

SENATOR CLARK: The bill is advanced. We now go to the new sheet that you have. There is no time limits on these. It is on the new sheet you have. These are senators priority bills. You cannot remove these bills. Also there is no time limit on them. We go to LB 591.

CLERK: Mr. President, if I may right before we get to that, a new A bill, LB 816A offered by the Revenue Committee. (Read. See page 1199 of the Legislative Journal.)

Mr. President, LB 591 was a bill introduced by Senator Landis. (Read.) The bill was read on January 6th, referred to the Revenue Committee. The bill was advanced to General File, Mr. President. At this time I have no amendments to the bill.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I was reading Will Durant last night, a book on the history of Greece. He was talking about a society called the Locrians. The Locrians believed that their laws were ordained by the gods and that if man made an attempt to change them that there should be heavy burden on anybody who couldn't persuade the rest of the group to go along with it. So they had a rule that a person who proposed a change of their laws would have to do so with a noose around their necks and in the event the measure was unsuccessful they took them out and hanged them. A proposition that I have had several constituents tell me probably should...(interruption.)

SENATOR CLARK: Do you want to put that in the rules?

SENATOR LANDIS: I'm not going to suggest it as a rule change but I suppose somebody might say to themselves, why would somebody in an election year bring a bill that raises taxes? Well, that's right. I don't see how I could not have opposition then and carry this bill. But, in fact, this bill does not raise taxes. It allows the City of Lincoln self-determination in its fiscal future by authorizing the City of Lincoln to raise a half cent sales tax premised on a vote of the people of the City of Lincoln in the event that they choose to tax themselves in that manner. I believe in that self-determination and that is why I am sponsoring LB 591 which was reported out by the Revenue Committee. And the City of Lincoln is well known for its planning and its fiscal management. It has the highest bond rating possible for a community. Its management is the envy of many other cities and I'm not here to tell you today that the city is in financial shambles or anything of the like. What I am telling you is that that level of planning

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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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LB 458, 756, 761, 807, 933, 942  
LB 816A, 966, 970, 971,

A bill to hold this thing up. Thank you.

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

CLERK: Senator Clark voting yes.

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

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

SENATOR CLARK: Debate is ceased. Senator Carsten.

SENATOR CARSTEN: My only comment is to renew my motion to advance 816A and to Senator Kahle, as a member of the Revenue Committee, if you've got any suggestions or help to make it better or to make the whole thing better, you know that you are perfectly welcome and we welcome you with open arms to give those suggestions to us. You've been aware of that all session and I renew again to you, that pledge to work with you if you've got the answers. Thank you.

SENATOR CLARK: The question before the House is the advancement of 816A. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: 25 ayes, 15 nays on advancement of the A bill, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Nichol. Oh, do you have anything to read in? Go ahead.

CLERK: Very quickly, Mr. President, Miscellaneous Subjects still would like to meet underneath the North balcony.

An announcement from Senator Lamb of moving LB 458 from pass-over to General File.

Your committee on Appropriations whose chairman is Senator Warner reports LB 756 advance to General File with committee amendments attached; 942 General File with committee amendment attached; 933 General File with committee amendments attached; 761 General File with committee amendments attached; 966 General File with committee amendments attached; 971 indefinitely postponed; 970 advance to General File. (See pages 1271-1274 of the Legislative Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 807 and find the same correctly engrossed.

March 22, 1982

LR 261  
LB 942, 816A, 568, 591

have passed a number of measures this year to fight crime. Crime can never be stopped completely, but that is not the state's fault no more than it is the fault if lightning comes out of the sky and strikes one of our citizens and disables them permanently. I suggest to you that if we are looking at places to cut, and if we are looking at philosophies that are false philosophies and that perhaps we shouldn't be following, that despite the political appeal of a Crime Victims Reparation Board that it is not a proper function of government. Secondly, if you look at the money we are spending, they are asking us to spend \$120,000 to distribute about \$60,000 worth of money. I suggest to you that if any charity in this state had that kind of administrative costs that you would never give another penny to it. I suggest to you that the administrative cost is much, much too high. The function is wrong in the first place and that the whole Board should be stricken. Thank you.

SENATOR CLARK: Well this is controversial. I have other lights on, so we will just stop it right here and continue on tomorrow because they told me not to go past 4:30. In Room 1019 they are going to have a budget hearing to explain the budget to you. You also have a meeting at 6:00. Senator Haberman, would you like to adjourn us until tomorrow morning, right after he reads something in.

CLERK: Mr. President, Senator Koch asks unanimous consent to add his name as co-introducer to LR 261.

Senator Carsten would like to print amendments to LB 816A. Senator Nichol to print amendments to LB 568. Senator Chambers to print amendments to 591. That is all that I have.

SENATOR CLARK: Senator Haberman, will you adjourn us until 9:00 tomorrow morning.

SENATOR HABERMAN: Mr. President, I move we adjourn until 9:00 tomorrow morning.

SENATOR CLARK: You heard the motion. All in favor say aye, opposed no. We are adjourned until 9:00 tomorrow morning.

Edited by Arleen McCrory.  
Arleen McCrory

9366

March 23, 1982

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 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.

April 13, 1982

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 816A

SENATOR KILGARIN: I would ask unanimous consent to withdraw the E & R amendments on LB 816A.

SENATOR CLARK: They are withdrawn. Is there anything else on the bill?

CLERK: Yes, sir. Mr. President, the first amendment to the bill is offered by Senator Carsten.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, this amendment only relates to the General File amendment that struck the Medicaid out of the bill and does do that in the A bill and that is all this one does. I move for the adoption of this amendment.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, I wish you'd fix my microphone. A question of Senator Carsten. How much money is 816A?

SENATOR CARSTEN: It is all of \$82.6 million.

SENATOR HABERMAN: Thank you very much.

SENATOR CLARK: All right, is there any further debate? If not the question is the adoption of the Carsten amendment. All those in favor vote aye, opposed vote nay. Have you all voted on the Carsten amendment? Record the vote.

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

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

CLERK: Mr. President, Senator Warner had an amendment.... Mr. President, Senator Warner would move to amend. He has an amendment that he would like to substitute for the one that he previously offered. Is that right, Senator?

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, this is the amendment dealing with the community colleges that was, I guess, the concurrence on the floor the other day. The one that I originally filed was technically in error and this is one that is technically correct which reflects the appropriation of an additional \$187,000 to community technical colleges, consistent with the amendment that was adopted on 816 a little bit earlier so I would move its adoption.



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LB 816A

SENATOR CLARK: Is there any discussion on the Warner amendment? If not, all those in favor vote aye, opposed vote nay. Have you all voted on the Warner amendment? Record the vote.

CLERK: 26 ayes, 0 nays on adoption of Senator Warner's amendment.

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

CLERK: Mr. President, Senator Kremer had an amendment on page 1770 he would like to withdraw and the next amendment I have is offered by Senator Kremer to the bill, Mr. President.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Thank you, Mr. President. This of course is the A bill, the amendment that I introduced on LB 816 that transfers \$700,000 to the Natural Resource Districts. I move the adoption of the amendment.

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

CLERK: Senator Clark voting no.

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

CLERK: 26 ayes, 7 nays, Mr. President, on adoption of Senator Kremer's amendment.

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

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

SENATOR CLARK: Senator Carsten, do you wish to move the bill?

SENATOR CARSTEN: I move the bill be advanced, Mr. President.

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

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted on the advancement of LB 816A? Record the vote. A record vote has been requested.

CLERK: (Read record vote as found on page 1876 of the Legislative Journal.) 26 ayes, 17 nays, Mr. President.

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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 212, 212A, 255, 255A, 522,  
759, 787E, 799, 816A

SENATOR LAMB: Have you all voted? Record.

CLERK: (Read the record vote as found on page 1991 of the Legislative Journal.) 40 ayes, 7 nays, 2 excused and not voting, Mr. President.

SENATOR LAMB: LB 759 passes on Final Reading. The next bill is LB 787E.

ASSISTANT CLERK: (Read LB 787E on Final Reading.)

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

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: (Read the record vote as found on page 1992 of the Legislative Journal.) 46 ayes, 0 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

SENATOR LAMB: LB 787 passes with the emergency clause attached. LB 799.

CLERK: Mr. President, if I may right before that read some items in. I have a lobby report for the week of April 8 through April 15. (See page 1993 of the Journal.) Your Enrolling Clerk has presented to the Governor the initial bills that were read on Final Reading this morning. (See page 1993 regarding LBs 522, 212, 212A, 255 and 255A in the Journal.)

Mr. President, I have two Attorney General's Opinions, one to Senator Warner and one to Senator DeCamp. (See pages 1993-97 of the Legislative Journal.)

Mr. President, I have a reference report referring a gubernatorial appointment.

SENATOR LAMB: Please read the bill.

CLERK: Mr. President, I have a motion on the bill. Senator Remmers would move to return LB 799 to Select File for a specific amendment, that amendment being to strike the enacting clause.

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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 816A

PRESIDENT: LB 816A having failed to receive the necessary constitutional vote to pass with the emergency clause, the question now is, shall LB 816A pass without 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 2002 of the Legislative Journal.) 29 ayes, 17 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: State your point.

SENATOR DeCAMP: Mr. President, there is some question as to whether the bill requires 25 or 30 votes to pass. I am under the opinion that it requires 30 votes constitutionally. I would like to know what your ruling is and then have an opportunity to react to that ruling.

PRESIDENT: There is no question on my part that it only requires 25 votes and that is the way I shall rule.

SENATOR DeCAMP: Mr. President....

PRESIDENT: Regardless of what you say. That is what...the way I am going to rule.

SENATOR DeCAMP: I understand that. I know, I am just doing this for the record.

PRESIDENT: All right, you proceed with the record then, put it in the record.

SENATOR DeCAMP: Okay. Mr. President, I have received the Attorney General's Opinion and as I say I want to record for the record that as far as I am concerned this bill is in much the same position as another bill that you and I were intimately familiar with....one vote short of constitutionally legal required majority to pass. I would like to ask acting Speaker Lamb who I had understood was going to be in the Chair whether he had researched this and what his ruling would have been.

PRESIDENT: You may ask him.

SENATOR DeCAMP: Speaker Lamb...Acting Speaker Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, I would have ruled 30 votes because in the years that I have been down here that is my understanding that bills of this type have required 30 votes because the specific

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LB 816A

appropriations for a specific agency were over the Governor's recommendation.

SENATOR DeCAMP: Okay, then may I just finish up and I will be brief.

PRESIDENT: Go ahead. Go ahead.

SENATOR DeCAMP: Because I don't want to cause problems on 816, I just do want to get it into the record. It is my opinion the bill is not legally passed constitutionally. It does appropriate, take money from the personal property tax relief fund, specifically put it back into the general fund. Once in the general fund it is available for any purpose this Legislature chooses, whether it is the University building new hospitals, you name it. Then it is specifically appropriated out and, for example, in one specific program, a state aid equalization and foundation program that is very specific. It increases that program some \$44 to \$45 million over the Governor's budget. Other laws have already been signed that used up the full amount recommended in the Governor's budget. Additionally, it has been the custom here on any bills of this nature to require 30 for at least the last five or six years and, as I say, I am convinced personally, constitutionally it would have required 30 votes. It does seem a little incredible that the validity or lack of validity of this bill rests merely on the whim of who happens to be in the Speaker's Chair or would appear to be, and I would submit that neither Speaker Luedtke nor acting...President Luedtke nor acting Speaker Lamb can supplant to replace the Constitution, that constitutionally the bill is not passed and subject to attack in the courts on that basis should it be viewed as passed.

PRESIDENT: All right, I think I am going at this time to declare the bill passed. We could go on here until midnight. I am going to rule that the bill passed without the emergency clause attached and you can make any kind of motions you want to on it. The bill is passed without the emergency clause attached. Now, Senator Higgins, for what purpose do you arise?

SENATOR HIGGINS: Point of order, the same purpose that Senator DeCamp.

PRESIDENT: State your point.

SENATOR HIGGINS: Senator DeCamp asked whom he thought was the acting Speaker a question....



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LB 816A

PRESIDENT: Yes.

SENATOR HIGGINS: ....and as I read Rule #1 under (b) it says, presiding officer, Section 5, President of Legislature, the Lieutenant Governor shall preside as President of the Legislature, the Speaker shall serve as acting President and preside when the Lieutenant Governor shall be absent, incapacitated or shall be acting as Governor. All references made herein made to the President shall be construed as meaning also the Speaker whenever he may preside. No Speaker and no acting Speaker is presiding, the President is presiding today.

PRESIDENT: That's right.

SENATOR HIGGINS: I just would like to get that in the record.

PRESIDENT: Okay, that is in the record too. Okay. All right, now the thing of it is if we are going to have other motions before the House, let's have motions but just to speak on trying to just get things in the record, it seems to me the vote, you voted, I asked to have the vote recorded and I reported that the bill passed. Now you can do with it what you will with any motions. Are there any...motion on the desk. Read the motion.

CLERK: Mr. President, Senator Chamber would move to.... Chambers, excuse me, would move to suspend Rule 7, Section 7(e) so as to vote to reconsider the vote on LB 816A.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, as far as the people in Omaha are concerned, the officials, I have been walked on, I have been sat upon, I have been spat upon, I have been disregarded and treated worse than a stepchild, and now that they are in trouble after having had the opportunity to mock me all session on the things that mean a great deal to me, here they come running and it would be so delightful to me and satisfy that part of human nature that we all might share in if we don't keep it under control to tell them where they can go and what they can do. But I am not going to do that. I am going to do what is right and it is harder for me to do this because of how I personally feel about it. I am going to tell you how I feel. I feel vindictive. I feel bitter. I am an alien and an outsider as far as the Omaha delegation is concerned and as far as most of this Legislature is concerned. But since I am always

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LB 816A

talking about what our responsibility as legislators is, what our duty as proper representatives of the people is, how we are to be teachers of the populace, rise above our petty, personal vindictive feelings, now comes the time for me to swallow spit and do the things that I have been saying others ought to do and have been condemning others for not doing. I have to make this motion because it is right, not because I even care about LB 816 or 816A, because it is not going to do anything for me or the people that I represent in terms of the district, but because of what principle is involved and I am telling you, I am being dragged kicking and screaming against my will to do this. So it is not a noble gesture. I don't even know what it is, but nevertheless I am making it. And now that I am making it I am going to tell all of those who voted for this bill that they didn't have to listen to me say this because since the presiding officer ruled that the bill passed, everybody who voted for it was on the prevailing side and could have made the motion that I am making, spared me saying this, spared you listening to it. But I decided that since sometimes I drag other people through the heat, it might be appropriate that I take a little heat myself on the same basis. The motion is up there, you can do with it what you will.

PRESIDENT: All right, speaking to the motion, Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, I have a question of Senator Warner, please.

PRESIDENT: Senator Warner, would you respond?

SENATOR HABERMAN: Senator Warner, does this bill, the A bill have anything in it that is in excess of any items or recommendations that were in the budget that the Governor submitted to the Legislature?

SENATOR WARNER: Senator Haberman, based...Mr. President and members of the Legislature, Senator Haberman based upon the letter that both Senator DeCamp and I...letters that we received in response to the Attorney General, based on that opinion it would indicate that it does not and that 25 votes are adequate.

SENATOR HABERMAN: So you are saying then that Section 81-137 doesn't apply and it reads: The Governor shall also submit to the Legislature at the same time he submits the budget copies of a tentative bill for all proposed appropriations of the budget clearly itemized and properly classified for the



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ensuing appropriation period and no appropriation shall be made in excess of the items and recommendations contained in the budget unless by two-thirds vote of the Legislature but any item or recommendation therein contained may be rejected or decreased in that amount. What you are saying is that does not apply in this case.

SENATOR WARNER: That specific section was, Senator Haberman, based upon the letter addressed to Senator DeCamp by the Attorney General. The Attorney General indicated that those provisions of that Section 87-137 were contrary to the Constitution as it was amended last in 1972 I believe, and that the statute would not supersede the Constitution.

SENATOR HABERMAN: Don't take all my time. What you are saying is it doesn't apply.

SENATOR WARNER: Does not.

SENATOR HABERMAN: Alright. Mr. President and members of the Legislature, I've been down here four years and I haven't played games but I have seen a switch in tactics now that is going to be awfully hard to explain to the people when I get home because for four or five years it's thirty votes and then all of a sudden it is twenty-five votes and then all of a sudden it decides who sits in the chair and who does this and who does that. And when you look at the sheet here, sixty counties in the State of Nebraska lose money, thirty-three gain money. The 1st District loses \$634,000 and the 3rd District loses \$3,835,000 and you add those two together and that is exactly what the 2nd District gets in addition, is \$4,470,000 so it looks as though when it comes to money in this body all you have to do is change the rules at the last minute and you pick up \$4,470,000. Now if it seems as though I'm a little irritated, I am because my district loses \$741,000. Now you tell me how we're going to pick that up. One county loses a hundred and eighty thousand bucks. People voted for this bill and they make money. Some people within twelve, fourteen miles of each other made \$82,000. Their neighbors lost \$295,000 they voted for this.

PRESIDENT: One minute.

SENATOR HABERMAN: Thank you, Mr. President. But I guess the thing that bothers me the most is I can go home and say, well we lost but we didn't lose in a fair fight because when you change the rules at the last minute overnight, that is not a fair fight. So I guess it is going to be interesting to see in the next four years whether it is going to take 30 votes or 25 votes on A bills because I think we've set a precedent here today that is going to come back to haunt everybody in

this body and I just don't like to play the ballgame that way. I've had my say. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, first of all, Mr. President, I would apologize for your being late for your fund raiser. I would have been happy to preside had you seen fit to go on over there and be on time. But I would like to ask Senator Warner a question if he would respond. In the years that I have been down here, Senator Warner, there have been many times when you have made a recommendation to this body as to whether 25 or 30 votes are required on a certain A bill. And I wonder if you could recollect any similar bills which you have recommended in similar situations where you have recommended that 30 votes or 25 votes as the case may be has been your recommendation.

SENATOR WARNER: Senator Lamb..Mr. President, members of the Legislature, Senator Lamb, my recollection was, up until in the mid 1970s when the former Lieutenant Governor was Mr. Whelan, I remember he came in one particular day on Final Reading and ruled that day that A bills were going to require 30 votes because they were not included in the Governor's budget and I have to admit that I pretty much accepted that carte blanche but presumably he was correct. And so as a matter of practice, because the rules required the Appropriations Committee to make recommendations, I have routinely requested of the budget office of the Governor whether or not...as to identify those A bills which were part of their budget which I again did this year and I did every year in between. This year there was an opinion that was requested by Senator Vard Johnson relative to LB 522A bill which had second year funding but that was the first time I began to be suspicious as to the practice that we had started under former Lieutenant Governor Whelan's ruling. As of Thursday evening I was asked what I would be saying on 816 and I had not prior to that time expected to do anything differently than what we had been doing. In response to a question or two then I submitted a letter to the Attorney General which you have probably read indicating that apparently what we have practiced since that ruling that day that Lieutenant Governor Whelan made perhaps was in error and that is the history as I recall it.

SENATOR LAMB: Then I assume from your remarks that you are saying that we are departing from our practice that has been followed in the last several years.

SENATOR WARNER: The practice has been in effect since the day that Lieutenant Governor Whelan came and made that ruling

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on a particular bill and I do not recall off the top of my head the bill number. That was the first time. Prior to that time we had always used 25 votes generally but the issue didn't come up frequently because usually we were dealing with an emergency clause so it was unusual.

SENATOR LAMB: Thank you, Senator Warner.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, Senator Carsten and Senator Newell, my good friend Senator Labeledz and Senator Higgins all made it pretty clear that they thought it would be decent and proper not to interfere with 816 or 816A. There were a multitude of kill motions and everything else up there. I talked to Senator Schmit, I talked to Senator Haberman and talked to a number of others and I said the best thing, if they got the votes they passed the bill or they vote on it. If they don't, it will fail. If they do, that is it. Now we did that completely. You didn't hear us make a motion. You didn't hear us make a word. All we did was exactly what I said I would do if it received less than 30 votes. I would just record in the record that I personally believed it didn't constitutionally pass and that is precisely all we have done. Now, that said, let me add these important things you should all heed. Senator Chambers and anybody else that wanted to vote had ample opportunity. If you reconsider, the bill is then subject to any amendments, kill motions, the whole thing over again and all bets and all promises are off. You've got your bill, haul it to the Governor's office, get it signed or vetoed, get on with our other business. You've had ample shots, you weren't interfered with. If Senator Chambers wanted to vote he sure as heck had his chance. My suggestion very sincerely is that you do not reconsider and open this whole can of worms up. Either you are right or you are wrong. Live with it. I think you are going to open a can of worms you don't want if you start redoing these bills now. If it passed, it passed. Probably won't be challenged anyway but I just think a word of warning, a word of caution, there was no way that Senator Chambers or anybody else could say they were denied the right to vote or they had to make up their mind. We don't need any more dramatics on this. We don't need any saviours. You've got your bill. Haul it over to the Governor's office and let's go somewhere else quickly.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I think we all can understand a little bit of what is happening here.

Very simply, Senator DeCamp wants to keep the distribution formula alive. It can make a lot of good political hay and that is the only question that we are dealing with. Now I am going to support Senator Chambers' motion even though as Senator DeCamp mentioned, the bill is passed and I don't think that outcome is going to change any. But the one thing we can do as a body is to clarify any constitutional issue. Now I can appreciate the need or the desire on some members' parts to have some political issue to kick around, an important political issue to kick around but it does not do... many of the members of this body who are running for reelection, a great deal of good to have this bill kick around throughout their district during the course of the elections. It doesn't do the Governor any good to have this bill kicked around. It doesn't do this Legislature any good to have this bill kicked around, legal actions, all kinds of other questions, etcetera. Now Senator DeCamp's threat is one that I think we ought to wholly disregard. Maybe, in fact, there will be all these kinds of motions. I don't they will be appreciated if there are, and I think that the patience of this body is running thin, but I do think if we can resolve this in a constitutional way so there isn't even any cloud, and I think that clearly that the bill is passed and that there isn't a problem, then that, in fact, ought to be the way it ought to be decided. One other issue that I will add just for the record is, we have not decided or discussed whether this exceeds the Governor's budget. It does not exceed the Governor's budget. It is a change of the present programs and for that reason I think Senator DeCamp's arguments are not correct. But, frankly, it is not necessary for this issue to be kicked around, litigated, litigated and litigated all year long in an election year. That is why I support Senator Chambers' motion, that is why it is the right thing to do. I would urge this body to reconsider its actions, pass it with 30 votes and we will be done with the issue once and for all.

PRESIDENT: The Chair recognizes Senator Hoagland. I guess you are next. Okay, do you want to call the question? You can call it from here. The question has been called for. Do I see five hands? I see five hands. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 2 nays, Mr. President, to cease debate.

PRESIDENT: Motion carries, debate ceases. Senator Chambers, you may close.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator DeCamp and I know each other very well and I don't blame John at all for what he is doing. Were I situated as he is situated, I would say things designed to cause you to vote the way that I think you ought to vote.



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However, there is a box in which Senator DeCamp can place the rest of the session. He had said earlier that I would bring things to a halt which I have not done. But what he can do and his colleagues if they decide to put a lot of amendments up there is hold us until twelve midnight. If we stay till twelve midnight, we are adjourned by operation of law and any bill which follows this one will not be heard. The attempt to override the Governor's veto on the employees' salaries will not be heard. So you all can decide whether or not you want to go along with Senator DeCamp, and if you do, and you show me that you want to stay here till midnight on this bill, I will help you stay here till midnight on this bill. But after all is said and done, if as a matter of fact it is passed, 816 will still be the law and I think 25 votes are sufficient. But let me make an observation here since it is the last day of the session. If you read history, and I have read a lot of it as I am sure many of you have, you will see the types of people and the types of actions they place that causes history to take note of them. Very seldom is any individual who dealt in the area of finance remembered, especially in the legislative arena. The one who is probably best known would be Lord Frederick North who was Chancellor of the Exchequer for England and he is remembered primarily because his bungling monetary or tax decisions led to the American Revolution. But if you go through the annals of the Congress, how many budget directors can you name who have been in the U.S. Congress? You probably couldn't name any other than those who might be existing right now and you may not know who they are on each side of the House. But here is what we should consider, that when we come to an issue where it is necessary to make some kind of principled vote, the way you vote on that issue will be of significance, that will be remembered. So whether or not 816 passes or not, is not ultimately going to make that much difference to anybody one way or the other. I will tell you what Lincoln said, "The world will little note nor long remember what we say here, but it will never forget what we do here", in terms of what is right. You all know these things that I talk about as well as I know them. There is nothing new I can add to what you already know. We know now that we are in the midst of a political struggle. 816 is the bone of contention. When the Civil War existed, they had said that the North was one dog, the South was the other dog and the black person was the bone. Well, I tried to stay out of this dog fight, but having been brought into it, I will come into it with a vengeance. I think that those who voted for this bill originally should vote the same way they did. Since I made the motion, I will vote also and that will be the 30th vote and that will end all the controversy as to whether or not it takes 25 or 30 votes. Then

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those who think so much is resting on 816 will have what they want. Those who feel the end of the world has come can go to their home town, their selected mortician, crawl into a coffin and be buried because the world will have ended for them. As for me, the session will end....

PRESIDENT: One minute, Senator.

SENATOR CHAMBERS: ....and I will renew my struggles to stop the North Freeway from destroying my community. I will try to do something on the rehabilitation program which the City of Omaha is administering that is destroying and rooking old people and poor people out of their money. I will try to get enough research done to persuade you that the state's funds ought not be invested in any agency that deals with South Africa or invest in South Africa, so my world and my hard work will begin after we adjourn. This is you all's fight. I am just making it possible for you to renew it. However, I am going to come down on the side of those who had 29 votes. That is all that I have to say.

PRESIDENT: Senator Schmit, for what purpose do you rise?

SENATOR SCHMIT: A question of clarification of Senator Warner, if I could, please.

PRESIDENT: Senator Warner, would you respond? This is for purposes of clarification only on the vote.

SENATOR SCHMIT: Senator Warner, the most recent handout that Senator VonMinden was showing me indicates that two sets of figures received now and received under the new formula, do you know if the figures that are received under the new formula pertain to the distribution of \$70 million or do they pertain to the distribution of \$82 million?

SENATOR WARNER: Whose handout?

SENATOR SCHMIT: Well, someone that has said, if you look at the whole picture, and I believe this was Rex's handout that says, look at the whole picture, and it says received now, has a whole set of figures by the legislative districts, received under the new formula gained or lost. And Senator VonMinden says under this set of figures he gains \$165,000, now....

PRESIDENT: Let's not debate it. Just ask the question.

SENATOR SCHMIT: Mr. Speaker, I have to explain to my friend, Senator Warner.

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PRESIDENT: All right, Senator Warner has to know what....

SENATOR SCHMIT: That's right.

PRESIDENT: Senator Warner, do you know?

SENATOR WARNER: I would not know. That's not my figures.

PRESIDENT: You don't know what the figures are. All right.

SENATOR WARNER: I don't know the source of them.

PRESIDENT: All right.

SENATOR SCHMIT: It might be helpful if someone knew.  
Senator Haberman.

PRESIDENT: Well, we are talking about a piece of paper  
that was sent around. Senator Chambers, you have closed.

SENATOR CHAMBERS: Everything that is being talked about  
now could have been discussed and I think it is inappropriate now.

PRESIDENT: Yes, that's true. I think it amounts to debate  
and I am going to rule it out from here on out. I thought  
there was an honest effort to get some figures clarified  
yes or no, but evidently that is not so. So we will proceed.  
All those in favor of Senator Chambers' motion to  
suspend the rules vote aye, opposed nay. Just, this is...no,  
not to cease debate, this is voting on the motion to suspend  
the rules. We have already, although it didn't sound like  
it, we have already suspended the...or ceased debate. How  
many...still have the same number? Two excused, all right.  
Senator Chambers, do you want to do anything? Record the  
vote.

CLERK: 29 ayes, 15 nays.

PRESIDENT: All right, roll call vote has been....we can  
have a roll call vote. I have not announced it. I only  
asked for the recording of the vote, but it has not been  
read in yet. Someone can ask for a record vote and every-  
thing else. So, go ahead. All right, state your point.

SENATOR DeCAMP: Mr. President, I thought I heard him say,  
29 ayes, 15 nays. That is...did you say what the vote was?

PRESIDENT: Yes, he did.

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SENATOR DeCAMP: Mr. President....

PRESIDENT: But I have not ruled....

SENATOR DeCAMP: ....with all due respect....

PRESIDENT: ....but I have not ruled yet.

SENATOR DeCAMP: Mr. President, at some point even you have limitations....

PRESIDENT: I realize that.

SENATOR DeCAMP: ....on how far you can go, and the vote was recorded.

PRESIDENT: But until I state...until I state that the motion has either failed or passed....there was this other motion came just as I said that....but I have not said it yet. I was about to say it and then you got up.

SENATOR DeCAMP: I see.

PRESIDENT: You interrupted me or I would have said it.

SENATOR DeCAMP: Yes, okay.

PRESIDENT: Okay. All right, now you have asked for.... Senator Hoagland, you have asked for a roll call vote, which would be so that we can get a....I will proceed with a roll call vote. We have done this several times before the vote is actually announced, but this was right at the exact moment it was announced. Go ahead.

CLERK: (Read the roll call vote as found on pages 2003 and 2004 of the Legislative Journal.) 28 ayes, 17 nays, Mr. President, on the motion to suspend the rules.

PRESIDENT: Motion fails. Anything else?

CLERK: I have nothing further on that issue, Mr. President.

PRESIDENT: We are ready for the next bill. I remind you we are on Final Reading. Make sure everybody is back at your desks. Proceed with the next bill on Final Reading, Mr. Clerk, which is 868.

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

PRESIDENT: Read the motion.



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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