

November 3, 1981

LR 1

Mr. President, I have received notice of hearing from the Agriculture and Environment Committee regarding certain gubernatorial appointments scheduled for November 5th of this week.

Mr. President, I have a new resolution, LR 1, offered by Senator Wiitala. (Read. See page 53, Legislative Journal.) That will, Mr. President, pursuant to our rules be laid over.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, Mr. President, I wonder if I might ask a couple of questions in regard to our session if we don't have anything before the House. The first is, how long are we going to stay in session or how long must we stay in session so that we will have some idea as to the earliest we could get out of here? I realize you can't promise...

PRESIDENT: I see that Speaker Marvel is here. I could comment by way of observation having discussed this with the Attorney General. It is the Attorney General's view that we should be here seven days. There are some that would argue six but the Attorney General feels that and most of our special sessions have been seven days and I (interruption).

SENATOR NICHOL: Then that would say the earliest we could get out would be this Friday, is that correct?

PRESIDENT: Saturday.

SENATOR NICHOL: Saturday?

PRESIDENT: Saturday is the seventh day.

SENATOR NICHOL: Okay, Saturday if we meet seven days.

PRESIDENT: If we'd go straight through, it would be Saturday.

SENATOR NICHOL: Okay, thank you for that. The other question is, ordinarily in the Governor's Budget he makes a proposal and we perhaps can add to it, and after that he can line item veto it. Now since this is in reverse, does he have the same prerogative of line item vetoing should we increase some of the decrease that he has asked for? Also, if the answer is yes, do we have a right to override his line item veto?

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and, of course, I will give them to you as soon as I have their answer.

PRESIDENT: You would have by tomorrow then?

SENATOR NICHOL: I think we will still have it today but I don't know just exactly how soon but at least by tomorrow.

PRESIDENT: Senator Haberman, do you have an additional question? Not on the matter of adjournment which you cannot debate, but this matter.

SENATOR HABERMAN: The point of order I want to bring is if we get the Attorney General's opinion tomorrow, it will still be in time to do our business, is this correct?

PRESIDENT: Senator Nichol said yes, and, Senator Warner, is that...okay, Senator Warner, I think you can address yourself to this because you raised it initially. Is it too late if that opinion comes tomorrow?

SENATOR WARNER: If you have to make a change, it is too late to...if the opinion comes tomorrow and we have to make an adjustment, we would have to be here on Monday.

PRESIDENT: You would have to have another day. You would have to meet Monday, that is your answer. Okay, does that answer all the questions preliminary to the...I will call the question of those who wish to adjourn until 9:00 a.m. tomorrow morning, all those in favor vote aye, opposed nay. Motion is to adjourn. About ten are excused. It takes 25 votes. We will let it go. Record the vote.

CLERK: 17 ayes, 15 nays on the motion to adjourn, Mr. President.

PRESIDENT: Motion fails. We are still in session and we will take up the resolutions in the order, I presume, in which they are on the agenda. LR 1.

CLERK: Mr. President, LR 1 was offered by Senator Steve Wiitala. It is found on page 53 of the Legislative Journal. It reads as follows: (Read LR 1.) Mr. President, in addition, Senator Wiitala has an amendment to the resolution. (Read Wiitala amendment found on page 95, Legislative Journal.)

PRESIDENT: Senator Wiitala, all right, and we are speaking to the amendment. The amendment has been read in the record. So Senator Wiitala, you are speaking to your own amendment to LR 1.

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SENATOR WIITALA: I just move the adoption of my amendment please.

PRESIDENT: Any further discussion on the amendment to the Wiitala LR 1. Senator Dworak, did you wish to discuss the amendment? Is Senator Dworak somewhere out there, in the great beyond out there? Senator Dworak, did you wish to speak to the amendment? No. All right, no one else wishing to speak to the amendment, Senator Wiitala, I guess that is your opening and your closing. So unless you have something else to say on the amendment. The motion is the adoption of the Wiitala amendment to the Wiitala LR 1. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 21 ayes, 10 nays on the adoption of the amendment, Mr. President.

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

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

PRESIDENT: All right, Senator Wiitala, you may proceed to discuss LR 1.

SENATOR WIITALA: Mr. President.

PRESIDENT: Yes, Senator Wiitala.

SENATOR WIITALA: Does it take 25 votes to amend a resolution or does it just take a majority?

PRESIDENT: Yes, sir, it does, 25 votes. You are thinking of the amendment to the amendment on General File which takes only a majority of those voting, but this is an amendment to the principal proposal, to the motion, and it takes 25 votes.

SENATOR WIITALA: Mr. President, members of the Legislature, forgive me for not explaining the amendment to my resolution. I think it would help. It was a technical correction that I was making. The bill drafting office had mistakenly put in "reducing" in that line and I intended to put the word "setting" the rates. Colleagues, I introduced LR 1 to provide some perspective for this body in the calling of this special session. I am hoping that this resolution will point out the ramifications of calling this certain kind of special session and bring to your attention the threats that it poses for the principle of separation of

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powers among the various branches of the state government. I want you to understand from the beginning that I do not mean this to be a partisan proposal. It isn't on my part. Nor is it an allegation against the Governor. Instead it is a plea, a plea to recognize the threat to separation of powers by calling a Governor's special session. I am offering LR 1 as an alternative to maintain the integrity and preserve the independence of this body. In looking at the session over the last couple of days, it seems that the legislative branch has jumped off of its tracks. LR 1 attempts to set the record straight and put it back on its rails. In due consideration to my friend and colleague, Senator DeCamp, who framed this session as the Governor's special session operating under the Governor's rules and introducing only the Governor's bills, I understand completely what he was attempting to do and that is to frame this body not as our special session but as the Governor's. But in so doing I feel that we placed ourselves into a box not of our own making, a music box, if you will, where we seem to be dancing to the tune provided by the executive branch. The calling of this special session was predicated on an extraordinary occasion. The extraordinary occasion is that the Board of Equalization failed last June in setting the tax rates. The special occasion, the emergency, if you will, is that we are facing the next couple of months an election year. I do not believe that the Founding Fathers, the framers of our Constitution, intended this extraordinary occasion to reflect those types of emergencies. What makes this an extraordinary occasion is that we have granted, in effect, the executive branch an extra constitutional second veto, and I am asking the question, how often will this tactic be used in future legislative sessions and special sessions? What stands to prevent this again and again from happening over and over again? What kind of precedent are we laying down by establishing this precedent? I think we need to consider whether we are the elected representatives of the legislative branch or whether we are liaisons of the executive branch. By forcing the Legislature to reduce appropriations we are being asked to reconsider many of those items which we voted on during the last session. Many of those items were vetoed by the Governor and many of them were overridden, many of these vetoes were overridden by this Legislature. Veto overrides don't happen in a body dominated by one party with the Governor belonging to the same party without serious deliberation. But there is an emergency, that there is an occasion that needs to be addressed, that there is a big problem, the big problem is to explain to the citizens of Nebraska the nature of the shortfalls that we are beset with in our revenue receipts. We must face the economic realities that are before us and

we must recognize the implications of President Reagan's new federalism. The new federalism implies that fewer dollars are going to be circulated to the federal government. It is seen in the cutbacks in the federal income tax, 5% this year already, 10% the next, 10% the following. It doesn't take long if we can explain it properly for citizens to understand that we are going to be beset in the future with continued shortfalls in tax dollars, especially since the state income tax is piggybacked on the federal. We must stop playing the role of Pontius Pilate and washing our hands of this economic reality. We must stop placing the tax monkey on the backs of our different institutions as far as who is going to hike taxes. I feel, I hope that you feel the same, that the buck stops at the door of the Board of Equalization, and if they can't stand the heat in the kitchen, it is time to get out. What my resolution basically does is recommends that the Appropriations Committee take their findings that they heard in committee and refer it to the Board of Equalization so that they can perform their constitutional responsibility of setting the tax rates, and where we in the next session can perform our duty of making the necessary appropriations or cuts in appropriations to meet the new economic reality. We can't do the executive branch's job and I am saying that is precisely what we have done here. We shouldn't encroach upon their responsibilities and we certainly can't allow the executive branch a back door veto. We, as legislators, need to reassert our will, be an independent body separate from the executive branch, and I ask you, whether Republican, Democrat, or independent alike, to declare your intent and resolve by pledging our loyalty and service to this body and set aside partisanship and our concern about future state elections. How else can we preserve the principle of separation of powers and maintain the delicate system of checks and balances that are part of our government? How can we still go on and refer to ourselves as state senators unless we set the record straight? I ask for your support of LR #1. Thank you.

PRESIDENT: Motion on the desk.

CLERK: Mr. President, the first motion I have is a motion by Senator Duda to reconsider the body's action in not adopting the Witala amendment. That is offered by Senator Duda.

PRESIDENT: The Chair recognizes Senator Duda. By the way, he was on the prevailing side, so he is eligible to make this motion. We have already checked.

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SENATOR DUDA: Mr. President, and I must confess this grows out of the confusion that I had on the last vote and I felt that we should reconsider this in light that I believe it should pass with the resolution, if the resolution passes.

PRESIDENT: Who wishes to speak on the reconsideration? Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, thank you, Senator Duda, for introducing this amendment. I think that perhaps some were of the opinion that we were voting on Senator Wiitala's resolution rather than the amendment, and while the amendment is technical in nature, it really should be on there so I urge your support of it.

PRESIDENT: Any further persons wishing to speak on the reconsideration motion? All right, Senator Wiitala, do you have anything or, Senator Duda, do you have anything further on your reconsideration motion? The motion is to reconsider. All those in favor vote aye, opposed nay. Just voting on reconsideration. Record the vote.

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

PRESIDENT: Motion carries and the amendment is now being reconsidered, or is before us for reconsideration now. Senator Wiitala, do you wish to restate the reason for the amendment?

SENATOR WIITALA: Mr. President, members of the body, the reason for the proposed amendment is largely due to the error that was made when the bill was drafted. If you will look at the resolution at the fourth Whereas, second line, you will see, and I stated in the resolution, "The State Board of Equalization when it met in June of 1981 erred in reducing the tax rates." Of course, that wasn't the case. I meant really to state "in setting the tax rates". So my amendment would replace the word "reducing" with the word "setting".

PRESIDENT: Does anyone wish to speak now on the amendment itself? Senator Carsten.

SENATOR CARSTEN: Mr. President, only a question of Senator Wiitala, the resolution, Senator, that was just handed out to us I am assuming now is the corrected or the amendment is to the original resolution, is that correct?

SENATOR WIITALA: Yes, it is.

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SENATOR CARSTEN: All right, thank you very much.

PRESIDENT: Any further discussion? Senator Chambers, on the amendment now.

SENATOR CHAMBERS: Mr. Chairman, not only does this refer to the amendment but everything that might transpire from this point forward. It is a point of order that I must raise for the record. I am wondering if anything else we do has any efficacy or legal effect since as a matter of fact based on the vote that was taken to adjourn we were adjourned. It just takes a majority to adjourn and there was a majority voting for adjournment. So because I like the rules, and, Senator Beutler, I know you like the rules, too, I am not going to participate in anything from this point on because it is much ado about nothing. We did vote to adjourn. The vote was successful and I don't have time to stay this afternoon but it has been nice and I will see you tomorrow.

PRESIDENT: See you tomorrow, Senator Chambers. See you tomorrow. Who wishes to speak now on the amendment? Senator Nichol.

SENATOR NICHOL: Mr. President, what do you say? Are we adjourned or aren't we?

PRESIDENT: I said that when I put it to a vote on the board 25. There is nothing in the rules that says specifically how many it takes. If I had called it viva voce, whatever I said, if there would be three people yell out, we can be adjourned. That is the way it is and the next time I will tell you if anybody makes a motion I am not putting it on the board. So just be aware. If anybody makes a motion here on out, I am just going to call the shot.

SENATOR NICHOL: Mr. President, I didn't wish to arouse your anger.

PRESIDENT: No, if the rules don't say anything, I take the situation that it takes 25 votes. So that is the only reason I ruled that way. If some of you think you are adjourned, why feel free to go. Now getting back to Senator Wiitala's LR 1. Senator Koch, did you wish to speak to the amendment to Senator Wiitala's resolution?

SENATOR KOCH: Mr. President, I move the previous question on the amendment.

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PRESIDENT: All right. I see five hands. All those in favor of ceasing debate on the amendment vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 0 nays, Mr. President, to cease debate.

PRESIDENT: Motion carries. Debate ceases. Senator Wiitala, you may close on your amendment to your LR 1.

SENATOR WIITALA: Mr. President, I waive my closing.

PRESIDENT: The question is the adoption of the Wiitala amendment to LR 1. All those in favor of the Wiitala amendment vote aye, opposed nay. This requires 25 votes now remember. Have you all voted? Senator Wiitala, there are about ten absent or excused, seven excused now. Record the vote.

CLERK: 25 ayes, 9 nays on adoption of the Wiitala amendment, Mr. President.

PRESIDENT: The Wiitala amendment is adopted. Now, one more amendment. Read the amendment.

CLERK: Mr. President, Senator DeCamp moves to amend LR 1 by striking the 5th whereas clause and the 6th whereas clause, both of them.

PRESIDENT: Senator DeCamp.

SENATOR DeCAMP: Mr. President, very simple amendment, the resolution makes certain statements, and whether I personally agree or disagree, I can't honestly say that I absolutely know that the Board of Equalization did not give adequate consideration to all available revenue data because I don't know what the revenue data was. I might personally believe they didn't, whatever, but I am not ready to vote to say absolutely as a matter of fact that they did not. So I would strike that particular "whereas". The second, the "whereas" right after that presumes the accuracy of the first, and where it says it has the duty to correct its previous error, since I don't know they did or did not make an error, I am simply eliminating that with this amendment so the resolution then in its entirety would say essentially that, of course, what the law is with regard to the State Board of Equalization, and then it would say we came and deliberated on appropriations measures, and then, of course, it would say that the conclusion that the Appropriations Committee should provide the Board of Equalization with summary of information, et cetera, and it would conclude by saying we come here and fulfilled our duties and we hope

the Board of Equalization does theirs. And with that kind of an amendment I, of course, would support the resolution.

PRESIDENT: Senator Koch.

SENATOR KOCH: Mr. President, members of the body, it is obvious that the previous motion to adjourn should have prevailed under Mason's Rules but let me speak to Senator DeCamp's, the great compromiser, position now because if you strike those whereases, you might as well forget the resolution, and if I were the Senator who was introducing it, I would absolutely ask that it be forgotten. I want to remind you of what I said last Friday and I want to say it one more time, in case some of you weren't listening. There are certain people who are victims of some who are holding guns to their head, obviously, and we being a party to this issue since last Friday are being victims as well. We deliberated for four and a half months this year on budget issues knowing that there are obvious problems with our economy. I am going to say to you one more time and I am going to want you to listen well, that the indicators of our economy were obvious and they have been for the last two years. The automobile industry is not troubled just overnight. It has been troubled for several years. If you don't believe that ask Senator Goll. The ag economy hasn't been the greatest in the world either. The last several years the animal industry hasn't just recently taken those drops nor has the markets in other areas of commodities dropped, and the home building industry, which everyone forgets in here, has been depressed miserably for at least three years and is at the lowest point it has ever been, and when you look at the interest in this state which also supports to some degree, they have been laying off people for the last six months. So with all this information in hand, I want the record to read I am willing to accept some blame for setting the budget but I also want the Board of Equalization to know and the people of this state to know that a year ago this November they saw fit to cut back the revenue knowing that the indicators of the economy were apparent and they weren't very bright. I am not talking about the Board of Equalization. I am talking about the indicators of how we judge our economy in terms of revenues. So, Senator DeCamp with pulling these whereases as he said very obviously is merely stating what is in law. So I think this body before it leaves should let the Board of Equalization know if they want to set the rates and assume the Constitution responsibility, then they are constitutionally responsible to the people of this state to set rates according to what they feel that the economy will dictate in terms of revenue the state is going to receive. We also knew a

year ago at this time that President Reagan was going to be the President. That was after the election. There was no supposition. And President Reagan was pretty clear that there were going to be profound tax cuts at the federal level and the people of this state should have known along with those bright people who constitute the Board of Equalization that we were going to suffer the consequences. Now what we added to the Governor's budget when we left here last spring was not a very large sum of money. It was virtually within the Governor's requests and we were assured by the Appropriations Committee and others that we would probably get by because the overrides were not that tremendous. And I so stayed here this afternoon after we were officially adjourned for one reason and that was to speak to this subject again. I have been completely frustrated since I have been invited to be here because I believe the obligation should have rested with the Board of Equalization to meet the challenge of the budget but one more time we choose to be pawns of the executive branch instead of exercising our prerogative under the doctrine of sovereign powers to exercise our rights and we are a body of sovereign power. But too often we are willing to forfeit it and now with the Tenth Amendment now being reinstated one more time to the new federalism program, I am going to anxiously run for reelection because I want to be here the next four years and see if we are willing to operate under the Tenth Amendment and assume full responsibility to exercise the power of the state so it would never flow back to the Potomac and those beautiful muddy waters where we always used to like to point the finger and say, "Blame it on to Congress". I admit to you it all got to Congress in the first place because bodies like this one were never serious in carrying out those things which they knew they had to do. As a result the courts and Congress stepped in and they said we will do it for you because your errors of omission or commissions are too obvious. But we are going to have a lot of fun and the tragic thing was the other morning we didn't adopt Senator Warner's amendment which we would have automatically asked for an increase of one percent in income tax knowing the terrible tax crunch we are under.

PRESIDENT: Time is up, Senator.

SENATOR KOCH: And cushion the blow for next January, February, March, April, possibly May and in several, several special sessions after that. So I object to Senator DeCamp's proposal to denude LR 1.

PRESIDENT: Any further discussion on DeCamp amendment to LR 1? I have a number of lights on but most of them were on for speaking to the motion itself. Senator Kahle, do you wish to speak to the DeCamp amendment? Senator Kahle.

SENATOR KAHLE: I might as well, it is all the same subject. Mr. President, members, I sort of admire Senator Wiitala for having the nerve and the intestinal fortitude to bring this before us this afternoon when we don't really have anything better to do. But I do think that this body is not standing very tall at the moment. I think of Senator Murphy, who most of you served with and his fight with the Judiciary over bills that we passed and were not put into law, put into effect, because the Attorney General may say they are not constitutional or have some other problem with them. And Senator Murphy was one that said when we pass legislation we expect it to take effect, and neither the executive branch or the judicial branch really has any authority to change it until it has gone through a court of law and he was very adamant about this. I think we have really messed things up with the special session. We haven't done a thing to help the problem. We have deferred some of the costs. We have let the tax dwindle which we should have changed yesterday morning and didn't and now we are going to go home and see what happens. Half of us are sure the Governor was right, or not half but a third, let's say, a third thought the Governor was wrong so they were going to tie a can on his tail, and a few of us tried to find a solution. That is where we find ourselves now. I think the only thing we can do now is go home and find out, wait and see who was right and who was wrong. But when we work like we did last spring, go through the process of budgeting, agonize over the bills that are passed, work for the few overrides and some of the things that we went along with the Governor on, and then to have to come back because the Board of Equalization either isn't given a chance or doesn't have the guts to set the tax levy to bring in the money. Thank you.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I rise to oppose the DeCamp amendment and to support the Wiitala resolution and I want to applaud Senator Kahle's speech. Now I just want to say that as one of the Governor's best supporters in this special session I would like to take this opportunity to explain why and how I can have that very inconsistent to some voting record and still agree with the basic essence of Senator Wiitala's resolution. I came to this Legislature, I've called the Governor in the special session and I proposed some bills that I thought were responsible proposals. Now, frankly, one of those proposals was to have the Legislature set the tax rates which is something I will pursue in the upcoming session because I have always felt that and have introduced bills in the past on that subject. That may not, in fact, be the kind of issue that this

Legislature wants to deal with and it may not pass when we do deal with it but, frankly, I still feel very strongly that that is the correct and right way to do it. Most, in fact, every other state in the Union does set their own tax rates because they have the primary responsibility for setting what makes up those tax rates and that is the budget. The other proposal was one that would reduce the overlevy, and I have explained why I introduced that bill but Senator DeCamp, who is always a power in the Legislature, who always is in the middle of the action, made some very early proposals. He decided after a little debate that he would be also one of the Governor's better supporters. Johnny and I are now in agreement on that issue and he offered this Legislature some rules which I presume really came from the Governor's Office and those rules said simply that we were not going to introduce or consider anything that the Governor did not propose, only those things that the Governor gave us would be considered. Basically Johnny's argument was it is his session, he called us here, he wants us to do this, we should decide whether we are for it or agin it, and that is how we should limit ourselves in our actions during this special session. I think that is an abrogation of our rights and responsibilities and I said so on the floor at the time, and I concur with Senator Wiitala's motion and his resolution only because of that. That, in fact, is why we are where we are at today. Senator Nichol is...

PRESIDENT: Senator Nichol, for what purpose do you (interruption)?

SENATOR NICHOL: Well, I just wanted to say I thought Senator Newell was off the subject of the amendment Senator DeCamp proposed and I wanted to hear what Senator Newell had to say about that.

PRESIDENT: Yes, I wish you would get back to the subject.

SENATOR NEWELL: Well, as I said as I rose that I stood in opposition to Senator DeCamp's amendment, as I said that I was in favor of Senator Wiitala's resolution and I have been stating the reasons and the rationale for that very consistent and very much to the amendment but I do appreciate Senator Nichol's impatience and will tolerate that as I usually do. The bottom line here seems very simple, however, that since we are in this session and since those proposals have come to us, we basically have abrogated our responsibility and this is an opportunity to say that we recognize what we ought to be doing even if we didn't have the guts to do it. Now, frankly, I have supported

the Governor's proposal and the reason I have supported the Governor's proposal...

PRESIDENT: One minute, Senator Newell.

SENATOR NEWELL: ...even though I did not think it was particularly the most responsible thing to do was because he, in fact, has the power, the muscle, he has demanded that respect. He thinks this is the right solution. I doubt very strongly if it will be. I think events will prove me out but when the Governor asks I think the state and the Legislature, especially after its early on decision to do only what he asks, we should be falling in line and that is why I have fallen in line. At the same time I think that Senator Wiitala is correct, that we have responsibilities to the people of this state, we have responsibilities to ourselves, and that this should be the only and last session where the Governor gets everything he wants without us truly looking at, analyzing, and making the deliberations that we have responsibility to the people to make. With that I urge Senator DeCamp to withdraw his amendment. It seems unnecessary. We can always vote down the Wiitala amendment. I think Senator Wiitala can then make his point, Senator DeCamp, and you will save the Legislature much time in the process.

PRESIDENT: The Chair recognizes Senator Hoagland. Senator Hoagland. The question, all right, the question has been called for. 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.

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

PRESIDENT: Motion carries. Debate is ceased. Senator DeCamp, you may close on your motion.

SENATOR DeCAMP: Mr. President and members of the Legislature, I am dead serious on the motion and I will try to prove in about the next three and a half minutes why. Let's presume, number one, I agree completely with Wiitala, Senator Wiitala, that the taxes shouldn't have been lowered, we shouldn't have given the \$100 million back or whatever, or we should have kept the taxes. Let's just assume I agree a hundred percent and I think I do, said so at the time. Then let's assume just for the sake of argument right here that I say also, "Hey, we shouldn't have a special session. The Board of Equalization has done thus and so and they should do blah, blah, blah." Let's assume we do that. Okay, clincher, Senator Wiitala, question. Read your resolution and tell

me in the English language what you mean when you say "The Board of Equalization which is to meet November 12", and I assume that is 1981, "has the duty under Section 77-blah, blah, blah, to correct its previous error", are you saying, and the only thing you can be saying is that on November 12th the Board of Equalization has a duty to increase tax rates and that is in black and white what you are asking me to vote on right now in a resolution to say, "Board of Equalization, the Legislature as a whole have made their determination. We say you are ignorant and errant. Now you have an order from us in a resolution to increase the tax rates on November 12th." Is that not what that says in plain English?

PRESIDENT: Do you want him to answer that? Is that a question? Or a rhetorical question?

SENATOR DeCAMP: Well, it is a rhetorical question but I think it is absolutely clear. If you want to do that, you like that, huh? Well, anyway, now that I have answered the question for Senator Wiitala...no, that is the only meaning you can interpret. Now if you say that that is what we are doing, then we can adjourn and go home right now and not pass any Governor's proposal, not make any cuts because that is what they will have to do. That is how you accomplish that goal. You either have (a) or (b) but you don't have a bill on Final Reading to accomplish one goal, which is the cuts and to hold the tax rates, and then pass a resolution at 3:52 p.m., Thursday afternoon ordering the Board of Equalization to increase its tax rates which is the very essence of what that says. How else could they correct an error you have alleged?

PRESIDENT: The question is the adoption of the DeCamp amendment to LR 1. All those in favor vote aye, opposed nay. Have you all voted? This is an amendment, not an amendment to an amendment. It takes 25 votes. Have you all voted? Senator DeCamp, what do you wish to do? Record the vote.

CLERK: 25 ayes, 14 nays on adoption of the DeCamp amendment, Mr. President.

PRESIDENT: Motion carries. The amendment is adopted. Any further amendments, Mr. Clerk? We are ready for the resolution as amended. Senator Wiitala, what do you wish to do?

SENATOR WIITALA: Mr. President, members of the body, I am surprised at Senator DeCamp's actions. On the first day of this session he indicated that he would try to cleanse the Legislature of any responsibilities that it

might have as a deliberative body, as a representative body, by declaring this special session a Governor session. Nevertheless we stand as Senators of the legislative branch at the beck and call of the Governor, giving up our prerogative as a deliberative body. Again I guess I would like to register my disappointment in Senator DeCamp. I really don't know what to say. Not being able to say much more since my resolution has really been stripped of its essence, but also in answer to Senator DeCamp's rhetorical question, the Board of Equalization when it met last June, when it was given its first set of projections from the Revenue Department would have, if it would have followed those projections, increased the tax rates. But on accepting a new set of assumptions and projections, that was not done and, so, yes, I was inferring not necessarily instructing the Board of Equalization but inferring that they should just follow through and address an error, even though it is an error in my opinion, by meeting again and doing what they probably should have done, that they could have done in June. So with that, I would like to withdraw my resolution. I would like to move that my resolution be withdrawn.

PRESIDENT: Well, if you want to withdraw it, there is no objection to it. You can move it and we can just vote on the motion to withdraw it. I might take that as a motion. Is there any discussion on the motion to withdraw it? Senator Higgins.

SENATOR HIGGINS: Senator Wiitala, would you yield to a question?

PRESIDENT: Senator Wiitala, would you respond to Senator Higgins?

SENATOR WIITALA: Yes, Senator Higgins.

SENATOR HIGGINS: Senator Wiitala, was part of the purpose of your resolution to show legislative intent?

SENATOR WIITALA: Yes, it was, and really to set the record straight as how we stand as a legislative body.

SENATOR HIGGINS: If the purpose of your resolution is to show legislative intent, then why should we withdraw it?

SENATOR WIITALA: That is probably a good point.

SENATOR HIGGINS: And I think it is a well written resolution and I think it says what ought to be said, with or

without. Granted, the amendment guts it but I would like to see it in the record that somebody had guts enough to stand up and call the shots like they are or like they were from the beginning. If you wish to withdraw the resolution, I won't object further but I would just like you to reconsider withdrawing it.

PRESIDENT: There is a motion before the House to withdraw it now so you are speaking to that motion. Who else wants to discuss the motion of withdrawal? Senator Haberman, did you wish to speak on the motion to withdraw? You have got your light on. Senator DeCamp, did you wish to speak to the motion to withdraw?

SENATOR DeCAMP: Mr. President and members of the Legislature, so there be no confusion and so that Senator Wiitala knows exactly where I am coming from, he and I indeed did discuss the very matter and indeed I said I would do everything I could to fix responsibility, and by any measurement of man or God or anybody else, I sure as blazes have tried to do that for the previous week. I have said there is a proposal, and under the constitutional authority of the Constitution of the State of Nebraska, one man elected by the people has chosen to call us into session. He has that authority. At that point we have two choices and they have nothing to do with resolutions. We can pass four thousand resolutions in here condemning everything or praising or saying anything and they don't amount to a hill of beans. What does amount to something is the laws you pass. You have determined to affix responsibility very clearly by the passage at this point of LB 7 and LB 8. They are on Final Reading. If you want the Board of Equalization to increase taxes, you need only make those bills fail. That is how you accomplish what you are stating in rhetoric you want to accomplish in the resolution. You have that option. You have the power with one vote or twenty-four if you can get enough to cause that to happen or you have the power to do the opposite, fix responsibility on the Governor, pass his bill, and say, "Look! You have said this is what will work. We are going to wait and see. We are giving you the benefit of the doubt at this time." But can there be anything more confusing than a resolution that says, "Board of Equalization, go increase the tax rates." At the same time you are passing bills, one after another, that say, "We are cutting it so we don't have to increase the tax rates." All I am saying is pick and choose, one side or the other, and the form you have to do that is the bill you will pass on Final Reading or not pass on Saturday or Monday. That is why I tried to make it very clear by withdrawing those two sections as to what those sections really meant. Those two sections basically said you made

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an error before. Now go back and increase the tax rates. You can do that. You do that through the bill.

PRESIDENT: The question is, Senator Wiitala, did you...motion is to withdraw. Did you wish to close on that? No. Okay, the question before the House is the withdrawal of LR 1, motion of Senator Wiitala himself. All those in favor vote aye, opposed nay. This is the motion to withdraw. Record the vote.

CLERK: 37 ayes, 0 nays on the motion to withdraw, Mr. President.

PRESIDENT: Motion carries. LR 1 is withdrawn. Anything further to read in at this point? We will go ahead then with LR 2.

CLERK: Mr. President, LR 2 offered by Senator Landis. You will find it on page 53 and 54 of your Journal. (Read LR 2.)

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I know I will probably be disappointing the body tremendously when I say my remarks today will not include the reading of any poetry, either American or Russian. I intend to do this succinctly and get us back on the track of the tasks at hand. Senator Johnson offered me a vote in the event he was named Poet Laureate, by the way, on his way back to his desk but, of course, Senator Chambers is probably the far better candidate, at least from this body, to be named Poet Laureate. But the resolution does not, in fact, name a Poet Laureate but creates a body to be responsible for the selection of a Poet Laureate for the state. That body will be the Commission for the Humanities in Nebraska and that body is prepared to accept the responsibility to do this work and since they are not a state agency this will not be funded by state tax dollars and, therefore, requires no expenditure of state tax funds, which is a blessing I think to this body, and to the potential for the passage of this resolution. The Governor's Office has been apprised of this resolution and the intention to bring it and it is my understanding from representatives of the Commission that the Governor's Office has approved of the idea of the naming of a Poet Laureate and concurs that the Commission for Humanities is the adequate and acceptable and appropriate body to begin the selection process. John Niehardt served as the Poet Laureate until his death in 1973. In 1974 the Legislature passed a