the urban areas was for the simple reasons I told the Revenue Committee many times, the day will come when the rurals will be outvoted and before that time comes I wanted to establish in law some type of a distribution formula that would be equitable across the board and I left the distribution up to the Revenue Committee. I said, play with the figures, do what you think is necessary but establish some kind of formula which you can go back home and tell your people, demonstrate some solid sensible attempt by the Legislature to distribute state revenue sharing funds. It may well be, and I'm sure this has crossed the minds of those who have been here longer than I, that revenue sharing in itself is no longer possible but again I would suggest that so long as a majority of the members have it within their ability to portion those funds in a manner which is favorable to their districts, that revenue sharing in the state...

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: ...it is not revenue sharing really, it is revenue apportionment. Again I would want to say this, the DeCamp proposal is one which you cannot argue if you are sincere in trying to find new avenues or better avenues for distribution of funds. I do not expect it to be adopted.

SENATOR CLARK: I would like to introduce former Senator Nelson Merz under the south balcony there. Would you stand and be recognized, please, Nelson? Welcome back. The next speaker we have is Senator Carsten.

SENATOR CARSTEN: Mr. President and members, I am inclined to agree and I'm going to ask Senator DeCamp now if he has had an opportunity to talk with the bill drafter and what his amendment actually does. I am real reluctant.

SENATOR DeCAMP: Mr. President, I have talked to the bill drafter. The bill drafter assures me and explained it does precisely what I said and I think the biggest skeptic, the one you have to satisfy is Senator Beutler and I believe he has had it explained to him satisfactorily. Is that correct, Senator Beutler? Senator Beutler assures me he has. Does that answer your question? It simply puts \$10,000 into that existing formula instead of repealing it so that the court test would continue. The \$82 or eighty some million that you've put in the other thing, it doesn't interfere with that whatsoever, Senator Carsten.

SENATOR CARSTEN: What does the second part of the amendment that the question was and I don't think that has been explained to the body yet.

SENATOR DeCAMP: Senator Beutler can better explain that than I at this point because he has had it more extensively... (interruption.)

SENATOR CARSTEN: I think we need that explanation.

SENATOR DeCAMP: Senator Beutler, would you do that? No? Would you, please, since the bill drafter explained it in some detail to him.

SENATOR BEUTLER: As explained by the bill drafter, Senator Carsten, it is merely a technical provision necessary to make the main body of the amendment correspond to the existing bill. Now I can't tell for sure because I don't have all the statutes in front of me whether it does fit but the bill drafter assures me that it does.

SENATOR CARSTEN: Has the amendment been passed out to the body? Is it printed in the bill book or in the Journal? Thank you.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. Shall debate now cease? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Mr. President, if anybody was telling even a slight truth when they said they wanted, first of all to get the court test and second of all, they said the reason we have to change the whole law is because we're afraid that the money might be held up, then this addresses them all. Doesn't it? It says you win 100% Davy Newell. You're the new leader on the personal property tax, we accept that. You're it. Your formula wins. You're the king there. You get the money. We don't change that one iota. What do we do? We just say okay we take \$10,000 and in this other formula that used to have seventy or eighty million, we put \$10,000. Why? So that that court case that is going along can finish and be completed and find out what we are allowed to do and why is this important? Why is it important? Because right now you have a district court judge essentially saying when you do anything in here it is something on the basis of need and he interprets need to mean population. Well now if we're going to be hamstrung on that standard, we'd better know it from the Supreme Court because you are making one of the biggest decisions we've ever made right now with that understanding from just a district judge, a district judge who by the way just happened to be the assistant to Paul Douglas the Attorney General who opposed this bill for about two hundred years. Anyway, therefore, if anybody was telling the truth when they said they want a court test and they don't want to have any money held up and they want the other formula, I'm giving it to you all. I don't see how anybody can legitimately oppose this unless they are afraid. They are afraid the Supreme Court just might say that, yes, this is a legitimate means and then we might come back in the future and say, well look, we ought to at least consider this too. You are just afraid that what you are saying isn't quite right and you don't want to find it out. I urge you to adopt the amendment and I repeat to Omaha and Lincoln, you've won the bucket of money, take it and go. Give us a chance to complete the court test and find out what the limitations on us for the future years are. Now that certainly isn't that unreasonable. To my good friend, Senator Fenger, I did withdraw every single amendment I had up there. Many amendments were offered, Cal Carsten, Jerry Warner, some others. You wrote the bill, I'm simply offering an amendment to get the court test now. That seems to me to be legitimate and I repeat, this year this bill has taken less time to do more damage, at least to a number of us, than this issue in any previous year. We haven't filibustered. Maybe we should have.

April 13, 1982

LB 816

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Senator DeCamp.

SENATOR DeCAMP: Mr. President, I want a Call of the House, I do want a roll call vote. I can't believe what is happening.

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: 15 ayes, 5 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor please. All senators will return to their seats and check in, please. Senator Remmers, Senator Marsh. Is Senator Kremer around? Senator DeCamp, the only one we're waiting for I think is Senator Kremer. Do you want to call the roll? Senator DeCamp, do you want to call the roll or do you want to wait for Senator Kremer? Senator DeCamp. Go ahead and call the roll.

CLERK: (Read roll call vote as found on page 1873 of the Journal.) 22 ayes, 21 nays, Mr. President, on adoption of Senator DeCamp's amendment.

SENATOR CLARK: The motion lost. The next amendment.

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

SENATOR CLARK: The question is the advancement of the bill. Senator DeCamp.

SENATOR DeCAMP: Mr. President, I'm not going to delay it any more. I would like to get a matter of record, a couple of things. For everybody that said we had to change the formula because money would be delayed, we accommodated you. You got the bill so that no matter what happened, you would get the money. For those that said they wanted a court test, you just repudiated the one opportunity. I do believe Omaha and Lincoln that as I said at the beginning of this debate, today was a shot heard around the state. You won't even give the chance to check out and find what our limitations are, what we legally can do as a body. Sometimes greed can get too damaging and let the record show that I predict that this will be the most damaging thing from a greed standpoint from the future in creating bad

relations. That formula you had was written by the cities, demanded by the cities, railroaded if you would through the Legislature last year by me against the rurals, against Kahle, against Hefner, against Schmit with the argument, be fair to the cities. I admit stupidity on my part. I admit stupidity in thinking that the process could operate maybe on somewhat of a whole statewide basis that you would look at the entire state. As a Unicameral we have one House. In other states you have a House for the districts where the people come down and they all see how much they can get for their district and a House for the whole state, the Senate. In Nebraska you've got one House and you've got to be both. I think you forgot the other half today and I think it will haunt us all. No, I'll still continue to do the things I think are best for the state whether they be pension plans that don't affect my district one iota but they need to be done for the first class cities and the metropolitan cities, the Christian school bills, and there ain't a damn one in my district, because they are statewide issues that need to be addressed but I think today will be that day when you really looked just to the district, just a moment in time and grabbed the money and I think it will haunt you for the future, but it may be just Johnny calling sour grapes. We'll see in a year or eighteen months. Peace.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, colleagues, I'll be very brief. We have spoken many, many hours on the various distribution formula we have used over the years and of course it is always a matter of who is in the driver's seat I guess as to whether or not the formula is more or less acceptable but it strikes me as being somewhat strange that at a time when the state faces a crisis and at a time when many subdivisions of government have had real problems, it strikes me strange is the fact that on a number of occasions the City of Omaha has come to this body and has begged and has pleaded for assistance and for the ability to solve their problems, albeit if perhaps at the expense of the rest of the state, albeit sometimes at the personal expense of individual legislators in this body who responded to those pleas and I can think of several occasions when I did that and as Senator DeCamp has pointed out, perhaps to my chagrin and perhaps I was foolish. At the time that I did it once I said, you know if I made a mistake it was an honest mistake. I would prefer today not to see 816 pass. I do not think it will be any greater problem for the State of Nebraska as a whole not to distribute this money and to distribute it in the manner drawn as it is today. Senator DeCamp did try a formula which last year I opposed and I opposed it for a very good reason. I think the valuation formula of distribution is a dangerous one. Temptation is there always to raise

evaluations to secure funds. More dangerous than that is the very, very fragile system of the establishment of the evaluation process. What is the home worth in Lincoln today contrasted with what it was only a year ago? What is a home in Omaha or a business in Omaha worth today compared with what it was a year ago? What is a farm worth today as opposed to what it was a year ago? And always there is the lag, the lag between the valuation process and the distribution of the funds and for that reason I oppose the valuation formula. But the valuation distribution proposal you have under 816 is no formula at all. It is simply a proposal to get money back to certain areas and all it had to do was get money back to 25 legislators in an amount excessive to what the old formula called for and it is a valid formula. The fact that you rejected the DeCamp proposal to test the valuation formula in the court ought to again be proof positive to those naive members of this body who believe that there will be any rational attempt to further discuss the issue until there is a readjustment in the legislative body and that will happen and it has always happened. It will happen again and when it does those who sit in this body will look back and as someone said once if you do not learn from history you are condemned to repeat it. Some will be here to have learned from it and some will not. But I would ask you to vote against LB 816 and do not adopt the false philosophy that we have to have a bill. We do not have to have a bill. Far better to go back to your district and say we could not come up with something that was equitable and, therefore, we voted against it than to create chaos in about seventy counties and almost five hundred second class cities and villages and only the good Lord knows how many school districts. I would suggest that it will be interesting, extremely interesting...

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: ...as time passes to travel across the length and breadth of the state and to hear the various explanations that will be given when we discuss the formula adopted under LB 816. I ask you to vote against the advancement of LB 816 because if we can't do any better than that it is better to do nothing. I think that is one of the first rules of law-making, better to do nothing than to do something wrong.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I just wanted to speak briefly in favor of the bill. I think it is a fair bill and a just bill. As this day has worn on you have seen a number of tactics used against the bill. You've been bullied, you've had your attention diverted on this amendment or that amendment. There have been

attempts to frighten you and to undermine your confidence and your own thinking. There have been attempts then in the end to shame you as if what you are doing is somehow unfair or unjust. Well I hope you are too strong to be bullied and I hope you are too smart to be distracted and I hope you are too confident to be frightened and I hope you are too knowledgeable to be ashamed. The bill is a good bill, it is a fair bill. It is much fairer than anything we have had before and I hope that you will all hold firm and vote for the bill. Thank you.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, Senator DeCamp in his last amendment which talked about the \$10,000 and the old formula was most anxious to have that adopted to LB 816 and I told Senator DeCamp that I would support his amendment on another bill and Senator DeCamp challenged me to find another bill and I found another bill for Senator DeCamp. LB 412 deals with Chapter 77 and LB 412 can be used as Senator DeCamp's vehicle to find out whether or not this court decision is necessary and essential. I think that it is a mistake to have the Supreme Court tie our hands unnecessarily but if that is what Senator DeCamp wants the vehicle is here. LB 412 can and may be used for that purpose and I would encourage him to do that. I don't know if Senator DeCamp is here and I don't know whether he wants to speak to whether he wants to have it on or not. I don't think his enthusiasm is quite as great as it was when he thought he was going to get it onto LB 816 and I'm wondering, Senator DeCamp, here you are, Senator DeCamp, if your desire and intensity to use LB 412 for that same purpose, you may use it. Do you wish to do so?

SENATOR DeCAMP: Well, Senator Newell, I'll certainly say thank you. That is most accommodating and I will do some vote counting and see what the possibilities are and if it is there I would sure like to try but you know, I appreciate your being a real gentleman.

SENATOR NEWELL: Thank you, Senator DeCamp. That's fine, Johnny. I'll tell you that is the best you have said to me for so long that I just want to leave it right there. Mr. President, members of the Legislature, LB 816 is the fairest formula that can be devised. It is the most rurally oriented formula that meets the constitutional objections that the Attorney General has brought out and that Judge Blue has brought out. This bill is as good as your Revenue Committee could do and it is a good bill. It does not make sure that everybody gets all the money that their local governments want. There is no way that that could ever happen because there would be no cease to the demand for revenues by local

governments but, in fact, it is the fairest distribution formula that can be devised by the Revenue Committee that also meets those constitutional objections. This bill is, in fact, the only way this Legislature will be able to prevent the uncomfortable and undesirable special session that might result if, in fact, it is not passed and if it is not advanced. That special session will deal with this issue again if, in fact, LB 816 is not advanced and I doubt very much in the height of a campaign whether the effects will change to any great extent. I urge this body to advance LB 816.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, we are finally getting to the end of the trail and again I want to plead with you not to vote for LB 816. I don't know where the word "fair" got mixed up in this but if this is fair, then I guess I have been misled all my life because I thought it was fair when it was somewhere near an equal distribution and it had some relation to what you started out to do. I guess I'm really down. I was out in the lobby for a little bit, in the rotunda, and people nailed me about bingo and I was really rather rude to them because bingo in my area is a nothing issue and I mean a nothing issue. And I was being interrupted from an issue that I think is all important to outstate Nebraska. We have also been confronted with the studded snow tires. That didn't all come from Omaha but a lot of it did. We are asked to support the University of Omaha, the Eppley Center, better highways for Omaha. There seems to be some diversity of opinion about that but I've heard the Omaha senators get up and talk about they need a North Freeway and I voted with them as I think they do. I give you one more example. The mayor of Minden called me yesterday, a guy by the name of Skip Hove who maybe some of you know, a sharp fellow. He is not running for mayor anymore. Minden got \$83,000 last year. They are going to get \$41,000 this year. He said, "Martin, what in the world are you trying to do to us?" Now you keep telling us, oh, you can't please everybody and somebody is going to lose. My goodness, if Omaha lost half of what they got last year can you imagine what kind of a hullabaloo we would have in these halls? And yet we are supposed to shut up and take it. Buffalo County gains a little bit. I did a little mathematics with that. They gain \$5.35 for every man, woman and child in Buffalo County. In Kearney County they lose \$35 for every man, woman and child and you wonder why I keep getting up here and pleading but I can go home because I did the best I possibly can to try to rectify this inequity. I worked hard today. I worked along with a number of other people and the vote is coming but I do hope you rural senators or that call yourselves rural even though you may have a pretty

good sized city in your district. We will stick together with the rest of rural Nebraska. Thank you.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, Senator Newell, where are you? Senator Newell, Senator Newell, I would like to have you listen to this, will you please? You have been talking what is fair is fair. I had a Father Aldrich of the Holy Name Roman Catholic Church in Omaha call me out in the lobby and he said, "Senator Haberman," he said, "I'd like to have you support the lottery bill when it comes up because we need that help for my school." And I looked at him and I said, "Father, my school, one of them, loses a \$145,000 due to what Omaha is doing to that one school," and he said, "Senator Haberman," he said, "my school really needs that bill so we can operate." And I said, "Father Aldrich, my district loses over a million dollars due to what Omaha is doing to my district but I'll tell you what I will do, Father. I'll support your lottery bill because I believe fair is fair and you need that." So I say to you, Senator Newell, when you walk off your floor and turn your back to me, fair is fair and I'll support him although my schools lose the money and we have supported Omaha every step along the way, bingo, you name it, we supported Omaha. And now we're coming down to fair is fair and it all depends on whether you get the money or not whether it is fair, Senator Newell, and the rest of my Omaha and Lincoln friends. That is where it boils down to now, what is fair and what isn't fair. So the only thing I can say is I hate to see this happen but we can go on and we can live if we don't advance 816 and I ask you to vote no to advance 816 because, Senator Newell and Omaha and Lincoln senators, what is fair is fair. Thank you very much, Mr. President.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have not said anything at all on this microphone today and I am speaking at this particular point because we are at the point in the session that I enjoy the most. I'm beginning to see the alliances break down and I'm really going to watch this vote coming up very closely because I think there are more rural senators than there are city senators. Oh, Senator DeCamp just shook his head no, but I have some advice to give to Senator DeCamp because I have tried to talk to him in private about this. He mentioned that he pushed through a formula last year, helped railroad it through, that the cities wanted. I have often told Senator DeCamp that he has a lot of ability but that many people who

come to him and use him don't have the proper regard and respect for him that they should have based on what he is willing to do, that they will use him and cast him aside. So that reminds me of the old story they always tell of the frozen serpent who was put in the bosom of the individual. As soon as the body warmth had thawed the serpent, the serpent bit the individual and as the person died, the person said, "How could you have done this to me." And you all know what the serpent said, "You knew what I was when you took me into your bosom." So when you are down here in the Legislature dealing with lobbyists and politicians you know that you are dealing on shifting sand, that what was said last year has no validity this year. The agreement that is signed today has no validity tomorrow. So we are now seeing these things come into play but on this particular issue as I listened to the discussion upstairs it seemed that there was a struggle to determine who would be the alpha male of the Legislature in the last few days of the session. Maybe this vote will determine it, maybe it won't but whatever happens this will not be the end of the world. Night will fall and dawn will break tomorrow and as Ray Charles says, while dawn is breaking you can't wait for your ham and bacon, or eggs and bacon, but the solution to it all is to have that Maxwell House, the good refreshing flavor of Maxwell House coffee. That will make everything look better. Everybody will be calmed down. The troubled waters that seem so threatening this evening will seem as nothing tomorrow. A week after the session is over it will be as though none of this occurred. So if you can be good to yourself this afternoon you will let all of that tension and hostility drain away right now. If you bottle it up that will make you into an old person. It will make you into a sick person. It will make you into a mean hard-hearted evil person and we don't want the Legislature to do that. Now there were amendments galore on this bill and I don't know which ones of them would have been good and which ones of them would have been bad but when I hear my good friend Senator Kahle say that he is down, he feels dejected, my heart goes out to Senator Kahle because of the sympathy he showed me when I was being battered on my death penalty bill. So we have to comfort each other in our moment of depression. Senator Beutler gave a good little talk that I thought was worthy of him but now that Senator DeCamp is back I have to conclude with this. Senator DeCamp, there are things we undertake to do and those things are calculated risks. We can believe that people will come through as they say they will but we know there is a good chance they may not. When I was doing very hard battle against you on the district election bill and won it you said, "Ernie, I give you Omaha." And I told you, "John, I would rather have cancer." Senator DeCamp, I reciprocate. This afternoon I give you back Omaha and all that goes with it with 816.

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LB 816

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Is this closing, Mr. President?

SENATOR CLARK: Pardon?

SENATOR CARSTEN: Is this closing on the advancement?

SENATOR CLARK: No.

SENATOR CARSTEN: I will wait until close.

SENATOR CLARK: All right, Senator Hoagland. The question has been asked for. Do I see five hands? Shall debate now cease? All those in favor of ceasing debate will vote aye, opposed vote nay. Record the vote.

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

SENATOR CLARK: Debate is ceased. Senator Carsten, do you wish to close on the advancement of the bill?

SENATOR CARSTEN: Mr. President and members of the Legislature, first before I close I'm going to ask for a Call of the House. I think this measure is of such importance that all those that are here should have the opportunity, whether they do or not, should have the opportunity to vote and I am going to request a Call of the House and then close.

SENATOR CLARK: The House is under Call. It has never been raised. Everyone will check in.

SENATOR CARSTEN: Could we register our presence then?

SENATOR CLARK: I will have everyone check in, please. Everyone will check in, please. All unauthorized personnel must be off the floor. We only have one excused at the present time. Senator Chronister, will you check in, please. Senator Haberman, Senator Kremer, Senator Schmit, Senator Lamb, Senator Labedz. We are short Senator Kremer and Senator Lamb is all. Do you want to go ahead and start your closing? The others will be here by that time. Senator Lamb is here.

SENATOR CARSTEN: Thank you, Mr. President, members of the Legislature, this issue is one that has caused a great deal of anxiety and of deep concern for those of you who represent the people of the State of Nebraska and I admire those of you who have stood up and fought for your area that you represent well. We are at a time right now, however, when you need to make a decision and that decision being based upon whether you want to advance LB 816 in its present form, knowing that in the

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LB 816, 816A, 127, 127A

event anticipating the court does rule unconstitutionality, that that money will go out or if you want to gamble on the decision of the court that it is constitutional and I think therein lies your decision making procedure at the moment. I am sure that each one of us are concerned about our district but in the event that LB 816 does not pass and that the court does rule the unconstitutionality of the present formula, you know you will be back here and in a short time try to write a new distribution formula. And I have never seen nor I think have you that have experienced a special session, to make a decision of such magnitude as this, to do it well and even though you may feel that LB 816 has not been done well, it has passed that question of being constitutional as far as the Attorney General is concerned. I would urge you at this point to advance LB 816 and next year if you are still so dissatisfied and I'm sure there are those that will be, we will make a desperate attempt to write a new one and repeal 816. Thank you, Mr. President.

SENATOR CLARK: The question before the House is the advancement of LB 816. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: Mr. President, Senator Haberman requests a record vote. (Read record vote as found on page 1874 of the Legislative Journal.) 27 ayes, 20 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. 816A.

CLERK: Mr. President, if I may right before that, Public Health and Welfare would like to hold an executive session underneath the North balcony right now. That is Public Health and Welfare underneath the North balcony.

Mr. President, the committee on Public Works offers a report on a gubernatorial appointment confirmation hearing. (See page 1875 of the Legislative Journal.)

Mr. President, a letter from the Governor addressed to the Clerk. (Read message from Governor, Re: LB 127, 127A as found on page 1874 of the Legislative Journal.)

SENATOR CLARK: The Call is raised.

CLERK: Mr. President, with respect to LB 816A there are E & R amendments that need to be adopted, Mr. President.

SENATOR CLARK: Senator Kilgarin, on the E & R amendments.

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LB 212, 212A, 404, 404A, 488,
547, 626, 816, 816A, 933

SENATOR CLARK: All right. Do you want to read the bills in.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and re-engrossed LB 933 and find the same correctly engrossed; 547 correctly engrossed, 488 correctly re-engrossed; 816 correctly engrossed; 816A correctly engrossed; 404 correctly re-engrossed; 404A correctly re-engrossed and 212 and 212A both correctly re-engrossed, Mr. President, signed by Senator Kilgarin as Chair.

SENATOR CLARK: We are waiting on LB 255 and LB 255A. Are they on their way up? A motion to read in.

CLERK: Mr. President, Senators Hoagland and Wesely move that LB 626 become law notwithstanding the action of the Governor. That LB 626 become law notwithstanding the action of the Governor.

SENATOR CLARK: Any more motions on the desk? Who wants a point of order?

SENATOR DeCAMP: Mr. President, can this be taken up tomorrow? We're in session tomorrow, right?

SENATOR CLARK: That is right.

SENATOR DeCAMP: Is there any problem with taking the motion up tomorrow?

SENATOR CLARK: Which one, the one he just read?

SENATOR DeCAMP: The one he just read.

SENATOR CLARK: That will be taken up tomorrow. Wait a minute, wait a minute. Evidently this has to be considered today because this is the fifth day according to the Clerk.

SENATOR DeCAMP: Mr. President, and may I speak briefly? I'm the sponsor of 626. I personally have no intention of offering a veto override. I'm one of those that believes if you have the votes, you try it or reasonably have them. I don't have the votes. I think in the next six months people will learn the bill is necessary. I don't think that information is available today.

SENATOR CLARK: Well I didn't make the motion. Senator Beutler did and Senator Wesely I think, Hoagland and Wesely, I'm sorry. Senator Wesely, do you want to take it up?

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LB 404, 404A, 488, 574,
816, 602, 602A, 759, 787,
799, 816A

SENATOR LAMB: LB 799A passes on Final Reading without the emergency clause. LB 816.

CLERK: Mr. President, the bills that have been read on Final Reading thus far 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 LBs...engrossed LBs 404, 404A, 488, 574, 602, 602A, 759, 787 799. So let's proceed then, Mr. Clerk, with LB 816.

CLERK: (Read LB 816 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 816 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on page 2000 and 2001 of the Legislative Journal.) 29 ayes, 17 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: The bill fails to receive the number of votes constitutionally required to pass the bill with the emergency clause, so the question now is, shall LB 816 pass without the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Senator Carsten, do you want me to record the vote? Record the vote.

CLERK: (Read the record vote as found on page 2001 of the Legislative Journal.) 29 ayes, 17 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 816 passes without the emergency clause attached. We are now ready, Mr. Clerk, for LB 816A, if you will read.

CLERK: (Read LB 816A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 816A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 2002 of the Legislative Journal.) The vote is 30 ayes, 16 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

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LB 412, 761, 799A, 816,
816A, 868, 933

they are vital, and we believe they should be maintained. I ask for the override and replacement of \$40,000 in Program 292.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. Shall debate now cease? All those in favor vote aye, opposed vote nay. Voting on ceasing debate. Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President.

SENATOR CLARK: All right. Senator Koch, you don't have any closing? There is no opposition there. All those in favor of the override on Senator Koch will vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote.

CLERK: (Read the record vote as found on page 2015 of the Legislative Journal.) 22 ayes, 22 nays, Mr. President, on the motion to override.

SENATOR CLARK: The motion lost. The next motion.

CLERK: Mr. President, if I may right before that, most of the bills that were read on Final Reading are now ready for the President's signature.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign enrolled LBs 816, 816A, 799A, 412, 933 and 868. We have one other bill which I think there is a motion on, Mr. Clerk, that I cannot....there is a motion on it I believe. I proposed to sign but I believe you told me there is a motion.

CLERK: There is a motion filed, Mr. President, yes.

PRESIDENT: Would you read the motion on that bill before I sign it?

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404, 404A, 488, 547, 602,
602A, 868, 761, 787, 799,
816, 816A, 799A, 412, 933

PRESIDENT: Go ahead Mr. Clerk.

CLERK: Mr. President, I would like to read a couple of items in if I may.

PRESIDENT: All right, go ahead and read some matters in.

CLERK: Senator Hefner offers explanation of vote.
(Regarding LB 868, see page 2017 of the Legislative Journal).

I have two notices of bills having been presented to the Governor. (Regarding LB 761 and 787. See page 2017 of the Legislative Journal).

Mr. President, Senator Fowler would move that the Legislature would override the line-item reduction that reduces the appropriation from the Highway Cash Fund to the Department of Roads Operation Cash Fund.

PRESIDENT: Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, if I could have some attention I'll briefly explain with the issue is in the veto here.

PRESIDENT: (GAVEL)...either they are all out or they are all paying attention so go ahead.

SENATOR FOWLER: Among the vetoes was three and a half million dollars in highway funds. Now, if there is anything I think that has been a priority in the Legislature, it has been and something that many people from outstate Nebraska said is a growing need is money for roads. Now the level of appropriation that we established is based on the Department of Roads request for what they felt was necessary and I think they cut that back from what they really feel is needed to build a good highway system in Nebraska. Now the Governor for reasons that I can not quite understand vetoed three and a half million dollars in highway funds. The only rationale that I can determine is that it is to maintain the gas tax at the current level. Now three and a half million dollars is a 3.2% cut in the state funds for the road construction program. The reason it was does is that revenues in the highway fund as revenues in all other funds in the state are low. What I do not understand is when we have raised every other conceivable tax and fee to make up for a lack of revenue suddenly when we get to the roads program and the gas tax and the variable gas tax that