

the authority to make those determinations. If Senator Schmit and Senator DeCamp want different mechanisms within their area then let them go to their natural resources districts and make that plea to them. It's the same as I should have the right to do with my NRD but you're taking that right away from me and I think that is wrong. I think that is fundamentally wrong. Why don't we just do away with the NRDs and make all the decisions right here? We'll draw the lines, we'll do the whole works. We'll be the Natural Resources Board for the whole state. That is really what we are doing. Is that what we want to do?

SENATOR CLARK: The question before the House is the adoption of the Vickers amendment to the Kremer amendment on Section two. All those in favor vote aye, opposed vote nay. This also takes a simple majority. A record vote has been requested. Once again, have you all voted? Record the vote.

CLERK: (Read record vote as found on page 353 of the Legislative Journal.) 12 ayes, 21 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The motion lost. Senator DeCamp, would you like to adjourn us until nine o'clock tomorrow morning after the Clerk reads in the rest of the bills.

SENATOR DeCAMP: Marvel was saying something about coming back at four-thirty or something. Is that out?

SENATOR CLARK: No, I don't think we need to.

SENATOR DeCAMP: Okay, we're going until nine o'clock tomorrow then.

SENATOR CLARK: No, let's wait until he reads the bills in.

SENATOR DeCAMP: Oh, okay.

SENATOR CLARK: He still has some bills to read in.

CLERK: Mr. President, new bills. (Read by title for the first time, LBs 915-955 as found on pages 354-366 of the Legislative Journal.)

Mr. President, Senator Marsh would like to print amendments to LB 69 in the Legislative Journal. (See page 369 of the Legislative Journal.)

Banking gives notice of cancellation and rescheduling of a hearing. (See page 369.)

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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

LB 756, 760, 854, 933

LR 261

adjustment, although that wouldn't be any in this one. It would only be those kind of changes in the total appropriation. Nothing relative to their take home pay, if I can put it that way.

SENATOR NICHOL: Okay, thank you.

SENATOR CLARK: Any further discussion on 756? If not, all those in favor of advancing the bill vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The bill is advanced. Now 933. Clerk would like to read in first.

CLERK: Mr. President, your Enrolling Clerk has presented to Governor, bills that were read on Final Reading this morning.

Senator Kahle would like to print amendments to 854 in the Journal.

Miscellaneous Subjects gives notice of gubernatorial appointment confirmation hearing.

Senator Carsten would like to print amendments to 760.

Mr. President a new resolution. Read LR 261. That will be laid over Mr. President.

SENATOR CLARK: Laid over how long?

CLERK: Mr. President, LB 933 was introduced by the Appropriations Committee and signed by its members. Read title of LB 933. The bill was read on January 19. It was referred to the Appropriations Committee. The bill was advanced to General File, Mr. President. There are committee amendments pending.

SENATOR CLARK: Senator Warner on the committee amendments.

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

I might just make a comment, a clarification to Senator Nichol's question on 756 because there were two positions that could be changed without statute which was the Supreme Court Clerk and the Supreme Court Reporter but the Court has the authority to pay within the full appropriation whatever they want. But those two are not set by statute. So, but all of the rest of them are set by statute. LB 933 is one of a series of bills that the Appropriations Committee introduced for the purpose of reviewing a number of programs which hearings have been held and the committee amendment strikes the number of the portions of that bill as it was introduced. I can tell you the committee amendment will strike the reference to the Department of Water Resources. It strikes Sections 2 through 6 that affect the Department of Agriculture. It strikes Section 7 through 24 which affected the Department of Health and strikes Section 26 which required the...it would affect the Department of Education and strikes Section 28 which again affects the Department of Agriculture and it would strike Section 29 that would have deleted the authorization for agricultural activities. What will be left in the bill with the adoption of the committee amendment, four items which then can be addressed and those four items that will be left in the bill as from the way it was introduced is first Section 25 will remain and this was a statute that had been passed some years ago that required the State Fire Marshal to pay the expense for publishing fire prevention education books. It is a section of law that has never been funded, or never been implemented. It came to our attention last year and we propose to eliminate that expenditure estimated at \$25,000 but it is not a savings because it has never been done. The next three sections, you may want to consider separately after adoption of the committee amendments, Section 27 would delete the requirement that the Department of Education reimburse school districts for the cost of hiring substitute teachers, when school employees serve on the advisory committees. Also remaining in the bill would be the section that provides for the Coordinating Council for Handicapped and the final thing left in the bill is Section 29 which would delete the General Funds support for local Indian alcoholism rehabilitation programs, it is funded through the Department of Administrative Services. That is being deleted there because it is felt that it is a duplication of the alcohol abuse program that is otherwise provided for and was not necessary to have that activity located in two different agencies and particularly DAS would have little to do with that operation. So I move the adoption of the committee amendments striking the

sections I have talked about and then we can deal with the four sections that remain in the bill.

SENATOR CLARK: Senator Wiitala.

SENATOR WIITALA: Thank you Mr. Chairman. Senator Warner, would you yield to a question please? Senator Warner, did I hear you right that in one of the areas that you were striking a section that would pay teachers, administrators who serve on a commission on behalf of the State Department of Education, when it came to reviewing the accreditation of schools, their reimbursement for their days absence from their school system? Why did you feel that was necessary? Could you elaborate on that please.

SENATOR WARNER: We are not talking about what is in the bill in addition to the committee amendment does not take that out. Originally the committee looked at and introduced legislation that would have repealed per diems for a whole flock of advisory commissions and committees believing that it was more appropriate to only be reimbursed for actual expenses which was mileage, meals and lodging if necessary. This would have been a part of that broad concept, it is not a lot of money. Last year it was \$2,160 but I think the committee's discussion of retaining that in the bill as introduced was that it probably really wasn't necessary to have that reimbursement back to the school districts. It is a minor amount in keeping with the broader concept that we would hope to have implemented in another year that no per diem is virtually paid anywhere other than actual expenses.

SENATOR WIITALA: Thank you, Senator Warner. Members, the part that was stricken relates to a bill that I passed last session that looked at the inequities of teachers and their districts being required to stand the cost whereby the State Department of Education asked for them to provide their services and following through with the accreditation procedures relating to the state's colleges, universities. I feel that that was an important reimbursement to the school district, an expense they shouldn't stand. I probably will entertain on Select File a motion, an amendment placing that language back within the bill. Thank you.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, a question of Senator Warner please. Senator Warner, I'm looking at a fiscal note dated February 25th. Is this current?

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LB 933

SENATOR WARNER: The fiscal note on February 25th would reflect what. . .

SENATOR HABERMAN: Sections 1 . . .

SENATOR WARNER: . . . had in it as introduced and those fiscal notes are next changed after General File to reflect what the body did in the way of amendments.

SENATOR HABERMAN: Section 1, Section 2 to 6, Sections 7 to 24, Section 25, Section 26, Section 27 and Section 29 alone adds up to \$217,000. Is there any way we can tie into 933 into what page it is on in this blue book? Is there any way we can tie these things together?

SENATOR WARNER: Yes.

SENATOR HABERMAN: You have program number on one and you have section numbers on the other.

SENATOR WARNER: If you want to . . . the four sections of law that would be stricken, if the bill is advanced, after the committee amendments are adopted, there are four expenditures that would have to be added to the appropriation bill. That would be \$2,160 for the Department of Education that Senator Wiitala inquired about, there would be \$38,000 that would need to be added for the Coordinating Council of the Handicapped, there would be \$38,000 for the Department of Administrative Services for the Indian alcohol and the other section of the bill dealt with the Fire Marshal which we have never appropriated money for. So there is no savings there, it is just a repeal from the . . . a statutory requirement that has never been done.

SENATOR HABERMAN: Thank you.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I would like to ask Senator Warner another question. On this Indian alcoholic program of \$36,000 or \$37,000 or \$38,000, are they no longer using that? Now I noticed that this is perhaps in Senator Goll's and Senator Hefner's area perhaps, not in mine, but I was wondering if they are not using it, why they hadn't been using it or what's the purpose in taking it out?

SENATOR WARNER: That was established some years ago, I don't recall exactly when, but the recommendation of the committee is that there was a duplication to have two different agencies

involved and it was more appropriate that all the programs be conducted through the . . . larger program instead of just this one \$38,000 in the Department of Administrative Services.

SENATOR NICHOL: I see. Does DAS handle this anyway? I assume?

SENATOR WARNER: No.

SENATOR NICHOL: Who handles it then?

SENATOR WARNER: Oh, you mean the way this 38,000 went through DAS.

SENATOR NICHOL: Yes. But they don't need it any more, right?

SENATOR WARNER: . . . to the areas.

SENATOR NICHOL: They don't need it any more.

SENATOR WARNER: Our position was that it was a duplication of what the other agency is doing and it ought to be channeled, all of those funds ought to be channeled through a single agency rather than two.

SENATOR NICHOL: All right, I'll let those senators that are more directly involved speak to it if they wish. Thank you.

SENATOR CLARK: We have an amendment to the committee amendments.

CLERK: Mr. President, Senator Koch would move to amend the committee amendments (read Koch amendment).

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, what the committee is proposing to do is strike the coordinating commission on various agencies that are dealing with handicapped individuals. We just enacted this legislation year before last. It's an attempt to get the departments of various agencies of state government together and find out who is providing services to whom in terms of handicapping. I realize that there is some fiscal influence on this in terms of the office of the Department of Education who coordinates this effort. Annually they are supposed to report to the Appropriations Committee and

to the Governor and to the Education Committee and to this body just what types of services they are providing and to the extent they are providing them to try to cut down duplication. I think it is foolish for us at the present time to do away with this coordinating commission in view of the fact that Louisiana and other states have similar types of commissions where they develop inter agency agreement as to who is going to serve whom in the area of handicapped. I think that our money will be well spent for this purpose, so we have an audit. I don't know what the fiscal note is on this but, Senator Warner, would you answer me, the fiscal note.

SENATOR WARNER: It would be about \$38,000.

SENATOR KOCH: About \$38,000? That is for the purpose of developing a memorandum of agreement among these various agencies. It bothers me because we are under some fiscal pressure that we are going to try to save an ounce of fiscal note to maybe save a pound of a lot of dollars. So therefore what I am attempting to do is to amend the committee amendment to place that commission back into existence and hopefully, and I'll be the first to strike that commission if they do not do their job. They are working on it and they are doing very well at the present time. So, I do not want to see us strike that particular commission. This committee just passed that law. I think it is important that we keep it in place and determine whether or not we can audit those various agencies as to the clients they are serving and where there is duplication then we can say to them you are duplicating a service that shouldn't be here. This should be under either the Department of Institutions or the Department of Welfare or under the Education Department in the handicapped children in education or it should rest in one of those places. So I am asking you to accept my amendment to place it back into statute.

SENATOR CLARK: Senator Warner did you want to reply to this?

SENATOR WARNER: I'll explain the position of the committee. This was included in the original bill to review, then when the committee came out with its original budget recommendation of some weeks ago we had included that \$40,000. I had to correct myself Senator Koch it is \$40,140. We had included that in our recommendations as of a couple of weeks ago. It was not included in the Governor's bill originally and then when he came in and addressed us he again indicated that he thought that that dollar amount could be eliminated.

So, this time we also eliminated it on the basis that it would probably be vetoed in any event and so we just as well strike the provisions of the law that could not be funded and that is why it is still in there.

SENATOR CLARK: Senator Vickers, did you want to talk on the amendment to the committee amendments? Senator Goll, did you want to talk on the amendment to the committee amendments?

SENATOR GOLL: Not on the amendment, something else I want to talk to later.

SENATOR CLARK: Okay, we will talk on the committee amendments, then I'll call you. Senator Cullan.

SENATOR CULLAN: Mr. President, I would be waiting for the amendments, not the amendment to the amendment.

SENATOR CLARK: If there is no further discussion then on the amendment to the committee amendments, Senator Koch, do you want to close?

SENATOR KOCH: Thank you Mr. Chairman, members of the body, education is being asked to make certain sacrifices and I'll give you an example. On LB 895 the Governor is placing an amendment on that bill and I have accepted it. It deals with cash flow. You all know that we passed a bill not too long ago where we said schools are entitled to 25% of their entitlement of state aid in October. I have called together various school administrators and they have agreed that they will accept payments in a lesser amount based upon equal payments over nine or ten payments. Now to me that is a sacrifice on the part of the public schools, State of Nebraska. We are always talking about the high cost of handicapped programs in the state. I believe we are going to get a handle on those programs and the only way we are going to do it is to get these various agencies together where annually they meet and they make certain kinds of decisions as to the services they are going to provide. Now, if I recall correctly, when the Education Committee sponsored this piece of legislation we brought it on the floor and this body passed it. The Governor vetoed it that time. We overrode the Governor's veto at that time. Now simply because the Governor believes that he can find \$38,000 or \$40,000, I don't believe that this body in good wisdom should take a 360 degree turn because we felt that this would be an important memorandum of understanding that could be developed. All I say to you is Louisiana has it and several other states have it and they found that is the only way they

can manage costs and duplications. So I'm hoping that you will adopt this amendment because the public schools indicated they will take ten equal payments of state aid rather than 25% of their entitlement to help the state over a cash flow problem. I think this is good quid pro quo but I don't think we have to give up everything in terms of a few thousand dollars when in the end it could save us several millions of dollars if we ever get a good audit on who is providing what services. So I ask for the adoption of the amendment.

SENATOR CLARK: Question before the House is the adoption of the Koch amendment to the committee amendments. All those in favor vote aye, opposed nay. It takes 25 votes. Have you all voted?

CLERK: Senator Clark voting no.

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

SENATOR KOCH: Mr. Chairman, have the committee amendments been adopted on 933?

SENATOR CLARK: No.

SENATOR KOCH: Then this takes a simple majority.

SENATOR CLARK: Not on an appropriation bill. It takes 25 votes any place.

SENATOR KOCH: I'm sorry, then in that case I will ask for a Call of the House and a roll call vote.

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

CLERK: 10 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will take your seats please. Senator Koch.

SENATOR KOCH: Mr. Chairman, a point of. . . a question of the Chair. Is this an appropriations bill or is. . . it is not an appropriation bill, is it? Senator Warner says it isn't.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, it is an appropriations committee bill, but it does not appropriate money. So it is like any other substantive legislation. Whatever rules cover any bill would cover 933, 942 and 966 as I understand it. It affects appropriations but it does not appropriate.

SENATOR CLARK: Well if it doesn't appropriate money it wouldn't be an appropriations bill. We will go back to the simple majority. Senator Dworak.

SENATOR DWORAK: Then before the vote is announced I would like a Call of the House and a roll call vote.

SENATOR CLARK: We are under Call now.

SENATOR DWORAK: But I thought the reason Senator Koch asked for a Call of the House was because he thought he needed 25 votes. He had a simple majority which was enough to adopt the amendment. I thought with the new ruling now that this isn't an appropriation vote.

SENATOR CLARK: No, it is not an appropriation bill.

SENATOR DWORAK: Or an appropriation bill, then Senator Koch has his amendment adopted so I would like, before the announcement of the vote, a Call of the House and a roll call vote.

SENATOR CLARK: That's right and we will tell them what they are voting on. We have eight people excused right now. Have you all recorded in? Senator Wiitala would you record in please. Senator Newell. Senator Richard Peterson would you check in please. Would everyone check in that's there, please. Senator Von Minden, Senator Marsh, Senator Lamb, Senator Goodrich, Senator Dworak do you want to go ahead and call the roll or do you want to wait until everyone gets here.

SENATOR DWORAK: (answer inaudible).

SENATOR CLARK: All right, lets have the Clerk tell them what they are voting on. If everyone will be quiet please so we can hear it.

CLERK: Mr. President, Senator Koch would move to amend the committee amendments (read Koch amendment).

SENATOR CLARK: This only requires a simple majority.

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LB 933

CLERK: (Roll call vote.) 19 ayes, 15 nays, Mr. President.

SENATOR CLARK: 19 ayes, 15 nays?

CLERK: Yes sir.

SENATOR CLARK: The motion is adopted. All right, another amendment on the desk.

CLERK: Mr. President, Senator Wiitala would now move to amend the committee amendments. (Read Wiitala amendment.)

SENATOR CLARK: Senator Wiitala.

SENATOR WIITALA: Thank you, Mr. Chairman. Mr. Chairman, colleagues, the stricken language that is addressed by my amendment to the committee amendments refers to a bill that we passed last year, LB 427, which took into account a small injustice of small economic scale relating to teachers that are asked to serve by the State Board of Education to serve on advisory boards, advisory boards that are a vital part of the accreditation procedures when it comes to sitting in judgment on the different state colleges and university. In the past, school districts had to pick up the economic loss when a teacher left the classroom or the teacher his or herself. Basically, what my bill did was to have the State Department of Education reimburse those school districts when those personnel left the classroom. It seemed fair, it seemed just, it seemed to be the equitable thing to do. Now I understand Senator Warner's arguments, at least I think I do, about an attack on the per diem pay and that may be a program that is phased out. But, I am appealing to you that there is a higher principle at stake, that any time any of the state agencies mandate, especially when it comes to the State Department of Education, mandates certain requirements to the local school system that they pick up the cost, just as they have done in the past. I feel they should do so in this respect also. Otherwise there may be a reluctance on the school systems to allow their personnel to leave the classroom, especially when you consider things like the lid limitations and so forth. Colleagues, I would hope that you would see fit in supporting my amendment to put back the needed language into this bill. Thank you.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, just to explain the logic the committee used or the majority of the committee, first the amount would be small for an

individual school district, secondly, it would seem to me there is a benefit probably occurs to the school district to have part of their personnel involved in some of these activities and thirdly, I don't know if it should be any different than any other individual who is asked to serve on some advisory committee or some committee of state government. The odds are that however they are employed, whether self employed or working for someone there is a certain cost involved because of that person being gone and I think the discussion was that that position was reasonable for this particular area as well as holds true for a whole host of other activities. Granted the dollar amount here is very small.

SENATOR CLARK: The Call is raised. Senator Carsten.

SENATOR CARSTEN: Mr. President and members I would like to ask Senator Warner or Senator Wiitala, either one, a question if I may. Senator Wiitala, is this, we are dealing with now, your amendment, is this statute mandated by us or is this under Rules and Regulations of the department? It would seem to me, Senator Wiitala, that there may be a difference here whether we did it or whether the Department of Education did. Can you answer my question?

SENATOR WIITALA: I'm not too sure. I believe that it comes under the accreditation standards.

SENATOR CARSTEN: Which then would have been from the Department of Education, not from a statute that we had passed. Is that. . . Senator Warner, maybe Senator Warner. . .

SENATOR WIITALA: Yes, let me yield to Senator Warner.

SENATOR CARSTEN: Senator Warner, did you hear my question?

SENATOR CLARK: Go ahead you are on.

SENATOR WARNER: Mr. President, Senator Carsten, as I recall the bill Senator Wiitala mentioned that I believe he had introduced last year, it either authorized or required and I honestly don't recall which, but I think it was required that the state would pay, reimburse the school district if a substitute teacher had to be hired for. . .to take the place of a teacher who was serving on one of these advisory boards and again as a matter of practice, the Appropriations Committee tries, if the law mandates something, we try to put that money in. The reason for this amendment was to enable us not to put that money in, was to strike the statutes that either requires or authorizes.

SENATOR CARSTEN: So in reality it was an indirect mandate then to the department, is that correct?

SENATOR WARNER: Yes.

SENATOR CARSTEN: Thank you very much. And, the amount is really not that significant.

SENATOR WARNER: \$2,160 was the cost last year.

SENATOR CARSTEN: That was last year's cost though.

SENATOR WARNER: Yes, but in all events I would assume that it would be relatively, in that neighborhood.

SENATOR CARSTEN: Thank you very much.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Are we on. . .

SENATOR CLARK: On Senator Wiitala's amendment.

SENATOR NICHOL: I don't want to speak to that.

SENATOR CLARK: Senator Vickers, did you want to talk on the Wiitala amendment?

SENATOR VICKERS: Mr. President and members, I rise to support Senator Wiitala in his amendment. The section that Senator Wiitala is dealing with is one the Education Committee dealt with just a year ago and this body agreed and the philosophy at that time was that if it is a requirement of the state then the state should pick up the funds and not the local property taxpayer. I don't think that philosophy should be changed. I recognize the situation that Senator Warner and other members of the Appropriations Committee found themselves in in attempting to find all the sources of dollars that they possibly can, short of tax increases which some of us have been saying is probably inevitable for quite some time. But I am very concerned that we don't start down this path of causing the state tax rates to not be increased but instead cause property taxes to go up a bunch. Now we have got another bill going through this Legislature which is going to cause property taxes to go up a lot out in my area of the state and Senator Haberman's area of the state and other areas out in the rural area. But, I think that is almost a foregone conclusion that that is going to happen by the action of this body last week. But, to

attack it even further with such actions as this I think is unconscionable. It is true that we do not levy your property tax, but I'm telling you that we are still responsible for those property taxes. If they increase as a result of our inactions then in a way we have levied property taxes, indirectly. I think that that is very wrong. I think we should be concerned about the total cost of government, but shifting the cost certainly is not going to help. I support Senator Wiitala.

SENATOR CLARK: Senator Kahle on the Wiitala amendment.

SENATOR KAHLE: Thank you Mr. President and members. I'm having a little trouble keeping up where you are at but I assume you are talking about the language on page 16 of the green bill that was stricken. Is this correct Senator Wiitala or Senator Warner? Senator Wiitala could you tell me how many people are involved in this process of the advisory committee or about? Is it a large group?

SENATOR WIITALA: Senator Kahle, if I remember correctly from my committee testimony there was something around twelve members that served on that one particular advisory board that this bill addresses. Senator Warner said we are only talking about the fiscal impact of a little over \$2,000 a year.

SENATOR KAHLE: Do you think that is what it will be though? This was just started in the recent what, last year? Or has it been two years? Just one year, right?

SENATOR WIITALA: I don't know how long it has been in existence.

SENATOR KAHLE: I guess one other thing in the language that bothers me and I know that we probably are not talking about that now but it says each school district that has an employee who serves as a member on such a committee and which is required to hire a person to replace such member, what if you don't have to hire a person but somebody else fills in.

SENATOR WIITALA: Then you probably wouldn't get any reimbursement. Just in those cases where the district encounters an expense.

SENATOR KAHLE: But if some districts, they would cover it with somebody else and other districts they might hire somebody.

SENATOR WIITALA: Then they probably wouldn't get any reimbursement.

SENATOR KAHLE: Okay, this is the part then that you want reinstated, be from lines 11 through 17 on page 16 of the original bill.

SENATOR WIITALA: That is correct Senator.

SENATOR KAHLE: Thank you.

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

SENATOR WIITALA: Thank you Mr. Chairman, just a few words in closing. I hope that everyone understands what these brief six or seven lines imply. I'm indebted to Senator Vickers for presenting an even clearer explanation than what I did on the onset in that to a certain degree this is a property tax relief, but even more so, I would like to have you put yourself in a position where maybe a school district feels it can't afford to reimburse a teacher who is going to be out of the classroom for that day to serve on an advisory board. It leaves that decision up to that teacher if he is going to take his forty, fifty or sixty dollars out of his pocket and pay for an experience that will be rewarding to himself and his district but really was intended to serve the accreditation purposes of the state. I think it would be a shame for us in the Legislature to mandate that kind of an expense, first of all to a faculty member or to a district. I would hope that you would see fit to support my amendment. Thank you.

SENATOR CLARK: All those in favor of the Wiitala amendment vote aye, opposed vote no.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? We are voting on the Wiitala amendment to the amendment. It takes a simple majority. Once more, have you all voted? Record the vote.

CLERK: 15 ayes, 12 nays Mr. President, on adoption of Senator Wiitala's amendment to the committee amendment.

SENATOR CLARK: The amendment is adopted. Now on the committee amendments. You have another amendment?

CLERK: Yes sir.

SENATOR CLARK: Go ahead.

CLERK: Mr. President, Senators Goll, Hefner and Nichol would move to amend the committee amendments. (Read amendment).

SENATOR CLARK: Senator Goll.

SENATOR GOLL: Mr. Speaker and colleagues, I would like to speak as well as Senator Hefner and Senator Nichol. The section of the statute that was being repealed by the bill was 23-362.03 and says this: "Indians alcohol rehabilitation, financial assistance limitation use. There shall each year be paid out of the state treasury on the warrant of the Director of Administrative Services not to exceed \$38,000 for the benefit of Indians in any county described in Section 23-362 to be used for the purpose of alcohol rehabilitation. The Commission on Indian Affairs shall use such funds only for the purpose of assisting alcohol rehabilitation programs." I would like to ask Senator Warner who made note of this earlier when he said that this was being funded in another manner. Senator Warner, would you care to respond on how from where this \$38,000 is being appropriated?

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Currently...Senator Goll, currently the \$38,000 comes from the General Fund, goes to DAS, the recommendation of the committee is that the same program could surely be carried through the Department of Institutions alcohol drug abuse section which has an appropriation of \$3,660,000 in that the \$38,000 ought to be a part of that overall alcohol program rather than a duplicate program run solely by DAS. My presumption is that the agency involved would be seeking and acquiring comparable dollar amounts through DPI for the same program both for alcohol rehabilitation in either program.

SENATOR GOLL: Then do I conclude and does Senator Hefner and Senator Nichol conclude that these funds will be appropriated?

SENATOR WARNER: The proposal would contain no appropriation to the Department of Administrative Services which the Indian Commission is located for the \$38,000. What the program would have to be funded through the Department of Institutions drug and alcohol abuse program which has a total of 3.6...over 3.6 million.

SENATOR GOLL: Before I relinquish the rest of my time to Senator Hefner, I would like to read a portion of a letter

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from the Winnebago Tribal Council, "The unemployment rate on our reservation is 74% which impacts even more on the trauma and quality of life in our community related to alcohol and drug abuse." They are asking for our support in leaving this section of the statute in the existing law. I would turn over the rest of my time to Senator Hefner.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I would support this amendment inasmuch as what it is really doing is eroding the money that we appropriated for alcoholism treatment last year and two or three years ago and rather than do it this way and erode what we had set up, I would very much support this amendment.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Mr. President and members, I rise to support this amendment to this bill. If you remember in this bill we strike Section 23-362.03 and of course what that does is cut back on the Indian alcohol rehabilitation fund. I feel that we need to keep this program going. Of course, most of this money goes to or would affect the counties of Knox County and Thurston County and this is where the Santee Indian Reservation is located and also the Winnebago Indian Reservation. I am concerned if we don't receive this appropriation then we will have to cut back on our alcohol programs. I think rather than cutting back we should be adding to them because we certainly have problems in these areas. Therefore I would ask your support on this amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Again, Mr. President, the committee is not recommending there should not be alcohol rehabilitation programs, but we are saying that they all ought to be funded from a single program, a single agency, which is in...located in the Department of Institutions the current years recommended budget, including federal and state funds has roughly \$400,000 more than the proposed for next year that we currently are doing and we are just suggesting that that \$38,000 ought to be funded out of that program rather than through the Department of Administrative Services that is in essence a duplication of activity in two different agencies which seems illogical and it ought to be placed all in one agency.

SENATOR WARNER: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I have a question of Senator Warner. Senator Warner, of course last year we increased the alcohol taxes in this area and we set a new rate on those taxes and additional funds from those taxes were for the support of alcohol programs. I know that there is a natural growth in the receipt of alcohol taxes from year to year just because of increased consumption. Could you tell me, Senator Warner, are those additional funds resulting from natural growth and increased alcohol consumption appropriated to alcohol treatment programs or are they in fact left in the rest of the General Fund?

SENATOR WARNER: You are talking now about LB 761 and the current level recommended by the committee, when we get to that bill will be no increase and as a . . . I do not recall specifically, there were increases in some of these programs in our earlier suggestions but as the receipts have declined everything is declined and I guess it would be my personal position that any aid money that we can even hold at last year's level may be a remarkable feat compared to what has occurred in many states where they have had to deplete their aid funds as well as their operational money because of declining revenues.

SENATOR CULLAN: Thank you Senator Warner. Mr. President, members of the Legislature, I would like to and will attempt to attain some information as to what has happened in the area of receipts from those alcohol taxes. It is my understanding that those revenues from those alcohol taxes increase every year. I don't have any problem with the philosophy of the Appropriations Committee that this alcohol program and all other ones ought to be funded from the same pot, but, if Senator Warner is going to delete the specific appropriation to the Indian reservation then I think it is incumbent on the Appropriations Committee to place additional funds, which are derived from additional alcohol tax revenues, which occur as the result of the natural growth in the consumption of alcohol into that alcohol treatment fund. My concern is that if we do not reject the committee amendment here and support Senator Goll that an alcohol program which is operating in one of your districts or perhaps in my district will be cut in order to fund the program which Senator Goll wants to continue. So, I would have to support Senator Goll until such time as the Appropriations Committee amends the other budget bill to account for increased alcohol funds to take care of this project. So at this time I would urge you to support Senator Goll in his effort.

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SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: (no response).

SENATOR CLARK: Is there any further discussion? Senator Goll, did you wish to close?

SENATOR GOLL: Yes, I would like to close. I have nothing further to say, Mr. Chairman.

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

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted on the Goll amendment? It takes a simple majority. Have you all voted? Record the vote.

CLERK: 14 ayes, 10 nays, Mr. President on the Goll-Nichol-Hefner amendment.

SENATOR CLARK: The amendment is adopted. Senator Warner on the committee amendments. You don't have any further amendments here do you?

CLERK: No sir.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, I move the adoption of the committee amendment. What is now left in the tremendous effort we made to attempt to reduce some of the cost of government is the striking of provision that has never been funded, so nobody gets hurt. It would require an estimated \$25,000 to fund it however if it was to be done. So I move we save the money we have never spent by adopting the committee amendment to 933.

SENATOR CLARK: I have Senator Kahle, Goll, Cullan and Vickers on the committee amendments. Do any of you want to talk? All right, the question before the House is the adoption of the committee amendments. All those in favor vote aye, opposed vote nay. This one takes 25 votes. Record the vote.

CLERK: 26 ayes, 1 nay Mr. President on the adoption of the committee amendments as amended.

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LR 262, 263, 264, 265
LB 933, 942, 208, 568,
898,

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

SENATOR WARNER: Mr. President, I move that LB 933 be advanced. As I pointed out it will repeal the necessity for an expenditure that we have not yet made.

SENATOR CLARK: Question before the House is the advancement of the bill. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 28 ayes, 0 nays Mr. President on the motion to advance the bill as amended.

SENATOR CLARK: 933 is advanced. We go to 942. (Read some things in.)

CLERK: Mr. President, a series of resolutions, LR 262 by Senators Wagner and Sieck. (Read LR 262.)

Mr. President, Senator Labedz would like to print amendments to LB 942. Senator Haberman, Hoagland and Nichol to 568.

A study resolution LR 263 by the Miscellaneous Subjects Committee. (Read title of LR 263.) LR 264 by the Miscellaneous Subjects calls for a review of the Political Accountability Disclosure Act and conducting of an examination of the statutes regulating political action committees. LR 265, by the Miscellaneous Subjects Committee. (Read title of LR 265.) Attorney General's opinion addressed to Senator DeCamp regarding LB 898. (Letter appears on pages 1355-56 of the Legislative Journal).

Mr. President, Senator Koch would like to print amendments to LB 208.

Mr. President, with respect to 942, it was a bill introduced by the Appropriations Committee. (Read title.) The bill was read on January 19th of this year. It was referred to the Appropriations Committee for hearing. The bill was advanced to General File, Mr. President, there are committee amendments by the budget committee pending.

SENATOR CLARK: Senator Warner, on the committee amendments.

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LB 404A, 488A, 609A, 714A,
LB 522A, 755, 756, 933, 942

SENATOR LAMB: The motion is to have a Call of the House. Those in support vote aye, those opposed vote no. Record.

CLERK: 17 ayes, 0 nays, to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All senators will be in their seats. Please record your presence. Call in votes will be accepted.

CLERK: Senator Fowler voting yes. Senator Vickers voting yes.

SENATOR LAMB: Senator Wiitala, Senator Koch, Senator DeCamp, Senator Schmit, Senator Labedz, Senator Wagner, please record your presence.

CLERK: Senator Labedz voting yes.

SENATOR LAMB: We're looking for Senator Chambers, Senator DeCamp and Senator Koch.

CLERK: Senator Fenger voting no.

SENATOR LAMB: Senator Johnson, we are missing only three people. Are you ready for the roll call?

SENATOR V. JOHNSON: Roll call then, yes, please.

SENATOR LAMB: Will you please call the roll, Mr. Clerk?

CLERK: (Read roll call vote as found on pages 1376-1377 of the Legislative Journal.) 27 ayes, 17 nays, Mr. President, on the motion to advance the bill.

SENATOR LAMB: The bill is advanced. LB 942, Mr. Clerk.

CLERK: Mr. President, if I may right before that, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 404A and recommend that same be placed on Select File with E & R amendments; 488A, 714A, 609A, 755, 756 and 933 with E & R amendments attached. (See pages 1377-1378 of the Legislative Journal.)

Mr. President, LB 942 was last considered by the Legislature yesterday. (Read title.) The bill was first read on January 19. It was referred to the Budget Committee for a hearing. The bill was advanced to General File with committee amendments attached, Mr. President. Yesterday the Legislature adopted portions of the committee amendments. I believe

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LB 408, 755, 756, 933

restrict weights and it doesn't restrict length. It doesn't restrict three trailers or any number of trailers under the way this bill has been drawn. So I guess I think if the concern is a testing program for triple trailers and the concern is not to increase weights, well that is what the bill should do but that is not what the bill does do. The bill allows weights and lengths and it leaves all that discretion in the Department of Roads. I, for one, think our roads in the State of Nebraska are so bad today that we ought not do anything that would even potentially damage the roads in the state further and I will have some more information and some more comments about that later and what trucks in the state are costing us today and how much we are already subsidizing the trucking industry in the state by constructing roads and all the taxpayers, particularly those who drive cars and pickups and other vehicles are paying to already subsidize the trucking industry. I don't think we ought to give this kind of discretion to the Department of Roads. I urge you to vote against the committee amendment and to vote against the bill.

SENATOR CLARK: We are going to stop right here and take up the three bills that we have at four o'clock on Select File. Then if we have time after that before then at four-thirty we will come back to the bill. Senator Kilgarin, we are going to take up Select File, LB 755 first.

CLERK: No E & R, Senator.

SENATOR KILGARIN: I move we advance LB 755.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. 756.

SENATOR KILGARIN: I move we advance LB 756.

SENATOR CLARK: You have heard that motion. All those in favor say aye, opposed. The bill is advanced. LB 933.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 933.

SENATOR CLARK: The motion is to adopt the E & R amendments to 933. All those in favor say aye, opposed. The E & R amendments are adopted. Now the advancement.

SENATOR KILGARIN: I move we advance LB 933.

SENATOR CLARK: You heard that motion. All those in favor

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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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PRESIDENT: LB 756 passes with the emergency clause attached. The next bill on Final Reading, Mr. Clerk, is LB 933.

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

PRESIDENT: Read the motion, Mr. Clerk.

CLERK: Senator Koch would move to return LB 933 to Select File for a specific amendment.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman, and members of the body, you have before you a copy of the specific amendment that I am requesting, and very briefly I will describe what the amendment does. First of all, with the expiration of our Motor Vehicle Inspection law, it deals with the subject of school buses and vans which is important that this amendment be passed because obviously we are not going to have the Motor Vehicle Inspection law after July 1. Secondly, as you know, in our present setting there have been a number of petitions filed against schools that take nonresident tuition students because of what some people believe are excessive costs in relationship to the costs of educating a child in grades 9 through 12. At one time earlier in this session I discussed with you the amendment and there is...I think there is an amendment to the amendment offered by Senator Lamb, but we will get to that a little bit later on. Thirdly, the Governor, as we know, has requested that we change the payments that we make to the public schools in terms of our general aid. What we are proposing to do is to make that in nine equal payments because last year you will recall we gave the public schools 25 percent entitlement in October which has a fiscal effect on the cash flow, and in visiting with the Governor and his staff we have agreed that this is the appropriate way to do it with a sunset on it for a later time. In addition, the property tax replacement dollars that public schools receive, that would be paid to the public schools in seven equal payments beginning in December of this year. And, lastly, the technical clarification relates to the increase or decrease in student enrollment as it relates to state aid formula. What we are doing here is putting a limit on the amount of the increase as well as the amount of the decrease and I ask for the adoption...or I ask first of all to return 933 to Select File for the adoption of these amendments. Thank you.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I would ask for a division

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of the question into four separate parts as outlined on the handout that was given to us.

PRESIDENT: Oh, no. No, there can't be any division on that. This is...the motion is for the return. So it is just...that's...we are just voting, there is no way to divide that. That is my ruling anyway. Anything further, Senator Beutler? Okay. Senator Clark.

SENATOR CLARK: Well, Mr. Speaker, I would have to agree with you that there is no division of the question at this point. But I think when it is brought back there would be a division of the question at that time.

PRESIDENT: Well, that's different if it's brought back.

SENATOR CLARK: That's right. But I still think....

PRESIDENT: But it's still brought back for a vote on that particular amendment.

SENATOR CLARK: But I still think it could be divided.

PRESIDENT: I am not sure how you could even divide that when you bring it back for that one purpose.

SENATOR CLARK: Well, I am sure you couldn't change any of them.

PRESIDENT: No, well then, how could....

SENATOR CLARK: That I will agree with, but I think you would certainly divide the question after it is brought back, and that is not before us now, I realize that.

PRESIDENT: I don't think so.

SENATOR CLARK: All right.

PRESIDENT: I don't think you can. We have never had this to my knowledge brought up, but I...my initial reaction is that you could not do it. Yes, I think that suggestion made by the Clerk which just is by way of procedure and I think...I know this has been done where there has been a motion brought back again and he has withdrawn part of the matter and...so that he could have part of it and then bring it back for another return and another return if you want to divide it. But the mover of the motion must then divide it by bringing it back again and he would have to change his motion to do that. That is the only way it could be done. Senator Koch. Yes.

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SENATOR KOCH: Mr. President, in order to expedite the process, I would agree that we will bring it back if we want to. Once we get it back to Select File we will take the amendments one at a time and keep moving it back and forth until we get them adopted. That is fine with me.

PRESIDENT: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I wanted to be sure that I was clear on your ruling. You are saying that even after we bring...according to our procedure even after we bring it back and we are deciding on the question to adopt, then there is no opportunity to divide the question?

PRESIDENT: No, he is going to have to bring it back each time....he is going to have to decide what the issue is that he is bringing it back for, and that is the only issue you can vote on each time you bring it back. That is my ruling. So that is up to Senator Koch how he wants to bring this back. Right now there is a motion with a specific amendment. That is the only thing you can vote on. If Senator Koch wants to bring another motion with only part of that amendment and then with the other part, he will have to do it in two motions. Yes, that is the only way it can be done. So I don't....maybe, Senator Koch, maybe I didn't make myself clear to you on that. In other words, if you were to proceed with the motion you have made now, we will vote on that without any division, but you could come back with some other motions to return and divide that question itself.

SENATOR KOCH: Thank you.

PRESIDENT: All right. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, first of all, for...it may surprise you but I do agree with your ruling.

PRESIDENT: Thank you.

SENATOR CHAMBERS: We are limited, because if you would allow division of the question after it came back, that would be amending that specific amendment which is not allowed.

PRESIDENT: That is correct.

SENATOR CHAMBERS: But here is what I wanted to ask. Can a motion that is offered in this fashion be amended? Or must it be taken exactly as it is offered by the mover?

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PRESIDENT: It would have to be taken as it is offered by the mover, that is correct.

SENATOR CHAMBERS: Thank you.

PRESIDENT: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I am going to ask again for a division of the question and I am going to ask that the Chair be overruled because I think that this is...regardless of what the precedent is, this is terrible policy as far as the Legislature is concerned, and if I may proceed to make the argument...

PRESIDENT: You may.

SENATOR BEUTLER: If we allow this kind of procedure to be established, then obviously we are setting up a tool that will be...that can be subject...the subject of great abuse, because all someone needs to do is to put into an amendment, a specific amendment to return one important item, one item that we have got to do, such as the need to change the state aid payment date. We are in an emergency cash situation and we know we have got to do that. So then you tack onto that a number of items that are debatable and you have, in my opinion, subverted the whole process. For example, in this particular amendment we have one, two...two or maybe three other bills, at least one of which is not a priority bill, all at once, all at one time being added to the bill. I see nothing wrong with a policy here that says that when there is a motion to return for a specific amendment you can ask for a division of the question and the Legislature can make a decision on that which it wants to return for a specific amendment. If the introducer once the question has been divided no longer wishes to return something for a specific amendment, that is his prerogative, or her prerogative. But it seems to me it makes...really what we are doing in this process if you allow this procedure to be established, is to subvert everything that we have set up for General File and Select File. On General File and Select File each and every one of us has the right to divide a question if a question is divisible, and we can make an individual judgment on the substance of each part of an amendment, and that is the way it should be to have good legislation. But now we are saying we can throw in all the garbage as long as there is one thing that the introducer is sure everybody wants and the result it seems to me can only be occasional if not often that we get some bad legislation along with the good. It seems to me there is no reason why we can't make a distinction now and separate

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the good from the bad or at least discuss each piece individually without having them all thrown in together. Thank you.

PRESIDENT: The Chair recognizes Senator Clark. I am going to ask if those of you who have your lights on, who wants to discuss on this challenge of the Chair? Senator Chambers, you will be next then. Senator Lamb, did you wish to speak to the challenge of the Chair? Or did you wish to speak to the....all right, thank you. Senator Clark and then Senator Chambers.

SENATOR CLARK: Mr. Speaker, I am going to have to agree with you probably on your fact that it is not divisible, but I think it has already been answered what Senator Koch said, that he is willing to take them one at a time or bring them back one at a time, so I don't see what the argument is.

PRESIDENT: Okay, Senator Chambers.

SENATOR CHAMBERS: That is what I wanted to find out. Senator Koch, are you going to withdraw the motion that you have offered?

SENATOR KOCH: Mr. President, I will amend my motion to return LB 933E to Select File for specific amendments and we will take them one at a time and return it back and bring it back each time.

PRESIDENT: What we will just say is you withdraw the motion and substitute this other motion then.

SENATOR KOCH: That is correct.

PRESIDENT: Mr. Clerk, do you want to get that motion so we know which one he is going to have and then we will start from there. Thank you, Senator Chambers, for that clarification. That will make it unnecessary, Senator Beutler, then to take this matter up because he has now withdrawn that, so we will start afresh but we will have the Clerk read to us the specific amendment that Senator Koch wants taken up...wants the return for. So as soon as the Clerk returns...the Legislature will be at Ease while the Clerk is getting the motion. While we are doing that the Chair takes pleasure in introducing from Senator Vickers' District some eight students from the Orleans High School, Don Mietzner Principal. They are in the north balcony. Would you show us where you are folks from Orleans? There you are. Welcome to your Unicameral. The Clerk will read the first motion to

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return by Senator Koch. Read the motion, Mr. Clerk.

CLERK: Senator Koch, if I might, have you distributed copies of this proposal to the membership?

SENATOR KOCH: Each member has a copy on their desk distributed this morning.

CLERK: Okay. In that case, Mr. President, if the members will refer to the document they have on their desk, the first motion will be to return LB 933 to Select File for a specific amendment, and that amendment would be Section 1 of that proposal which encompasses basically pages 1, 2 and a good portion of page 3.

PRESIDENT: The Chair recognizes Senator Koch, and Section 1 is the first one to return. Go ahead, Senator Koch.

SENATOR KOCH: Mr. President, isn't it appropriate then first of all to return 933 to Select File for the specific amendment which deals with schools buses and vans and inspection procedures? I feel it is imperative that we assure parents that the buses and vans that are used in transporting students are appropriately inspected so that they can have some assurance that those vehicles are receiving inspections as we have suggested in the past.

PRESIDENT: Any discussion now on the motion to return for Section 1? Senator Vickers.

SENATOR VICKERS: Mr. President and members, it might surprise the body to know that the Chairman and the Vice Chairman of the Education Committee are on the same side of an issue for a change. It also might surprise you to know that Senator Koch and I are on the same side on this issue as it relates to vehicle inspection. But the amendment that Senator Koch is offering is one that was part of a bill that the Education Committee introduced and what it does very simply is clarify the responsibility as to school bus inspections. It does not cause any more or new inspection programs and, of course, from my perspective that is a real big plus. What it does do is cause the chief administrators or the...of the school districts to certify to the State Board of Education that the inspections, the 80-day inspections by a certified mechanic has, in fact, been done. That is the main purpose of the amendment that Senator Koch is offering, and I urge this body's adoption of Senator Koch's motion to return this bill for this specific amendment.

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PRESIDENT: The Chair recognizes Senator Beutler. Yes, Senator Beutler, okay, he says no. Any other speakers on the first motion to return? Senator Koch, you may close on your first motion to return.

SENATOR KOCH: Thank you, Mr. President. I have no closing. I would just request that 933 be returned for this specific amendment.

PRESIDENT: All right, motion then is the return of LB 933 for the Koch first specific amendment on Section 1 on that which you have on your desk. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 34 ayes, 0 nays on the motion to return, Mr. President.

PRESIDENT: Motion carries. LB 933 is returned for that specific amendment. Senator Koch, do you want to address yourself further to that amendment?

SENATOR KOCH: Mr. President and members of the body, it is as Senator Vickers stated that we are just making certain that the vans owned and leased or contracted by the school districts that they do have inspection, that the chief administrative officer or chairperson of the board representing the system will sign off on the fact that these vehicles have been properly inspected by a mechanic, and finally it also states that the State Patrol, upon completion of the Nebraska State Patrol inspection an approval sticker shall be placed by the Nebraska State Patrol Inspector on the lower inside corner of the driver's windshield within five days after such inspection. And that is the content of that first amendment.

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: I have a question of the presiding officer.

PRESIDENT: Yes.

SENATOR FOWLER: I don't think anybody has asked and it might help on this in the subsequent amendments, and that is, would you consider these germane to the subject matter of the bill in front of us?

PRESIDENT: I certainly do. I have looked at it and I do.

SENATOR FOWLER: On what basis?

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PRESIDENT: On the basis of where it is located in the statutes, and it is in the same chapter.

SENATOR FOWLER: Okay, thank you.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, we went through some things last night and Senator Lamb was in the Chair and established a different rule....

PRESIDENT: That's all right.

SENATOR CHAMBERS:so I am going to challenge the Chair and I would ask for a record vote on this challenge.

PRESIDENT: This is not the same person presiding. That is the reason for that.

SENATOR CHAMBERS: And we don't know....

PRESIDENT: We don't have consistency in anybody presiding in this body because Senator Clark, Speaker Marvel, Senator Lamb and I all have at various times various rulings. I will be consistent with my rulings in the past by saying it is germane.

SENATOR CHAMBERS: And, Mr. Chairman, here is part of what troubles me. I looked on the green sheet and it described this bill as one to eliminate various payments, programs and public bodies. I went to the committee statement and I saw testifiers on this bill, those who have no interest in school bus inspections or teaching about fire drills in the schools, and when there was a bill dealing with a triple trailer everybody criticized those things saying that the amendment was not this or that, the committee statement didn't reveal the nature of the bill, and the same thing obtains here. So what I see is a mishmash and a hodgepodge based on whose interests are considered, so I am asking for the attempt to overrule the Chair to make sure that at least Senator Lamb is consistent in his vote to overrule the Chair.

PRESIDENT: Okay. I am just going to say that I am consistent with the rulings I have made on germaneness in the past. I am not going to insert myself into the argument by attempting to dictate what you may take up with your 25 votes. My view is that you can vote it down if you don't like this. That is your prerogative and I am going

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to so rule. So any further discussion on the overrule?
Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, we had a discussion last night on the topic of germaneness and how it should be applied. I want to re-iterate this morning for those who were not here and for the Chair who was not here the argument that I make with respect to germaneness and that is that the chapter heading or the title simply cannot be the only standard by which we measure germaneness. To do so is to adopt an artificial standard which I think does not mean that there is any consistency of subject matter. Germaneness, I think, has to take into account a number of indices, one of which might well be the chapter number but which should probably also take into account the subject matter, whether or not the amendment adds to or detracts from the thrust of the bill, whether or not the amendment offered is an attempt to put into another measure what has previously been a bill in another form, and consideration similar to that. I think that subject matter is one of the most relevant factors in determining germaneness, and although I understand the Chair has a policy, I disagree with the application of that policy and hope that the body will move towards the rule that germaneness is more than simply following what the bill drafter and the revisor of statutes has placed as the numerical order of statutes and applies a sensible rule that amendments apply to the subject matter of the bill. For that reason I hope the Chair will be overruled.

PRESIDENT: Senator Beutler.

SENATOR BEUTLER: I will wait.

PRESIDENT: Okay, question before the House then is, shall the Chair be overruled? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 8 ayes, 27 nays to overrule.

PRESIDENT: Record vote has been asked for.

CLERK: I apologize, Senator. Senator Chambers requests record vote, Mr. President. (Read the record vote as found on page 933 of the Legislative Journal.) 7 ayes, 32 nays, Mr. President, on the motion to overrule the Chair.

PRESIDENT: Motion fails, the Chair is sustained. We will

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continue then with the....yes, Senator Koch, do have anything further on the first amendment on the amendment?

SENATOR KOCH: Thank you, Mr. President. I have nothing more to add. I ask for the adoption of the amendment as it relates to inspection of motor vehicles for the public schools and others who lease or contract.

PRESIDENT: So, the motion is the adoption of the first Koch amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 41 ayes, 0 nays on adoption of Senator Koch's amendment.

PRESIDENT: The motion carries. The amendment is adopted. Senator Koch, do you want to move the bill back?

SENATOR KOCH: Mr. President, I move to return LB 933 to E & R for Engrossing.

PRESIDENT: The motion is to advance LB 933 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. LB 933 is advanced to E & R for Engrossment. Now the next motion on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Koch would move to return LB 933 to Select File for a specific amendment. This will be specific amendment number two, Mr. President. It embodies Section 2 of the proposals that the members have on their desks.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. President. I move that we return 933 to Select File for the specific amendments on page 6 of your handout. It deals with how to compute rates for nonresident tuition students which would be equal and uniform throughout the state. And the amendment is this. Senator Lamb and others have agreed and I have agreed as well the rate to be certified by the receiving district for the ensuing school year may be in an amount decided by the receiving board but not less than of pupil cost and shall be determined by this section under the formula which we have provided to you. And the history of this...and by the way, this is a priority bill of the committee, 895, and it was on the consent calendar, but due to the lack of time, 15 minutes, we weren't able to move the bill to any position of final vote. And I want you to know there are a number of nonresident high schools that take students who today

their money is being impounded because of a pending court case in regard to what some people feel are excessive nonresident student tuition fees. This formula has been agreed to by those schools who receive those students and I believe for the first time this body will have a formula that all schools will follow in trying to decide what is the fairest way to support the high school education of students who attend these attendance centers. I ask for the adoption of this amendment.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, just for the legislative record, I would like to have it be made crystal clear that the receiving district may charge any amount but not less than the per pupil cost. And that means that if they want to go below the amount determined by this formula, that is perfectly legitimate, that is okay, that is what Senator Koch and I have agreed upon. They can go down below this formula as long as they do not go below the per pupil cost. On the other end of the scale, if they go above per pupil cost, then they use the formula and they cannot go above 1.25 of what the formula calls for. This means that there will be...well, the original 895 amendment which we had on our desks at one other time was objectionable to me because the minimum set up under the formula in many cases is more than those districts are charging at this time, and so I objected to that because I do not think this Legislature should set that minimum when those districts are now willing to charge less than that and in some cases only the per pupil cost.

PRESIDENT: Senator Cullan. The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I think the issue being considered is serious and I believe it will be adopted as an amendment after the bill is returned, but I must speak about the procedure being used here this morning. And I want something categorically stated for the record. Last night when Senator Lamb was upheld in ruling some of my amendments germane... not germane, even when they were in the same chapter and very close to the same article being considered, I said the vote was against me. It was racism and I said when different people with different issues, meaning white people with white people's issues come, then that rule that the body voted on last night by majority was going to be overturned this morning. So I think the racism has been established

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by formal votes on the floor of the Legislature and the rules mean nothing. Now this is not based on an inconsistency between Lieutenant Governor Luedtke ruling one way one day and one way another. The inconsistency is in the body itself by voting to uphold a principle or a perversion of a principle last night to manifest and reflect their racism and contempt for me then reversing what they did by voting in the way that they did this morning to allow something that really is not germane based on the way you voted last night to be considered germane. So I think what I alleged has been established and I say again, when you do things hasty when you are tired and angry and you let it be frozen in the record, you give me something with which to fight from now on, and you cannot rectify it, you cannot take it away. You can never return to the situation where the racism that was reflected had not been openly, publicly, formally endorsed by votes of the Legislature. And what you are doing this morning I think is a travesty.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. President, I am going to challenge the germaneness of this amendment and ask for a ruling and then I know the ruling and I will ask for an override.

PRESIDENT: The ruling is the same.

SENATOR WESELY: Okay. I ask to override the Chair's ruling. I guess, if I could, Mr. Speaker, I would just add that I did vote for the Chair on the last motion and I did that because I thought looking at the bill it was in the same section and it was also obviously an omnibus effort to try and deal with different fees and dealt with a number of different areas, and so it seemed to be much broader than what we talked about last night with drunk driving. But that breadth of different sections and subject matters I think stops when you start talking about a variety of bills that the Education Committee I think wants to see passed this year being amended into this one piece of legislation. I don't have any problem with the amendments. I think they all sound like they are pretty good but the problem is if we start doing this, every bill that is up on Final Reading if it is any breadth of subject matter at all is going to start being used for this Christmas tree effect and the ornaments that we attach may be good and they may be bad, but the question is, is that the way we want to see bills passed? I realize that there is a lot of legislation that is going to be left on the

floor and not able to be passed this in this legislative session because of the different problems we have had getting through our workload, but that doesn't mean we need at this time to start talking about the sort of steps that are being proposed. And we did vote against the efforts of Senator Chambers last night and that was I think the right thing to do at that time because of the questions involved, but we do have to uphold the process and the procedures and the rules that we have adopted and recognize the public's right to be fully informed of the legislation that we pass, and it is my concern that we do start a precedent here and with five days left we are going to see more of this sort of effort undertaken. And although you did not...I know many of us did not vote to override the Chair last time, I think you can see now the direction that we start to follow if we do not at this time very strictly adhere to the concept of germaneness and we start sending down a path a way that we may not even realize at this time the sort of amendments that may be coming up. So I would ask again reconsider as I have overriding the Chair on this question and more strictly defining germaneness.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, I would...I know it is early in the morning. I would like to talk to you. I want you to listen to me here for a second, okay. This one is important. Martin and Walt and Harold and Howard and Bill and Myron, I want to talk to you for a second because this one is important. This ruling is important. It has to do with our rules and I don't want us to ignore this one. Last night Ernie Chambers tried to filibuster and we blocked it by arguing that we couldn't look just at section numbers. He was wonderful. He picked the next, the very next section in the chapter and Howard Lamb had to rule whether or not it was germane and I made the argument it is not germane. Just looking if it's in the next chapter doesn't mean it is necessarily germane. And I challenged that the germaneness...Howard upheld me, we put it to a vote, and we all upheld Howard's decision that it was not germane, didn't we? And what we said was, chapter number is not always the only determining factor. Now we did that just last night. Now this morning Roland has ruled that because it is in the same chapter it is germane. Now the question is, are these our rules or the Chair's rules? Do we have a different set of rules when one Speaker is in the Chair or not? We all went on record just last night that germaneness is not simply a matter of subject matter, it has...I'm sorry, it is not simply a matter of chapter number, it is

a matter of subject matter. Now in good faith Roland has a different outlook on the rules but these are not Roland's rules they are our rules, and I am asking this body before we forget what we did last night and because it is real early in the morning and it is a new day, that we not forget what we did twelve hours ago. We laid down a rule that said, look to the subject matter, make a comparison, if it is close, that is when it is germane. If it is just simply an attempt to climb into that chapter number and use that, we are not going to go with it. We upheld Howard Lamb last night and I think we owe all of ourselves, not Ernie, but all of ourselves the duty to be consistent with our outlook here. Don't ignore this challenge to the Chair just because we always defer to the Chair. This is an important question and we, ourselves, are flipflopping this morning if we allow the Speaker to say, I see the rules differently than you did twelve hours ago, I am applying my rules, and we uphold the very intervention of what we ruled last night. With all respect to Governor Luedtke's outlook on the rules, I think Howard Lamb's rulings last night were accurate. The body upheld him and to uphold Howard Lamb last night means that we have to overrule the Chair this morning. I hope you will take that into account when you weigh this.

PRESIDENT: The Chair recognizes Senator Vickers. Now we are speaking to the overruling of the Chair, Senator Vickers. Go ahead.

SENATOR VICKERS: Mr. President and members, I said last night that we were at the bewitching part of the session, and I think last night proved it. Senator Landis just got through laying out to you what we did last night, but I suggest to you that because we were acting crazy last night because it was an emotional issue and the death penalty is always an emotional issue, because we were doing some things last night that at least some of us didn't think was right, I would remind you that the votes were never unanimous up there last night on those motions to overrule the Chair. It seems to me that the only consistent thing that we have is our inconsistency. Last night it was a very emotional issue. It was in the section right next to the section we were dealing with in the bill, yet the majority of this body said it wasn't germane. Now I think we were wrong last night. I think we need to stop and think about it today. Senator Landis said we were right last night, therefore we need to be consistent and be right today. I happen to disagree with Senator Landis. I think we were wrong last night. There is nothing wrong with saying, okay,

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hey, we made a mistake last night. I don't think that is a slap at my good friend, Ernie. Senator Chambers, I don't because...and I remind Senator Chambers that I was one of those people that were voting with Senator Chambers last night. I guess I would try to appeal to your conscience, and let's admit to ourselves that we were reacting last night at a late hour because we were tired and we were angry, we were reacting to an emotional issue in a fashion that wasn't responsible, wasn't reasonable, and we are trying to carry that same irrationality out today, and that is wrong. I think the majority of us recognize that we were making a mistake last night, "we" meaning the group in total, and that we shouldn't perpetuate that mistake, and admit that we made a mistake, and not overrule the Chair in this issue.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I guess I would like like the others to give my analysis of what should be done and why. Basically, I think that the rulings last night were absolutely correct. You cannot go flatly by chapter because it is patently ridiculous, whether you are talking about the education section which is all of Chapter 79 or whether you are talking about the probate code. So it is correct I think, the chapter can only be used as one of the indices to determine germaneness. Now, if you look at 933, in my bill book, at least, all 933 has to do is eliminating a book that the fire people were required to publish. That is all it does. That is the only change it makes, drops one publication of one little fire prevention book that was distributed in the schools. Okay, the amendments that we are attaching to this bill are obviously much, much larger in scope and have to do with completely different subject matter. So to me what should be done today is to maintain the rational, the more rational discussion that we had on germaneness last night, to declare these not germane and then for Senator Koch...you are not going to believe you are hearing this from me, move to suspend the rules to return these for a specific amendment despite the fact that they are not germane. And I guess that I think that that is an appropriate move in this case because what we are really talking about is not germaneness but the emergency situation that exists. The real question is, are these items of such an emergency nature that we should suspend the rules and deal with them despite the fact that they are not germane, despite the fact that they are circumventing the priority bill rule, despite a number

of different arguments that can be made against them. If we do that, then we need to do it for two reasons. We need to do it first of all because then we are being fair to everybody. If we change our definition of germaneness today, I think there is no doubt but that Senator Chambers has been given the short end of the stick. So to be fair to Senator Chambers, to be fair to everybody, we should hold to the principle that this is not germane. The second reason why we should do it is because we properly framed the issue. The issue here is not germaneness. These amendments are not germane and we all know it in our hearts, but we want to deal with them. And the reason we want to deal with them is because we think they are emergencies, school bus safety is an emergency. Some of us think the tuition resolution is an emergency. Some of us think that changing the cash flow on state aid is an emergency, and they may well be, I am not saying that they are not, I am saying that is the issue. In that light, Senator Koch, I would make the request to you that you withdraw the motions to return as such and reassert the motion in the form of a motion to suspend the rules to return for a specific amendment despite the fact that they are not germane. Would you be amenable to that, Senator Koch?

PRESIDENT: Did you want this...what did you want? Senator Koch, will you respond to a question to Senator Beutler?

SENATOR KOCH: Senator Beutler, I accept that, I am sorry I didn't do this in the very beginning, and I apologize, but there is a motion up there that Mr. O'Donnell has at the present time to suspend the rules and we will take these amendments up on a separate basis after that suspension of the rules is accomplished.

PRESIDENT: We do have a motion before the House which is Senator Wesely's motion to overrule the Chair, which we still must conclude and we have a couple of speakers yet. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, when I spoke the last time I don't think I made it clear that I would not vote to overrule the Chair. I happen to think the Chair's ruling is correct. Even though I got shot down unfairly last night, I am not going to say that you would do justice to me. By overruling the Chair you would simply commit the same injustice against somebody this morning that was committed against me. I told you and I have told you before that there are times when the system itself and the process by which we operate becomes more important even to me than the

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particular issue that I have an interest in. But it was such a vicious, calculated thing last night that I could not let it pass. It was not the issue of the death penalty that caused the flipflopping. It was the issue of me and my complexion. What most of you know and it hasn't been stated is that what was going to happen with my amendments had been discussed through the day. It had been discussed at the Chairmen's meeting. There had been statements about what was going to be done to show Chambers. So I am aware of what had happened. So there is no need in us pretending that these things are being discussed in a vacuum and that we are talking about the rules or ruling of the Chair. I am the issue, and the way to remove the issue of the contrary rulings is to remove me from the body. You are not going to be able to do that. Maybe you can find a way to get somebody else to do it, but you are not going to be able to do it. And I think that in the past the rulings had been similar to those made by Senator Clark and to the Lieutenant Governor and I have had my differences with both of them. But we are talking now about the procedure by which the Legislature operates. Germaneness is an issue simply because the Constitution indicated that you can't put more than one subject in a bill. If the Legislature votes that something is not germane, that doesn't resolve the legal issue of whether it actually is or not. It simply determines that the Legislature doesn't want to deal with an issue at that point or that it does. Most people in this body don't even know what the legal requirement for germaneness is. This is a Legislature that operates often from the standpoint of ignorance and emotion, pride and prejudice without understanding the fact of the situation before us, and it is difficult for those who understand these things to listen to attempts by people who don't even know what they are talking about to say what germaneness is. They don't even know why we have to talk about germaneness or why there can't be two subjects in a bill. It is because the Constitution said so. And if you read some court cases handed by....handed down by the State Supreme Court, you would see that a lot of things this body says are not germane, would be laughed out of court by the judges because the matter is germane. So before attempts are made to go into deep complex discussions about a particular subject matter, it would be good to at least understand the subject. I think the Chair has ruled correctly and I would not for a moment say that the Chair should rule in the erroneous way that Senator Lamb did last night just for the sake of consistency. When the world becomes topsy-turvy, an attempt has to be made to set it right again. Before it can be set right, you have to stop it from going in the direction that it is,

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make everything stationary, then reverse the incorrect direction that it was moving. So I think the Chair's ruling was right and I think the body was absolutely wrong last night, but if you don't want to look bad, if you are more concerned about how you appear than you are about doing what is right, then you have got to vote to overrule the Chair. You have got to vote the way you voted with Senator Lamb last night. So I don't think you have any choice. I do. Others who are willing to look at the issue and think about it have a choice. Those who unthinkingly who are moved by their prejudices are left without a choice. You must vote to overrule the Chair. I will not. I think his ruling is correct and it gives us an idea of what we are going to do when we talk about germaneness even though we are not discussing it in a strictly legal and technically correct fashion.

PRESIDENT: Senator Wesely.

SENATOR WESELY: I withdraw my motion.

PRESIDENT: All right, motion is withdrawn to overrule the Chair. We will go then to Senator Koch's....now you will withdraw this motion and you are withdrawing your motion now and you are going to the motion on the desk.

SENATOR KOCH: That is correct.

PRESIDENT: Read the motion of Senator Koch.

CLERK: Mr. President, Senator Koch would move to suspend Rule 7, Sections 3 and Rule 1, Sections 12 so as to permit consideration of the Koch amendments contained in request 1806 to LB 933 without further debate on germaneness issues or challenging the Chair.

PRESIDENT: All right, Senator Koch.

SENATOR KOCH: Mr. President and members of the body, I apologize for creating the controversy, and to Senator Chambers I apologize if I have ever offended him intentionally. I would never try to do that. But I do believe that the amendments that are before you are of such a nature and issue that they have statewide import to the area of public education. So, therefore, that is why I am offering a suspension of the rules. I hope we can go by the issue of germaneness because it takes 30 votes to suspend and we can deal with each of the three remaining amendments on the merits that we have tried to set forth to you. Thank you.

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PRESIDENT: And as I understand it, Senator Koch, you would take them up individually as you had indicated previously.

SENATOR KOCH: Yes, we will, Mr. President, thank you.

PRESIDENT: Okay. All right. All right, the motion then is on the motion to suspend. Senator Wesely, did you wish to speak to that? All right, Senator DeCamp, your light has been on and I didn't get to you.

SENATOR DeCAMP: Mr. President and members of the Legislature, I am going to vote to suspend the rules because I think the issues are important. But it occurs to me that yesterday afternoon Senator Koch and a number of others were opposed to any program or system to try to get everybody a fair shot in here, to make sure Marge Higgins got her fair shot, to make sure Bernice Labedz got her fair shot, George Fenger, and so on and so forth. Let the system just go like it is, except now we want to suspend the rules for one particular member because there is an opportunity. Well, as I say, I think the issue is important, but a lot of issues are important, and if we are going to treat people, whether they are Ernie Chambers or Marge Higgins, or whoever, let's treat them all kind of approximately the same. As I understand it, you have also decided something else here that you better get clear in your minds. You have now reverted back to the standard of germaneness. The standard now is chapter as it was all session until Ernie Chambers last night when we changed it for him. Now we have reverted back again because that ruling was upheld by the Chair just now. So I think you just keep miring in deeper until you finally get some organization to handle a whole bunch of these issues that are laying out there. You are taking two or three bills for one member, suspending them, and not for a member but for groups, people out in the state, and going to suspend the rules and put them into a bill which is in essence gutting the bill and putting whole different things in, and you have no provisions to do it for everybody else. So I guess, I think it is a poor way to run a circus.

PRESIDENT: The Chair recognizes Senator Marsh.

SENATOR MARSH: The question.

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

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CLERK: 26 ayes, 4 nays, Mr. President, to cease debate.

PRESIDENT: Motion carries, debate ceases. Senator Koch, you may close on your motion to suspend the rules.

SENATOR KOCH: Mr. President, I have no closing. I would just request that we suspend the rules and get on with the business.

PRESIDENT: All right, motion is to suspend the rules pursuant to Senator Koch's explanation. All those in favor vote aye, opposed nay. It requires 30 votes. Have you all voted? We still have only two excused. Okay. I may remind the body that we are still on Final Reading and everybody is supposed to be at their desks. So there is no need to have a Call of the House because everybody is here. So I guess, Senator Koch, the only thing we can do is say, record the vote.

CLERK: 30 ayes, 8 nays on Senator Koch's motion to suspend the rules.

PRESIDENT: Motion carries, the rules are suspended, and we now may then, Mr. Clerk, take up these motions as Senator Koch has them.

CLERK: Mr. President, Senator Koch will now move to return LB 933 to Select File for a specific amendment. That amendment would be to adopt Section 2 of Request 1806, or the proposal that you have in front of you, Section 2 of that.

SENATOR KOCH: Thank you, Mr. President, and members of the body.

PRESIDENT: The Chair recognizes Senator Koch on Section 2 now.

SENATOR KOCH: We are on page 6 of the handout I gave you under Section 2. Senator Lamb and I have both discussed the amendment and I will read it again to you very quickly. The rate to be certified by the receiving district for the ensuing school year may be any amount decided by the receiving board but not less than per pupil cost and shall be determined by this section, which brings in what Senator Lamb was talking about, the 1.25 factor. I would also remind you that the receiving school would also be able to place in the formula a 3 percent depreciation factor which has been historical as far as public schools are concerned in the depreciating of their buildings. I ask for the adoption of this amendment.

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PRESIDENT: The Chair recognizes Senator Chambers. Senator Beutler, and Senator Lamb.

SENATOR LAMB: Mr. President, just one further comment. I have asked for an Attorney General's Opinion on this. Hopefully it will be here before we vote on it on Final Reading and so while I am supporting the amendment at this point, I reserve the right to change my opinion if that seems to be the Attorney General's opinion.

PRESIDENT: Okay, anything further on Senator Koch's motion? Senator Koch, you may close on your motion on Section 2 of the handout.

SENATOR KOCH: Mr. President and members of the body, I ask for adoption of the amendment and I would concur with Senator Lamb if he wants to seek that opinion, I am acceptable, and I believe it will pass the test of constitutionality.

PRESIDENT: We are on a motion to return. All those in favor of Senator Koch's motion to return for that specific amendment on Section 2 vote aye, opposed nay. Record the vote.

CLERK: 32 ayes, 0 nays on adoption of Senator Koch's motion to return, Mr. President.

PRESIDENT: Motion carries, LB 933 is returned. Senator Koch, on your motion to adopt the amendment.

SENATOR KOCH: Mr. President, I respectfully request that we adopt this amendment as explained. Thank you.

PRESIDENT: All right, any further discussion? Seeing none, that is your opening and your closing. Motion is to adopt the amendment, Section 2 of the handout. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 37 ayes, 0 nays on adoption of Senator Koch's amendment, Mr. President.

PRESIDENT: The motion carries. The amendment is adopted. Senator Koch, do you want to move the bill?

SENATOR KOCH: I move the bill be returned to E & R Engrossing.

PRESIDENT: Motion is to advance LB 933 to E & R for Engrossment. Any discussion? All those in favor signify by

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saying aye. Opposed nay. LB 933 is advanced to E & R for Engrossment. Next motion on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Koch would move to return LB 933 to Select File for a specific amendment. That amendment would be to adopt Section 4.

PRESIDENT: Section 4?

CLERK: Yes, sir.

PRESIDENT: All right, the Chair recognizes Senator Koch.

SENATOR KOCH: Section 3, isn't it, Mr. O'Donnell?

CLERK: Senator, I don't think there is a Section 3 in the draft that I have.

SENATOR KOCH: Oh, I'm sorry, you are correct.

CLERK: Okay.

SENATOR KOCH: What this amendment proposes to do...it is on your handout, it explains the amendments under number three. The Governor, as you know, along with members of this body realize the fiscal problem we have with cash flow. I explained this a moment ago but a year ago we said the public schools were entitled to receive 25 percent of their general aid in October which creates a severe fiscal impact in terms of the state's present economic conditions. What we are doing is we are saying that the schools will receive nine equal payments under their general aid, that is under state aid, school foundation and equalization, and the replacement monies on the terms of the tax money we send back to them under 518, there would be seven equal payments for that beginning in December. And this is agreeable among many school administrators for this period of time understanding the fiscal problems we have got, and I ask for the return of LB 933 to Select for the adoption of this specific amendment.

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, I would speak against this motion. At the time the proposal was made, certainly it was indicated and I think it is known that the state would not have enough funds, general funds, to deal, to send these payments out due to the fiscal situation of the state. Since

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the Governor has made that announcement though, Senator Warner has announced that he will be bringing in a concept called "interfund borrowing", which can get the state through any sort of tight cash situation at any time, and it seems to me that there is no reason if we are going to adopt interfund borrowing to also jockey around with a bill that Senator Koch pushed hard for last year, asked lots of us to go out and vote to override a veto and talked me into it, and, you know, when you don't agree with Senator Koch, he always yells at you and screams, so certainly I went along with him last year on that override, and now he comes back and says, forget it, Steve, we will go back to something else. I think that given that we are going to have interfund borrowing, short term authority to get through any sort of cash flow dip that we may have, that really there is no reason to change again the flow of money back to local school districts to deny them the use of these dollars because certainly they must have cash flow problems and I don't know why we have to add solution on top of solution for our state fund crisis. Let's go with one system like interfund borrowing, leave our aid payments as Senator Koch so eloquently and fervently argued last year was the right and just and good thing to do, and not let us overreact in a situation of crisis and change policy we just adopted last year. I understand Senator Koch probably feels an effort need...he agreed to this proposal but it was before it was shared with us that there were other alternatives. Now that other options are in front of us, at the very least I don't think we should adopt this today. Let's see how the cash flow management mechanism of interfund borrowing goes. I can't think that anyone here would argue against us using that whether it is for the month of April to send back tax refunds to the citizens or the month of October to send aid payments to our school districts. So I oppose this motion to return.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I suspect if I were to try this, I would be lynched by somebody in this body. Read your amendment. You see 816 is the key part of this amendment. Now take your time and read it. If you want to deal with 816A which you are amending in another bill here, then do it in 816 or 816A. Don't try to outfox old John and us poor dumb farmers in here by amending the school bill to slip something by us. If you want to deal with your \$95 million, fine, deal with your \$95 million, but don't try to amend 816A, 87th Legislature, for any monies in it, so on and so forth. 816A has got some problems, I think, and 816 may have

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some problems. Deal with them. You have got 816 coming up. You didn't want to suspend the rules and process everything yesterday but you want to bypass us now on everything. You put this in, and like we did last year on Christian schools, Senator Landis stood up at that microphone and he said, you want to learn about fill-busters, we are about to learn. Just go ahead with that amendment and we will learn. Deal with 816A straight up.

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, a question of Senator Koch.

PRESIDENT: Senator Koch, would you respond to a question from Senator Haberman?

SENATOR KOCH: Yes, sir.

SENATOR HABERMAN: Does this change or have...really change the 816?

SENATOR KOCH: What it says, it proposes that the payment of any funds thereto by LB 816A shall be paid in seven equal installments beginning in December. That is what it proposes. Now if the destiny of LB 816A is still undetermined, it just says, proposes to do this, and I think Senator DeCamp better read the whole thing before he gets too excited.

SENATOR HABERMAN: Well, if it just proposes it, then why do we need it? Why can't we do it with 816? Or 816A?

SENATOR KOCH: We are dealing here with payments that the state makes back to subdivisions of government, public schools, and since 816, if it passes, that money goes into the foundation equalization section where we deal with payments and how they are made, why not do it here as a possibility?

SENATOR HABERMAN: So this changes the monthly payment from when to when?

SENATOR KOCH: In the case of the money that the schools are entitled to under 518 when we repealed those kinds of taxes, that first payment going back to the schools would be seven equal payments beginning in December, and again this is at the request of the Governor and his staff in terms of cash flow and certain problems that could occur.

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SENATOR HABERMAN: No, I mean if the first payment will be made when underneath this amendment?

SENATOR KOCH: The first payment to the schools?

SENATOR HABERMAN: Yes. When?

SENATOR KOCH: Under the monies that are in 816....

SENATOR HABERMAN: Yes.

SENATOR KOCH:it would begin in December and there would be seven equal payments.

SENATOR HABERMAN: That will be....it would begin in December under 816.

SENATOR KOCH: Of this year. Of this year.

SENATOR HABERMAN: Yes. Now under this amendment they will begin when?

SENATOR KOCH: December of '82, Senator Haberman.

SENATOR HABERMAN: All right, thank you.

PRESIDENT: The Chair recognizes Senator Vickers.

SENATOR VICKERS: Mr. President and members, I wasn't going to speak on this issue since I thought this issue would fly of its own accord since this is the one that the Governor requested to deal with the cash flow problem, other than the fact that there might be a few people such as Senator Fowler that might raise some objections perhaps. I didn't know. But I listened up a little more when Senator DeCamp was talking about putting something over on us dumb farmers, well, I might be a dumb farmer but I don't think there is anything being put over on us here. Simply because it mentions LB 816A, you could draft this to simply say that amounts appropriated by the Legislature, 87th legislative session. I don't think it makes any difference what happens to LB 816A. It seems to me that it is very simple. We are talking about seven payments instead of nine. It is a cash flow problem that the state perceives that they have. And I would also tell you that the concern that I had originally was that there are some schools that depend an awfully lot on federal impact aid, and this does not affect those schools that the original change to go to this payments that we have had now were intended to help those schools with the impact aid problems that have cash

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flow problems themselves, and this does not change that to those schools, so that those schools and that is mainly the Indian schools of this state will not be adversely affected. I don't believe that this will have any adverse effects on the property taxpayers or any of the public schools in this state. The amounts of dollars that we in the end appropriate to state aid to education through LB 816A or any other bill will not in any way be affected with the adoption of this amendment and I urge the body's adoption of it.

PRESIDENT: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I would like to ask Senator Koch a question if I may relative to the subject that we are talking about right now...Senator DeCamp's reference to 816A. My understanding of your amendment, Senator Koch, is regardless of what the form or whatever the amount comes out of 816, whether it is its present form or whether it's amended to some other formula, it doesn't make any difference, your amendment still applies to whatever formula 816A comes out in. Is that my correct understanding?

SENATOR KOCH: Thank you, Senator Carsten, that is exactly the way we intend it to be.

SENATOR CARSTEN: Okay.

SENATOR KOCH: It is only a mechanism under which the money would be distributed in case 816A becomes a fact of law and the money is appropriated eventually into that fund.

SENATOR CARSTEN: Which, Senator Koch, is one of the things that we do have to address for governmental subdivisions, not only schools, is that correct?

SENATOR KOCH: That is correct, and since we have a school formula as you well know, you have been on here as long as I....longer than I have, and we are just saying this is the way it shall be done if and when it ever happens.

SENATOR CARSTEN: Thank you. I just wanted to be sure I understood it correctly.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I will be very brief. Senator DeCamp has expressed a concern he has about some language in this offered amendment

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and has stated what he will do to oppose certain actions that may occur. And I know that Senator DeCamp knows the rules and whatever he does will be within the rules. Now if I had an issue that I wanted to discuss and I said I would use the rules to get the opportunity to discuss it and my saying I would use the rules would be characterized as using blackmail, I wonder if what Senator DeCamp has done this morning could be characterized as whitemail. If you are saying this as a threat that you are going to get your back up and say you are not going to be intimidated, you are not going to be coerced and you will go have some meetings on Senator DeCamp, I am going to watch with bated breath and see how this particular aspect of the problem develops.

PRESIDENT: The Chair recognizes Senator Higgins.

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

PRESIDENT: Senator Warner. Okay, Senator Warner, would you respond to a question? Senator Warner.

SENATOR HIGGINS: Senator Warner, earlier Senator Fowler said something about you have a plan for government borrowing from one fund to another which I have not had explained to me thoroughly yet, but is it true that you do have such a plan and would it take care of this situation too?

SENATOR WARNER: It is unrelated to the issue we are now discussing but it will be offered in 928. It is in the Journal. I don't remember the page, but what it would authorize is the same thing that was done in '76 when the state was in a similar situation where temporary transfers from a cash fund that had adequate balance was made to the general fund to pay immediate obligations of the state and then when the general fund was up again then the money was replaced back in the appropriate fund, and this amendment that Senator Fowler is speaking of merely will authorize the transfer in the same way that was done in '76 except I don't think there was legislation authorizing it then.

SENATOR HIGGINS: Thank you, Senator, you have clarified it for me.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I think it does make a big difference and I will try to explain, and I want to make about three or four points. Not once on this legislative

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floor so far this year have you been given the most important figures of all in this personal property tax money fight and that is the figures of the money that would be distributed under the formula that is going into effect July 1. You have received figures of what 816, which is not law, which is a proposal would do, and you have received figures of what you got last year under a formula that expires July 1. But the most important formula, the one you actually would receive your money under, you have yet to be provided. Okay, now that July 1 formula that goes into effect has a distribution starting in December. December 20th is the deadline. So what, right, so what. Well, the 816 formula and the 816 monies start in September, many months ahead, and do you remember listening to Senator Johnson and Senator Carsten and others and say, we don't want that money held up by the courts, right. What money held up by the court? Well, the money that is going to start in September. But now you have realized the problem cash flow for the state so you are having to panic and give it to December before you start anything anyway, even with your 816 formula because you have a cash flow thing, and Charlie can't live with this bill in its present form, 816, I guarantee you that. He'd have to veto it, and so you are moving it up to December. Okay, missing link. I have a guarantee, absolute, he will put it in writing if you want...Norm Krivosha says they will have that case decision way before December. He will have the decision by September if you want. So there is no court holdup anymore. That is not a problem. And the first distributions would go in December anyway. So pretty rapidly the excuses for changing the whole formula and going to a whole new formula on personal property are evaporating and in order to bail out and make sure you don't get tangled up, you have got to get this little correction here to satisfy Charlie, or whoever, that you are really not going to distribute money until December anyway. Do it in 816. That is the bill you have got to pass, correct it there. Now I sound a little emotional, a little uptight on this issue. I am. And a lot of you people should be. You know, you can talk about drunk driving and studded tires and inspection bills and ten thousand other things, but you want to talk about the guts of your district, the guts of the issue and the guts of your district of how much money you get, and if you participate even by being duped a little trifle here into correcting 816 to where it somehow slips through, then you have got yourselves in trouble. And this isn't just one year, you have lost yourself out for the future. Do your amendment in 816. That is the proper place. There is a lot riding on this. Now I have stood

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at this microphone and got uptight a few other times when you were doing yourselves in here on railroad taxes and a bunch of other things and tried to warn you you were cutting your own goldarned throats. Well, now you rural Senators, and I hate to make it a rural-urban split because it doesn't need to be, you rural Senators, be a little fair to yourselves and to your district, you sure as blazes have been fair to Omaha and Lincoln over the years.

PRESIDENT: One minute, Senator DeCamp.

SENATOR DeCAMP: You have given them their sales taxes when they needed them. You have given them everything else, just don't cut your throats on 816 formulas. That is what is going to happen. I urge you to reject this amendment, or if Senator Koch wants to deal with the \$95 million, the state aid portion, fine, he can do that without bringing 816A into this bill. He can make his amendments in 816A properly. I urge you to do that or reject this amendment in its present form.

PRESIDENT: Before we go to the next speaker, the Chair takes pleasure in introducing some guests of Senator Wesely, some seventeen 4th Grade students from Trinity Lutheran School here in Lincoln, Nebraska, with Mrs. Beth Koehler, their teacher. They are up here in the north balcony. Would Trinity Lutheran wave to us so we know where they are? Right up here. Welcome, Trinity Lutheran. The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, I think if anybody is panicking this morning, and I hate to see such a young person get in that state, Senator DeCamp is there. And I know he is uptight, and I appreciate that, and I know he is sincere and very desirous of doing that which he believes is right for his district as well as the state, and I recognize that fact. I don't think, and I seriously don't think we are jeopardizing anything by adopting this amendment. We have no assurances that Senator DeCamp's amendment to 816 won't be adopted, and that won't change anything, only the dollars, and I assure Senator DeCamp that there is probably enough support if his amendment is adopted to defer that until December also, if that is held constitutional. I know that it is a serious situation but it is also serious out in the country, as John well knows, and there is money being held up right now that is significant to the school districts that have problems, and I think we need to address that. I see no problem as far as I am concerned with what we are doing here

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this morning and would urge your support. Thank you.

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, like him or not, you have got to admit that sometimes Senator DeCamp can read something and look down the road and see something that a Senator like myself cannot see. And I have been here three years and I have heard him stand up on the floor and do these same things and warn us and tell us and you know what, he has been right. But let's say that he is wrong. We have lost nothing. Let's say we reject the amendment, we have lost nothing. We can still do this in 816 or 816A. It doesn't have to be done today. So I say whether you like Senator DeCamp or don't like Senator DeCamp, respect what he is trying to tell us this morning and listen to what he is saying. It isn't going to hurt anything to wait for 816, and I as I mentioned before when my daddy used to tell me when they push you up against the wall, if it can't wait a day or two and now it is hours or two, then watch out. So I would like to suggest that at this time we follow Senator DeCamp's lead and vote no and work it out on down the line. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, after Senator DeCamp's speech and the rural-urban question I just about find myself talked into supporting this amendment seeing how he has identified the tie-in of changing the distribution in 816 to the whole question of passage and I think it is important to realize that at this time it is not just important how the money is distributed but when it is distributed. I guess though I think as much as I would like to see 816 passed in its current form, it is not exactly fair to deal with the issues in 816 in the bill 933. I think that is poor precedent for this Legislature and I think that although again I understand why Senator Koch is pushing these amendments, I think that Senator Haberman has a point that if the question is 816, I think we all ought to deal with it. I can understand the anger and indignation that Senator DeCamp feels because if I had an issue that was as important to me as this is to him, I would not like to see it slipped into another bill. So I think that Senator DeCamp offers and Senator Haberman offer a reasonable alternative and that is certainly that 816 issue should stay with 816. I would say again that there are other remedies being proposed for cash flow problems

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and that certainly those if adopted could also help us through any problems that might exist. So I think that in the interest of open honest discussion that Senator DeCamp should be allowed the chance to argue 816 and that urban Senators should not try and play games with him. Thank you.

PRESIDENT: Senator Koch, you may close.

SENATOR KOCH: Mr. President and members of the body, I am sorry we got involved in an issue that is very delicate and emotional. All we are saying in this amendment is that the general aid, \$95 million, that we presently appropriate to the public schools under our School Foundation and Equalization Act will be distributed as nearly as possible on nine equal payments and this is a concession by the boards and by the school administrators since last year as Senator Fowler alluded to we did override the Governor and said the schools would get 25 percent entitlement. We understand the crush of the money problem in this state and all the schools are trying to do is to help to alleviate that problem as much as we can. Under the second part of this amendment really it just says, in case there is any additional money appropriated to the school lands or foundation and equalization section under possibly the passage of 816A, it shall be distributed under seven equal payments beginning in December of this year, but that doesn't say it is appropriated, it just says in case there is an appropriation it shall be then paid out to the schools under seven equal payments. So I don't foresee the things that Senator DeCamp foresees, and I am sorry Senator DeCamp got so involved in this. We will deal with 816 I think at another time probably this day, so I am asking that you return LB 933 for this amendment. If 816A doesn't go as some people think it might or may not, then the Department of Education absolutely ignores this part of the proposal because there won't be any money to send back under seven equal payments. We will just get them under nine for this \$95 million we presently get. I ask that you return 933 to Select File for this specific amendment. Thank you.

PRESIDENT: Motion is the return for the specific amendment that Senator Koch has described. All those in favor vote aye, opposed nay. Have you all voted? Again I remind you we are still on Final Reading, believe it or not, and everybody is supposed to be at your desk. Record the vote.

CLERK: 27 ayes, 8 nays on the motion to return the bill, Mr. President.

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PRESIDENT: Motion carries, the bill is returned. Senator Koch, you may speak to your motion and make your motion to adopt.

SENATOR KOCH: Thank you, Mr. President, the motion has had adequate discussion. I think we understand it. I ask for the adoption of the amendment.

PRESIDENT: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, now it is more than Frank or more than Jerry is saying. It changes the times of distribution. Why can't they do it in 816A, the bill itself? We are amending not only putting whole bills in this, we are amending bills that haven't even passed. We are doing it so that 816 becomes more palatable. You know what the law is right now, and it was incorrectly stated on the floor the other day. The law right now is those payments start in December. That is what the law is. 816 is the deviant one, and that is what he is trying to correct. And you say, well then gosh, DeCamp, you bimbo, let him correct it, let him get it straightened out. No. Correct it in 816. That is your bill. That is your money bill. Correct it in 816A. It is obvious you are going to do this, put the thing in here from that last vote, but I will issue a warning again. Gradually and wonderfully slit your throats in here and then cry about it next year. But I am not going to let you do this one. I am serious about this one now, I am telling you. This is serious business when you rob the rurals the way you are doing it. Go back to the whole theory of the whole personal property tax money. The money was lost in a certain area, you provided property tax relief to make up for it. You are undoing all that, and somehow you have made a sacred cow out of the \$70 million just getting it out. You don't need a \$70 million if you are completely changing the purpose of it. I repeat one final time, I urge you not to make this amendment to a bill that doesn't even exist on Final Reading yet. You are amending bills. You are amending other bills in this Legislature that aren't even on Final Reading yet. Now you tell me what rule or what fantasy you used to do that. If Chambers last night can't even offer an amendment that is in the same chapter and yet that has been the rule you followed the entire session, but today we come up and we can just do anything. We can amend bills that don't even exist in their final form yet. We can do all these things. Get yourself in trouble if you let her get too far out of hand, and I think you are getting close.

PRESIDENT: The Chair recognizes Senator Kahle.

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SENATOR KAHLE: Well, Mr. President, I am sure that...at least I didn't expect to argue LB 816 this morning, but we have had a strange thing happen this year in legislation and I am sure Senator Koch understands probably better than any that when he had a bill to reestablish the auto inspection and the thing got scuttled before he had a chance to work with it and we had already tried to spend the money and everything else, and I guess that is what it looks to me like is happening with what we are talking about this morning. We haven't passed 816 yet, and for one thing they are going to pass it over my dead body for one thing, not that that may make any difference, but that is the way it is going to be. And I hope that some of you Senators that are gloating because your city, Senator Peterson, I hope you will listen to this, is going to gain have probably forgot about your trade territory. And if you think that any city lives by itself alone, why think again. So I think this is a real tough situation when you start passing legislation that affects another bill that has not passed yet. And it is tough to work with. You don't know when to talk or when to shut up. I had no intention of getting involved in a debate this morning that deals with 816. I am primed for another day. But I think Senator DeCamp is right. It looks like we are going to make that decision right here this morning, at least part of it. So I hope those of you that if you want to call it a rural-urban split, or what, or affair, or rip-off, whichever you want, will look at this when you vote on this issue. Thank you.

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, and members of the Legislature, please look at the handout. It says: Amendments, purpose to make state aid payments for the \$95 million continuation funding in nine equal installments beginning in October and proposes the payment of any fund added thereto by LB 816A to be paid in seven equal installments beginning in December. Now that doesn't add up to what they have been saying because you are going to pay some of them now in October and you are going to pay some of them in December, and again I am not going to say anything that it is just a rural-urban split. I don't want to talk about that because we haven't got to 816 or 816A. And again, and again, and again, I tell you Senators it won't hurt to vote no. Think about it and listen to what Senator Kahle is saying and Senator DeCamp is saying and what I am trying to say. Let's wait. Let's don't push this thing. I don't see what the hurry is. Now, am I right, Senator Koch, in the handout that you handed it says those two things?

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SENATOR KOCH: That is correct, Senator Haberman. As I said before, it is only a vehicle if 816 becomes a law.

SENATOR HABERMAN: Okay.

SENATOR KOCH: That is the way it will be distributed. I sat with Mr. Leuenberger, Mr. Knight and others from the Governor's office and it is what we agreed to in the amendment. That's what the Governor.....

SENATOR HABERMAN: Senator Koch, thank you, you answered my question. So the issue is more than what we have been talking about, and, Senator Koch, you can rebut this when you close. You have that privilege. So even the amendments that he handed out says two different things. So I say, let's say no, let's wait, let's do it in 816. And I just say to you, when you are pushed back up, take another look, say no, stop and think. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Clark.

SENATOR CLARK: Mr. President, about the same thing goes on every time, everyone gets all excited, shaken, and I don't know why but they do. Senator DeCamp there gets all excited and the young fellow probably has a heart attack before he gets out of here. I don't want to see that happen either. But he already has an amendment up here to take the 816 part out. There is no reason not to pass this amendment now and then bring it back and take the 816 out. I don't know why one wants to get a heart attack over something like this because I am sure that I would vote for him and I would never vote for 816 to start with. But there may be enough votes to pass it, I don't know that. But certainly I think we can go ahead and pass this amendment and then take up DeCamp's amendment and take the 816 part out, and I will be happy and I am sure the rest of them will be happy.

PRESIDENT: All right, Senator Koch, I guess we are ready on your motion.

SENATOR KOCH: I will just repeat one thing, that in case 816 does pass and the money in there that goes to the schools is placed in the school foundation and equalization section, this is the method under which the payments will be given to the public schools, seven equal payments. The effort here is in conjunction with what Mr. Leuenberger and others that helped the state in terms of cash flow, this is the best way we can do it to help the state as well as the public schools in terms of some of the finances which

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we have promised to them. So it is only a mechanism. There is no appropriation. If there is not an appropriation on 816, then the Department of Education ignores this section of the amendment. I ask for the adoption of the amendment. Thank you.

PRESIDENT: The motion is the adoption of the Koch amendment as described. All those in favor vote aye, opposed nay. Have you all voted. I will wait for people to get back even though we are on Final Reading, as I said. Record the vote.

CLERK: 26 ayes, 10 nays, Mr. President, on adoption of Senator Koch's amendment.

PRESIDENT: The motion carries. The Koch amendment is adopted. Senator Koch.

SENATOR KOCH: Mr. President, we have one amendment remaining.

PRESIDENT: Do you want to move the bill?

SENATOR KOCH: I move that we return 933 to E & R.

PRESIDENT: The motion is to return LB 933 to E & R for Engrossment. Any discussion? Senator DeCamp.

SENATOR DeCAMP: Mr. President, I have a question of Senator Koch.

PRESIDENT: Senator Koch, will you respond to Senator DeCamp's question?

SENATOR DeCAMP: Senator Koch, I have never seen this procedure done before, but it may be valid. But let us assume 816A passes and it has the September distribution and this passes and it has the other distribution, and 816A passes let's say one minute after this bill, which takes precedence and under what theory and so on and so forth?

SENATOR KOCH: My understanding is that the latest one to pass takes theory...takes the precedent.

SENATOR DeCAMP: So if 816A has the other date, it applies anyway. Is that what you are saying?

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

SENATOR DeCAMP: Okay, you said.....

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LB 933, 378A, 404A, 693, 966

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

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

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

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

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

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

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

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

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

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offenders to pay for the expense of their incarceration. 325 calls for a study of the Banking, Commerce and Insurance Committee in the issues raised in LR 218. 326 offered by Senator Clark calls for a study of the siting of the Minuteman III missile silos. 327 by Senator Hoagland calls for a study of the effectiveness of drunk driving legislation passed this session. 328 by Senator Hoagland calls for a study of the findings and recommendations of studies completed to date in the State Water Planning Review Process. 329 calls for a study of the management, supervision and utilization of personnel and management of vehicles of the Department of Roads. And 330 by Senator Nichol calls for a study of the development of Nebraska's geothermal resources. All those will be referred to the Executive Board Mr. President. (See pages 1681 through 1690 of the Legislative Journal.

Mr. President, the next motion I have on LB 933 is a motion to return the bill to Select File for a specific amendment. This amendment would be, Mr. President, Section 5 of the proposal that the members have on their desks. It is found on page 10 of that proposal.

PRESIDENT: Before I recognize Senator Koch, the Chair would like to introduce, I think they are still here from Senator Chambers' District, eight 3rd through the 6th Grade Campfire Girls from Mt. View in Omaha, Mrs. Rosemary Holman, their Leader. Are they still up here? There they are, right in the middle, up in the north balcony. Welcome to your Legislature. And also I have pleasure...take great pleasure in introducing some guests of Senator Shirley Marsh, members of the Nebraska Advisory Committee to the United States Commission on Civil Rights, which is chaired by Senator Marsh, Diane Myers, Charles Washington, Gary Hill, all of Lincoln, and Melvin Jenkins, Regional Director from Kansas City. Would those members of the Advisory Committee stand up and be recognized by the Unicameral? Welcome to the Nebraska Legislature. The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. President, and members of the body, this is the last amendment and I move for the return of 933 to Select File. This deals with the hold harmless clause we put in our state formula a couple of years ago in terms of how much a school can receive as opposed to how little they can receive in case of decline or increase. I move for the return of 933 to Select File for this specific amendment.

PRESIDENT: The Chair recognizes Senator DeCamp.

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SENATOR DeCAMP: Mr. President, I applaud the concept of holding harmless but I want to understand how it works. Where does the money come from?

PRESIDENT: Senator Koch, will you respond?

SENATOR KOCH: It comes from the \$95 million we distribute under the foundation equalization section of the law, Senator DeCamp.

SENATOR DeCAMP: Well, then I want to understand how it functions. If they are going to get so much under \$95 million and one is going to lose 15 percent and another is going to gain 30 percent, what do you do then? What are the mechanics? How does it function? For example....

SENATOR KOCH: All right, if you...first of all you count the number of children that you have based on the preceding year's ADM. That is foundation. Presently the law says that 60 percent of the money in our foundation program goes back to the schools based on that, on the student count ADM, then when you go through the rest of the formula, the money that you have not received from your mill levy you are then entitled to insured need sections. That is what we are dealing with right now. In that case it says it shall be no more than 100 percent in terms of increase or 100 percent in case of decline under the insured need section of equalization. It doesn't affect the foundation at all.

SENATOR DeCAMP: Do you run into any constitutional problems? Every time we have tried to hold somebody harmless under a formula we seem to get an Attorney General's Opinion saying, well, you can't do that. Have you checked that aspect?

SENATOR KOCH: The only....there was an Attorney General's Opinion I think earlier, Senator DeCamp, where someone asked that the Attorney General look at the school formula and he said that he finds nothing in there that indicated an unconstitutional point, and this is not new with Nebraska. This kind of a hold harmless has been placed in Iowa state aid laws and other state aid laws as well. So it is not unique to us.

SENATOR DeCAMP: Okay, I am going to ask for an Attorney General's Opinion.

SENATOR CLARK PRESIDING

SENATOR CLARK: The motion is to return the bill. All those

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

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: The bill is returned. Senator Koch, on the amendment.

SENATOR KOCH: Thank you, Mr. Chairman, and members of the body, we are amending the section as it relates to school aid formula. Several years ago when we passed the new formula for some revisions, we placed a hold harmless section in there because of some districts increasing in enrollment and some districts with declining enrollment, and we held them harmless on a certain percentage of dollars. Now what we are doing here is we are saying that you cannot receive money beyond a hundred percent of what you received a year ago in case your enrollment increases to a point where it becomes a figure as much as possibly 300 percent. So that is what we are doing with this amendment. We are just saying that there is a ceiling in terms of how much you can receive. In no case would your foundation section be affected at all. Under the formula you would count all your children based upon the preceding ADM and you would be eligible for that dollar. Now if you were eligible to get in the insured need section, that is based upon the valuation of your school district, then in this case the 100 percent would apply. You could not go 100 percent...more than 100 percent in terms of that money under equalization, nor could it be less than that amount. I ask for the adoption of the amendment.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Okay, the motion then is the adoption of the Koch amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 29 ayes, 1 nays, Mr. President, on the adoption of Senator Koch's amendment.

PRESIDENT: The motion carries. The amendment is adopted. Senator Koch.

SENATOR KOCH: I have explained the amendment and I think we understand it. I ask for the adoption of the amendment.

PRESIDENT: Okay, the amendment is adopted. So now it is the motion to advance. Any discussion? All those in favor

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of advancing LB 933 to E & R for Engrossment signify by saying aye, opposed nay. Pardon?

SENATOR KOCH: I was merely returning the bill for the amendment. We haven't adopted the amendment officially, have we?

PRESIDENT: Yes.

SENATOR KOCH: Oh, I am sorry.

PRESIDENT: That was the adoption of the amendment as far as I know.

SENATOR KOCH: I apologize.

PRESIDENT: No, no, and now I will call it again so that there is no confusion. It was returned. The amendment was adopted. We are now moving to readvance to E & R for Engrossment. Any further discussion. All those in favor then signify by saying aye. Opposed nay. LB 933 is advanced to E & R for Engrossment. Okay, motion on the desk.

CLERK: Mr. President, Senator DeCamp would now move to return LB 933 to Select File for a specific amendment. (Read the DeCamp amendment.) That is with reference to LB 816A, Senator.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, this would strike that portion that deals with 816, but there is a time and place for every battle and this isn't it. I will withdraw the amendment at this time.

PRESIDENT: All right, motion is withdrawn. Thank you. The next motion.

CLERK: Mr. President, Senator Kremer would move to return LB 933 to Select File for a specific amendment, that amendment being the one found on page 1070 of the Legislative Journal.

PRESIDENT: The Chair recognizes Senator Kremer.

SENATOR KREMER: Mr. Chairman and members, again I will be honest. This is an attempt to incorporate LB 587 into LB 933. The amendment as indicated is found on page 10... what was it, Pat? And you have no doubt seen it before. I attempted it in another bill but this is the appropriate

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one. It is the same chapter, and it provides protection for a Class VI school district. Presently the law says if a certain area is annexed by petition, they are protected by vote of the people. This merely strikes the words "annexed by petition" and then allows those schools that are annexed by election the same protection. That is all it does. So I invite your consideration. It is the same chapter. The Chair will have to rule if we are not...if it is germane. We are talking somewhat on the same subject matter. I think it is a spirit of fairness that we are providing the same protection to all schools and not just to those that came in by petition. I move the bill be returned for this specific amendment.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I would ask for a ruling on the germaneness of the amendment. I hate to get into this again but I think that what we did earlier was reaffirm the fact that the chapter is not the overriding consideration, that it is simply one indication of germaneness, and for that reason Senator Koch went back and suspended the rules to try to adopt his amendments despite the fact that they were not germane. It was an acknowledgement that they were not germane and he asked the body to suspend the rules because of the emergency nature of his amendments, and that is what we did. And we did that wisely and avoided...avoided making a bad decision on germaneness. And again, Senator Kremer, would you be willing to do that, to change your proposition to a motion to suspend the rules on the basis that this is an emergency measure?

PRESIDENT: Senator Kremer.

SENATOR KREMER: Senator Beutler, in my opinion, it is an emergency because there is a danger as Grand Island and some of the other cities move out into the area where the Class VI school districts are. It could happen this next year. It may and it may not, and so I think perhaps you are wise in advising me we should take that route, and I am willing to take that route. And I will change my motion.

PRESIDENT: So you will withdraw your original motion.

SENATOR KREMER: I will withdraw the original motion and move that the rules be suspended....

PRESIDENT: All right.

SENATOR KREMER:and the bill be brought back for the specific amendment.

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PRESIDENT: Thank you. All right, the motion is withdrawn and now, Mr. Clerk, do you have that motion? We will await the formal receipt on the desk of that motion and then we will proceed. While we are waiting, Senator Beutler, did you wish to further discuss....where are you, Senator Beutler? Senator Beutler, I will recognize you first then to discuss the motion when we get it before us. Mr. Clerk, read the motion.

CLERK: Mr. President, Senator Kremer would move to suspend Rule 7, Section 3(d) and Rule 1, Section 12 so as to permit consideration of the amendment found on page 1070 of the Legislative Journal without further debate on the germaneness issue.

PRESIDENT: Okay, motion to suspend the rules. Senator Beutler, you may proceed then.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I have to candidly admit at the beginning on this particular one that my objections are not only procedural in nature but are substantive in nature. The bill that you are being asked to adopt this morning, or the amendment that you are being asked to adopt is basically a bill that was heard before the Education Committee. In fact, I think it is exactly the bill that was heard before the Education Committee and which was indefinitely postponed by the Education Committee. It is a highly controversial bill. Basically, the controversy is between the cities of Grand Island in one area, the City of Columbus in another area, their school districts...their city school districts versus Class VI school districts that surround those towns and it is a property feud. It is a feud over who should have the right to certain valuable industrial property that is on the edge of town. The rule right now with Class III school districts which are the school districts within Grand Island and with Columbus is as they expand, as the city expands the school district expands and the territory that they take in becomes a part of the school district. The theory is that the town is all one community, that as the community expands the property should be taken in and it all should be kept within one community. The opposing argument on the other side is that the Class VIs have the right to some protection, that they shouldn't have their property eaten up by the Class IIIs as the community expands. The Education Committee basically rejected this bill because we thought it was better public policy to retain the character of community that exists in the towns and allowing them to take in the territory as they annex. If you adopt a contrary policy, what you may be doing is giving the valuable property that is on

the outlying areas of the town to the already relatively wealthy Class VIs and starving the Class IIIs by keeping them surrounded inside a community where they don't have access to the most valuable property. So the feeling of the Education Committee was that this was not good public policy. My second argument to you would be that this is being offered to you today on the basis that it is an emergency. There is no existent emergency. This situation has existed for years and years and years. It will continue to exist. No big change is pending this year. There is no annexation plan for this year in particular that I know of. Correct me if I am wrong, Senator Kremer. So there is absolutely no emergency, so I would ask you to reject the motion to return, one, on the basis that there is no emergency and it is an improper procedural...not improper but it is not appropriate to take it up at this time given the context of the legislative...the development of legislation in here and the other things we have to look at, and secondly, even if you were inclined to do that, I suggest to you that it does not represent good public policy and is basically an attempt to raise a bill out of committee over the Education Committee objection, which is fine if you want to do that, but keep in mind that it may well represent bad policy. Thank you.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, Senator Beutler went into some detail as to the complexities of this issue. I think 933 is too important of a bill to be putting this type of subject matter into it. I would urge that you not suspend the rules. I would urge that we keep 933 a funding bill as it is without putting in complex school reorganization type issues. Now this issue is a complicated issue, an issue that the Education Committee has wrestled with for many months this year and has wrestled with in the past. This is a complicated issue that directly affects people primarily in three areas of the state, Platte County, Adams County and Hall County. It directly affects people supporting Class III school districts and directly affects people supporting Class VI school districts, and most important and sometimes we forget, it very, very directly affects those students attending Class III school districts and those students attending Class VI school districts. Now the thing to bring this up under the guise of an emergency is a travesty of truth because no emergency does exist. In fact, in the area that I represent the two school boards, the administration from the two schools sat down and worked out a solution and I will grant that it was envisioned as a temporary solution but I think that anybody would be less

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than honest if they indicated that it didn't have the potential for a permanent solution. Once this Legislature comes down specifically on one side or the other, we are going to harm one side or the other. It is just that simple. As long as we leave this situation fluid which compels the competing school districts to sit down and talk in the best interest of those students they serve, we do the best possible service to those students. But in any case, without debate on the floor of this Legislature to pass a bill that has the ramifications this bill does is unconscionable. This is a complicated technical bill that the Education Committee and a small group could not develop consensus on. After many, many hours of highly intensive lobbying and highly intensive discussion and highly intensive study could not arrive at a consensus on. The issue is complicated. It is one of those issues where there is not really a clear cut right or a clear cut wrong depending on whatever perspective you are on. If you are going to approach this issue from a basis of good faith, it is very difficult to adjudicate in behalf of one side or the other. But to try at this late moment and stick this on this appropriation bill without full legislative debate and discussion is wrong, and I would concur that it might be justified if there was that type of immediacy, if any phase of an emergency existed, but that just absolutely is not so. That cannot be demonstrated, that cannot be proven, in fact, it can't even be claimed with honesty.

PRESIDENT: One minute, Senator Dworak.

SENATOR DWORAK: So I urge you, this bill directly affects or this amendment directly affects kids in the State of Nebraska. Don't be flippant about it. Don't be shallow. Those youngsters deserve an indepth look, an indepth study before a vote is cast on this particular issue, and we haven't had that and we can't have it in this late date in this session. Please do not clutter up 933 anymore than it already is. Please do not vote to suspend the rules. Thank you.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. President, and members of the body, Senator Dworak is correct. The committee spent hours upon this trying to resolve the issue, and I am a little bit unhappy with the fact that we are about to make a significant change, and I mean significant, because if you read Senator Chambers' amendment...or Senator Kremer's amendment that he put in here which was the original bill that we disposed of by kill motions six to two in the

committee, that what he proposed to do that prior to time of annexing any area the whole VI gets to vote for it. In the case of Columbus and Grand Island and Hastings those cities are surrounded by a VI who they contract for their Class I students that come there for a high school education, Grades 9 through 12. Now if that is fair when you allow a whole VI to vote whether or not they will or will not send their children to one or the other, you know what the score is going to be. It is no sense in going to vote because it is going to be, stay where you are, because we well know there are certain tax benefits for that kind of a situation. Mr. Siefkes and myself and others worked diligently with the parties involved trying to arrive at what we thought was a fair and equitable way to resolve this problem. The conditions were these. Once we arrived at a formula which I thought might be somewhat fair, that all parties had to agree, in this case it had to be the three Class VI schools and the three Class IIIs, the superintendents and their board members. That issue was never resolved. So for us to bring this piece of legislation here is not at this time healthy for either the IIIs or the VIs. We all know that under cities we give them certain annexation privileges and they can annex and so the subject matter is indeed very critical, and I am hopeful that if I serve here again and have any part to do with Education, that some way or other we can resolve this issue so those systems can survive with some degree of fairness in terms of tax values and student bodies. And as Senator Beutler said a moment ago, the issue is not that critical, and I think this body would be wise to let it lie for another year and see whether or not these schools in terms of high professionalism, good board policy making people, will not be able to resolve that with some degree of equity as it affects the schools involved, because if the Class IIIs are surrounded and they are, and they have no place to go, you are virtually strangling them and the VIs I know they have some problems that I share some of their concerns. They were created by this body a number of years ago, but the point is for us to add this amendment to 933 today is I think very poor policy. I object to the suspension of the rules for this purpose.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members, I rise to support Senator Kremer's motion, and the issue is not as complicated as some people would like to make you think. The issue actually is very simple. Should or should not school district boundaries follow the city boundaries? We have all kinds of examples where that does not happen, and one of the few places where that does happen under our laws is in this

situation at Grand Island, at Columbus, and at Hastings. Other places school district boundaries do not necessarily follow the city boundaries. So under the situation that we currently have under the current law, if one of these cities expands its city boundaries, then automatically the school district follows that city boundary. Now if that were to happen, there wouldn't be any Westside because Omaha would be included there. You would just have Omaha as one school district. We don't have that in that area. We don't have it in a lot of other areas. There is no logical reason why we should have it in this one situation which involves these three cities. It is really an anachronism, whatever that word is, and it is not logical that we have it in this one situation. Senator Kremer has tried to correct the situation. The Education Committee, in my opinion, has erred in not advancing the bill. We should correct what is an inequity in the situation. We should let those schools live outside of those three towns. I support Senator Kremer's amendment.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman and members of the Legislature, I think it is important for this Legislature to have some of the facts in this matter, probably the most important of which is the valuation per pupil in each of the two districts. The Northwest High School district, the one that is outside of the city limits has an enrollment of 1,497 people. Their valuation per pupil is \$157,095. The valuation in the city school district, there are 6,163 students, the valuation per pupil is \$103,266. In other words, there is better than \$50,000 more valuation per pupil in the district outside of the city than in the city. I don't see how anybody could say there is an emergency or there is a need when you have that kind of valuation per pupil. Number two, you need to understand some of the history behind the Class VI schools. I think you need to recognize that when the Class VI school came into existence the mill levy out at Northwest High was 28.58. In the city it was 61.5. So immediately people started to move out of the city, started building houses out in the Northwest High area to the point where we have a population of about 5,000 people outside the city limits. Now why did they move out there? Because it was cheaper to live out there as far as the taxes were concerned. Now what has happened? Finally when they got the kids and have to educate them, now the mill levy in Grand Island is 32.91 and out in Northwest it is 36.43, and we finally get to the point where they are paying their fair share of the taxes and that is really what the argument is all about. So what I submit to you is that

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if they really are sincere in what they are saying that they want to protect their area, let's have Northwest form a Class III school district just like the City of Grand Island. They will have everything that is being asked for by Maurice's bill.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President and members, I must disagree with my good friend, Howard Peterson. Northwest is in my district and I honestly don't believe that the taxes are the reason for Northwest wanting to retain their area. They have a fine school. I have been there many times. I have talked to the people. Remember, back when this started the reasoning for the construction of Northwest is that they had no place to send their high school students and they quickly constructed Northwest, and that is the back-ground. I certainly understand the situation for Grand Island. But I understand better the situation for Northwest. They are proud of their school. They have a good school. They want to retain their school, and I would ask you to support Senator Kremer's amendment. It is my district and I believe in it.

PRESIDENT: The Chair recognizes Senator Haberman. We will go on to Senator Higgins.

SENATOR HIGGINS: Mr. President, colleagues, the opposition to this amendment says it is not critical. It was important enough for a Senator to write a bill about this. We set a precedent back in 1976 as Senator Howard Lamb pointed out, we did it for Westside School in Omaha. We spent a lot of time this morning talking about what is fair and what is not fair. I don't really have any particular interest at all in this amendment, but I have a lot of interest in seeing that this body is fair and impartial. Now I don't believe any committee, whether it is Education, Public Health, Judicial, or whatever, is impeccable. I think they make mistakes the same as anybody else. I have seen a lot of good bills killed in committee simply because of coalitions, simply because one particular group said, oh, we don't want that one. But I think as an urban Senator just in fairness to Senator Kremer and his constituents I would vote to suspend the rules and let the entire body decide if this issue is good or bad. I don't have any axe to grind in it except one, we have brought bills back before that have been killed in committee and to say this isn't critical and that it is not important because the committee killed it I think is a nefarious argument. So I would rise to support that Senator Kremer be allowed to suspend the rules and bring

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the bill back for the consideration of his amendment.
Thank you.

PRESIDENT: The Chair recognizes Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, I rise to support Senator Kremer on this motion to return, and there is a lot of history to this and it came about the same time I served as Secretary on a rural school board. Those districts down around Grand Island really had a problem trying to get their schools into high school districts, and out of those problems came simply the fact that those districts bound together and formed their own school district, and they do have...they have so much valuation and so forth down there. And now what is beginning to happen is they are kind of like nibbling away at their tax base and because of that reason I certainly support this motion to return the bill and I support Senator Kremer on it.

PRESIDENT: The Chair recognizes Senator Barrett.

SENATOR BARRETT: I move the previous question, Mr. President.

PRESIDENT: The motion is cease debate. The motion is to cease debate. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 25 ayes, 0 nays, to cease debate, Mr. President.

PRESIDENT: Motion carries, debate ceases. Senator Kremer, you may close on your motion to suspend the rules.

SENATOR KREMER: Thank you, Mr. Chairman. I am not going to take a long time. I am going to make some important points. I am aware, and I warned you at the beginning that we were bringing another bill in and I am aware that we are doing something that may be questionable but we have done this for years...for years and years. And I don't think it is improper. It may not be the best but when you are unsuccessful trying to get something done in one way you try another. That is natural of all of us. This is the third year that I have introduced this legislation, brought it before the Education Committee and tried to get some consideration. We got none. Consequently, I am trying to do that which is an alternative. I present this bill as a bill that creates a fairness. There is a lot of history to what happens in the way of annexation or a school district changing by petition. I could go into it. I don't think we have the time and I don't think you

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have got time to listen, but I am merely asking that we bring it back for consideration so we can go back into the history of this. Now some said this is not an emergency. In fact, one of the speakers said it is a travesty of truth. That gets pretty close to saying it is a lie, but it is not. The reason I say maybe the emergency is too strong a term, what I am talking about it is impossible for a Class VI to do anything in the way of planning and feeling safe in what they are doing knowing that something could happen that would upset all of their plans in the way of building and everything else, their curriculum and all that is concerned. What Senator Peterson said is true, there has been a difference in valuation behind each student. That does not mean that each person paying a tax is not paying a fair share of the tax because the investment in property on a farm is such that that taxpayer has to have a lot of investment in order to operate that farm. Consequently, he is paying his fair share of the tax, and maybe the value behind each student is not the same. I am only asking you to give us a chance to discuss this bill and bring it back and I will go back into the history of it. I move that the rules be suspended and the bill be brought back for consideration.

PRESIDENT: All those in favor of the Kremer motion to suspend the rules vote aye, opposed nay. It requires 30 votes. Have you all voted? Again, everyone is supposed to be at their desk. We are still on Final Reading, and three excused, that is right. So the only thing is....okay, record the vote. Record vote has been asked for. There is no need for a Call of the House, Senator Lamb, we are all here. This is...as I have said time and time again, this is....we are on....

SENATOR LAMB: Could we check in? Could we all check in, please?

PRESIDENT: Yes, we can do that. That is a very good suggestion. Everyone...the board is cleared, now everybody register your presence, and then we can have a...if need be if you want to have a roll call vote, why it is permissible. Senator Cullan, Senator Marvel and Senator Schmit are the ones that are excused. Cullan, Schmit and Marvel. The only one that is not here is Senator Newell. Sergeant at Arms, do you want to get Senator Newell here, or do you want to go ahead? Oh, here is Senator Newell. All right, now, Senator Kremer, do you wish to have a roll call vote at this time just to make sure that....?

SENATOR KREMER: That is about the quickest and best way. All right, I'll have a roll call vote.

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LB 933, 609A, 714A, 760,
967

PRESIDENT: All right, let's just do it, otherwise we are going to go on and on and on with this thing. Let's.... roll call vote, Mr. Clerk, proceed. Everybody is here now.

CLERK: (Read the roll call vote as found on pages 1691 and 1692 of the Legislative Journal.) 22 ayes, 21 nays, Mr. President, on the rule suspension.

PRESIDENT: The motion failed. All right, the Clerk will read some matters in.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 609A and find the same correctly engrossed; 714A correctly engrossed; 760 and 967 all correctly engrossed.

PRESIDENT: All right, Senator Lamb, you want to take off until when now....how long do you want to recess till? 1:30, okay. Senator Lamb moves to recess then until 1:30. All those in favor signify by saying aye. Opposed nay. We are in recess until 1:30.

Edited by


LaVera Benischek

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LR 362 thru 366
LB 761, 708, 753, 757, 928,
933

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

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

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

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

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

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

SENATOR CLARK: Senator Chambers.

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

RECESS

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

SENATOR LAMB PRESIDING

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

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

SENATOR NEWELL: Senator Wiitala, do you want to withdraw the bill?

SENATOR CLARK: Senator Wiitala.

SENATOR WIITALA: Yes, Mr. Chairman, since I introduced that amendment I would just like to say formally in the interest of time I would like to withdraw it. It is a motion that has been seriously and often debated in the past dealing with exempting the sales tax on food. Thank you.

SENATOR CLARK: It is withdrawn. 933.

CLERK: Mr. President, Senator Warner would move to return LB 933 to Select File for a specific amendment. The Warner amendment is on page 1727 of the Journal.

SENATOR CLARK: Senator Warner.

CLERK: You have two up here, Senator.

SENATOR WARNER: Is this the money?

CLERK: Well, this is the money, right, \$3,100 to....

SENATOR WARNER: Okay. Mr. President, this amendment would put the funding which would have been the A bill and it's okay to put it in this because there is no salary but the amendment that was adopted the other day for the inspection of school buses, the bill carried a \$3,100 cost for the stickers and so forth that the State Patrol were to purchase out of that and this would provide the funding for that portion of the bill which was included as an A bill but of course the A bill is back on General File somewhere. I would move the bill would be returned for that specific amendment.

SENATOR CLARK: Senator Nichol, did you want to talk to this? Would you turn your light off, please. Senator Haberman.

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

SENATOR CLARK: Senator Warner.

SENATOR HABERMAN: If we have done away with the inspection program, what is this \$3,100 to be used for again, please?

SENATOR WARNER: The other day, Senator Haberman, there was a motion adopted by the floor for the inspection of school

buses that was adopted and that was a bill that was back on General File that had a \$3,100 A bill and this is just the money for those school bus inspections. It is primarily for the stickers and those things that they would be purchasing to put on the school buses that the State Patrol does the inspection.

SENATOR HABERMAN: Well I don't think that they have to buy stickers. The state can just give them a sticker to put on the buses. That is the only thing we are going to be inspecting and if all buses are going to be inspected they can use old stickers. I don't think it is that important we spend all this time on it but do as you wish. I thank you, Mr. President.

SENATOR CLARK: The question before the House is the return of 933 for a specific amendment. All those in favor vote aye, opposed vote nay. Record the vote.

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

SENATOR CLARK: The bill is returned. Now on the amendment, Senator Warner.

SENATOR WARNER: I move the adoption of the amendment as indicated. This puts the funding that was required by the amendment that was attached to 933 the other day.

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

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

SENATOR CLARK: That motion carried. Readvance the bill. The question is the readvancement of 933. All in favor say aye, opposed. The bill is readvanced. Now the next motion.

CLERK: Mr. President, Senator Warner would move to return LB 933 to Select File for a specific amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, this amendment was an amendment that the body adopted on 942. It was offered by Senator Higgins and Senator Schmit and the amendment did not get included in the final reading copy of 942 and the bill had already gone to the Governor's office when at least I was aware of it and I spoke to both

Senator Higgins and Senator Schmit. This is the one that put a...eliminated the dues and so forth for associations for nursing homes to be a part of their reimbursable cost for Medicaid and since the amendment was dropped when the bill was prepared for engrossment, it is nobody's fault in the Legislature, why I said I would offer it on here so it could be included. So it, in a sense, as I recall the amendment was somewhat controversial but it was adopted by the majority of the Legislature. So I would move the bill be returned and the amendment placed here so that it can be acted upon.

SENATOR CLARK: Senator Haberman, your light is on. Do you want to talk? All right. Is there any debate on returning the bill? All those in favor of returning the bill vote aye, opposed vote nay. Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: The bill is returned. Now the amendment.

SENATOR WARNER: Mr. President, members of the Legislature, I move the amendment be adopted as I explained because it was inadvertently left out.

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

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Warner's amendment.

SENATOR CLARK: The amendment is adopted. Now the readvancement of the bill. All those in favor of readvancing 933 say aye, opposed. The bill is readvanced. Do you have any more on the bill? We go to 602.

CLERK: Mr. President, the motion I have is offered by Senator Rumery. Senator Rumery would move to return LB 602A to Select File for a specific amendment.

SENATOR CLARK: Senator Rumery.

SENATOR RUMERY: Mr. President, members of the Legislature, I would like to offer this amendment. The amendment would amend the Section 28-1115. That section authorizes certain nonprofit organizations to conduct lotteries or raffles for charity or community betterment purposes. The law provides that not less than 65% of the gross proceeds from the lottery or the raffle must be used for the awarding of prizes. While

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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 933

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

SENATOR CLARK: Read the motion.

CLERK: Senator Carsten would move to return LB 933 to Select File for a specific amendment, that amendment being to strike the enacting clause.

SENATOR CLARK: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, because of several calls I have received on this bill I would like to ask Senator Koch a question for clarification of one portion on page 8 where a district that sends tuition students to a receiving district where they are charged 125 percent of the computed rate determined. I would like to have Senator Koch as briefly as he can for the record at least explain this small portion. I do not want to hurt the bill but I think that there is some misunderstanding about this particular portion and I would like for just as brief an explanation so that it is clear if I may.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Senator Carsten, I will answer briefly. As we all know, the department figures of education, those figures are on per pupil costs and are always two years in arrears. That is the reason we placed 1.25 in there so the fact that you can make up for those two years before you get the actual figures compiled by the Department of Education. Because we are using figures that are over two years old.

SENATOR CARSTEN: So the figures that are used are then two years old and it's 125 percent....

SENATOR KOCH: That's....

SENATOR CARSTEN:offsets that two year old....

SENATOR KOCH: That's right, that's the most recent figure available under any conditions under the Department of Education statistics on cost per pupil, and so we put 1.25 in there so that the schools that receive it today will have a better base on which to compute.

SENATOR CARSTEN: Very good. Thank you, Senator Koch. And with that explanation, Mr. President, I would like unanimous consent to withdraw the amendment.

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LB 933

SENATOR CLARK: It is withdrawn. The Clerk will now read 933.

CLERK: (Read LB 933 on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is shall 933 pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: (Read the record vote as found on pages 2009 and 2010 of the Legislative Journal.) 45 ayes, 0 nays, 2 excused and not voting, 2 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached.

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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