FIRST DAY—OCTOBER 22, 1975

LEGISLATIVE JOURNAL

EIGHTY-FOURTH LEGISLATURE
FIRST SPECIAL SESSION

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, October 22, 1975

Pursuant to a proclamation by His Excellency, J. James Exon, Governor of the State of Nebraska, the Eighty-fourth Legislature, First Special Session assembled in the West Legislative Chamber of the State Capitol, at the hour of 3:00 p.m., Wednesday, October 22, 1975, and was called to order by President Gerald Whelan.

PRAYER

The Prayer was offered by Dr. Robert Palmer, Chaplain.

We ask thy guidance, O God, upon each and all of us as we begin this extraordinary session. Help us all to understand the significance of our “express obligations” and give to all branches of government and all involved an understanding of such things as monetary flow and fiscal responsibility. May we here be more concerned with principals than with politics, more concerned with finding the truth than in gesturing for the public. Clarify our understanding of the monetary problems facing us, and unite us in a common effort for their solution. Deliver us from futile hopes and from looking back, that we may move into ever widening horizons. Where we cannot convince, let us be willing to persuade, and help us to see that small deeds accomplished are better than great deeds imagined. We know that we cannot do everything this session, but help us to do that which is necessary, for our sakes, for our people’s sakes, and for Jesus’ sake. Amen.

ROLL CALL

The roll was called and all members were present except Messrs. Mahoney and Savage who were excused until they arrive, Mr. Stoney who was excused until October 27, 1975, and Mr. DeCamp who was absent.
DECLARATION

Members of the Legislature:

Pursuant to a proclamation issued by the Honorable J. James Exon, Governor of Nebraska, we are here and now assembled in the 84th Legislature, 1st Special Session of the Nebraska Legislature. I, as President, declare that we are now open for the transaction of business.

(Signed) Gerald Whelan
President

MESSAGE FROM THE SECRETARY OF STATE

October 22, 1975

Vincent D. Brown
Clerk of the Legislature
State Capitol
Lincoln, Nebraska

Dear Vince:

Attached herewith is a certification and photocopies of the proclamation of the call of the Legislature into extraordinary session.

Respectfully submitted,

(Signed) Allen J. Beermann
Secretary of State

Enclosures

CERTIFICATE

STATE OF NEBRASKA
DEPARTMENT OF STATE

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached are true and correct copies of a Proclamation by the Governor of the State of Nebraska calling an extraordinary session of the Legislature and an amendment of the call for extraordinary session.

I hereby certify that said documents were filed in the office of the Secretary of State on the fifteenth day of October 1975 and the seventeenth day of October 1975.

Finally, I hereby certify that copies of this proclamation are on file in the office of Secretary of State and are a matter of public record.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this twenty-second day of October in the year of our Lord, one thousand nine hundred and seventy-five.

(SEAL)

(Signed) Allen J. Beermann
Secretary of State

PROCLAMATION

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Section 8, Article IV, of the Constitution of Nebraska, I, J. James Exon, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on October 22, 1975, at 8 o'clock a.m., for the purpose of considering and, if deeming it advisable, enacting legislation relating to the following subjects:

1. To reconsider appropriation laws passed by the 84th Legislature First Session.
2. To reconsider revenue laws as they relate to the sales and income tax rates.
3. To enact legislation amending Section 77-2715.01, 77-2715.02, 77-2715.03, Reissue Revised Statutes of Nebraska, 1943, as amended which would temporarily change the formula used by the State Board of Equalization for setting sales and income tax rates.
4. To enact legislation which would permit temporary authority to prorate, postpone and prioritize the payment of State government obligations.
5. To appropriate funds for the necessary expenses of the extraordinary session herein called.

I DIRECT that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by mailing to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nebraska to be affixed this fifteenth day of October, 1975.

(Signed) J. James Exon
Governor

(SEAL)
Attest:
(Signed) Allen J. Beermann
Secretary of State
STATE OF NEBRASKA
COUNTY OF LANCASTER

FRANCES WHITE being first duly sworn says that she is the private secretary for J. James Exon, Governor of the State of Nebraska; that on October 15, 1975, she sent by United States Mail, a copy of the Governor's Proclamation issued on that said date calling for a special session of the Nebraska Legislature to all members of the Nebraska Legislature 84th Session.

(Signed) Frances White
(SEAL)

SUBSCRIBED and sworn to before me this 15th day of October, 1975.

(Signed) Marilyn K. Shotkoski
Notary Public
Commission expires August 22, 1977

PROCLAMATION
Amendment of Call for Extraordinary Session

I, J. James Exon, Governor of the State of Nebraska, hereby amend the call for an extraordinary session of the Legislature of Nebraska made on October 15, 1975, to provide for the convening of the extraordinary session on October 22, 1975, at three (3) o'clock p.m. in substitution for eight (8) o'clock a.m.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nebraska to be affixed this seventeenth day of October, 1975.

(Signed) J. James Exon
Governor
(SEAL)

Attest:
(Signed) Ralph Englert
Secretary of State, Deputy

ANNOUNCEMENT

President Whelan announced the apples being presented to the Senators are from Mr. Carsten's, 2nd Legislative District.
MOTION—Officers

Mr. Anderson moved that the following officers be elected to serve for the 84th Legislature, 1st Special Session:

Clerk of the Legislature: Vincent D. Brown
Asst. Clerk of the Legislature: Walter Radcliffe
Sergeant-At-Arms: Ray R. Wilson
Chaplain: Dr. Robert E. Palmer

The motion prevailed.

MOTION—Rules

Mr. Carsten moved that the rules of the 84th Legislature be used in this, the 1st Special Session.

The motion prevailed.

MOTION—Committee Membership

Mr. Moylan moved that the membership of the committees of the 84th Legislature be continued in this the 1st Special Session and that the membership of all standing, select and special committees be the same as during the 84th regular session.

The motion prevailed.

MOTION—Notify Governor

Mr. Hasebroock moved that the President appoint a committee of five to notify the Governor that the Legislature is now convened, organized, and ready for the transaction of business and to return with any message the Governor may have for this, the First Special Session of the Eighty-Fourth Legislature.

The motion prevailed.

The President appointed Messrs. Fitzgerald, Stull, Nichol, Wiltse and Hasebroock to serve.

EASE

The Legislature was at ease from 3:06 p.m. until 3:10 p.m.

The committee escorted Governor J. James Exon to the rostrum where he delivered the following message.
Mr. President, Mr. Speaker, Members of the 84th Legislature, ladies and gentlemen:

I have called the Legislature into Special Session essentially for two reasons.

First, to prevent a dramatic increase of 20% in the state sales tax to 3%, and an accompanying 33% increase in the state income tax to 16%. Such would be mandated for 1976, under present statutes. Corrective legislative action is promptly required before the State Board of Equalization meets in three weeks if we are to hold the line on the state tax rates at 21/2% on sales and 12% of federal liability on the income tax.

Second, to immediately come to grips with the State's critical cash flow problems, best defined as the necessity to have the proper amount of cash on hand at given dates, as directed by law, so that the State Treasurer can meet the State's obligations.

Revenue projecting is not an exact science, but we must face the realities. When we consider the anticipated fiscal year end balance at one million and compare that with the last three year-end balances of $41 million in 1975, $69.9 million in 1974, and $46 million in 1973, the enormity of the future problems that face us is apparent. We must conserve, starting immediately. Anyone who is not shocked into reality by these facts has reached the point of no return!

I hope that we can agree that this is the time, right now, for us to "fish or cut bait".

Not included in my call or in this message is an attempt to fix blame with regard to the specifics of Nebraska's Financial Crunch. It is sufficient to say, as we face the twin demons of substantial tax increases on one hand and the inability to meet State obligations on the other, that the future is the vital consideration.

The simple fact is that Nebraska State Government is spending and scheduled to spend more than we are collecting in taxes. The only solutions are to: (A) Reduce spending and rearrange priorities, or to (B) raise taxes. I support concept (A).

Today I have delivered four bills for your enactment that will, if adopted as a package, solve the problems without tax increases. It may well be that the Legislature will devise its own or additional concepts.

I cannot over-emphasize that the "Complete Package" which addresses all of the areas must be enacted by at least 33 votes. We must not approach this on a piecemeal basis, by recognizing one situation here, but ignoring another there.
The financial crunch that faces Nebraska is a manageable one if we have the courage to make the sacrifices, take the heat, and intelligently chart our restrained course for the immediate and long-range future.

In order to expedite your considerations and conserve time for public hearings, we have combined my suggestions into just four bills.

The first bill is for the necessary appropriations measure for $5,000.00 to cover the Special Session's costs. This would appear to be entirely sufficient since we can envision no substantial additional expenses other than one round-trip transportation for each senator and printing costs.

The second measure would authorize the State Board of Equalization in setting rates for 1976 only, to consider only actual estimated expenditures. Rather than the present law which mandates a 5% over collection, including all appropriations, whether they will be actually expended or not.

While I ordinarily would not endorse such a course of action, because the State should not customarily attempt to run its financial affairs without reasonable reserves, these are not ordinary times nor are the conditions we face. Such authority is required because otherwise we would have no alternative but the large tax increases which are opposed by your Governor.

The third proposed bill that I have presented for your approval would principally address the serious cash flow problems.

The Department of Revenue has projected a multi-million dollar shortage in the General Fund of over $11 million in January, $9 million in February, $9 million in March, $11 million in April, $6 million in May, and a possible positive balance of only slightly over $1 million at the end of the current fiscal year if all goes well.

Confusion and chaos in this area can be averted partially only by the Legislature granting authority to waive certain specific date requirements of disbursement of funds to subdivisions of State Government. When funds become short of meeting needs, as currently specified by statutes, I am suggesting the Legislature establish priorities of such expenditures, when necessary, and allow the State Treasurer, with the advice and information supplied him by the directors of the Department of Revenue and Administrative Services, to exercise flexibility in issuing State warrants under such conditions.

I have personally discussed this important duty with the State Treasurer. It is our feeling that these decisions rightfully rest with the State Treasurer, who is responsible for the final disbursement of funds. However, if the Legislature feels that the Governor should be involved, I have no objections.

The bill establishes that the first priority would be Personal Services; secondly, other State Expenditures; and thirdly, Intergovernment Transfers and Aid.

The fourth and final bill that I have caused to be introduced deals with current year appropriations, and essentially recommends reductions totalling approximately $10.4 million.
In this measure, you will also find needed legislative authority, overlooked in the last regular session, to meet the December 1, 1975 deadline for the first payment on bonds issued by the City of Lincoln for State Fair Ground improvements, thereby guaranteeing no hint of default, technical or otherwise.

In the bill, I am further requesting cancellation of appropriations of $2.5 million not scheduled for expenditure from the Department of Education and $1 million of the $1.4 million in the Governor's Emergency Fund. This $3.5 million coupled with the 3% reduction of $6.9 million, for a total of $10.4 million, helps us in our quest to prevent tax increases as well as aiding in the cash flow problems.

This cut in expenditures will not affect traditional State aid to political subdivisions. I have also not recommended a reduction in the budget of the Department of Corrections. That department is in a deficit position, because of an ever-increasing number of inmates due to longer sentences by the courts and a higher influx of convicted felons than anticipated.

My recommended 3% reduction has been transmitted to all agencies with our requests that all furnish us with their thoughts on where such cuts should be applied, if the Legislature concurs, so as to minimize the impact on programs.

Some have attempted to make the issue that my request for a 3% cut in total yearly appropriations is actually a higher percentage since it would be effective after the fiscal year has begun. That is a play on figures. If the Legislature approves my proposal by November 1, 1975, the State agencies would be exactly one-third of the way through their fiscal year. The net cut by agencies, under such circumstances, would then be 4.5% for the last two-thirds of the year. Call it whatever you want, 3% or 4.5%, but the figure the Governor is recommending for reduction in spending still comes out to the same $6.9 million, plus the $3.5 million from the other sources which total $10.4 million.

Reductions will not be easy, but these are not easy times. Let's not get sidetracked on a play with percentages. The question is, do we cut $10.4 million, or do we not. Many other states already have instituted much higher percentages and dollar reductions. We can do this in Nebraska if we have the courage.

In this Special Session, I have not recommended reductions in capital construction.

This is an important area to which we must address ourselves in the upcoming regular session.

For fiscal year 1976-77, the State is already obligated for capital construction to the tune of $18 million, plus an additional $24 million in the future to complete those projects. In addition, the budget requests just received from State agencies for next year total another $25 million. This would be "seed money" to begin State buildings which in succeeding years would require a total of $114 million to complete.

I have directed the Department of Administrative Services to send back to all agencies their 1976-77 capital construction requests for total re-evaluation. Is it time we get a handle on ever-increasing demands for...
more new buildings? To me, the answer is a definite and resounding "yes".

If the Legislature adopts my total package, for reducing expenditures, attacking the cash flow problems, and holding the line on taxes, hopefully for at least next year, we will still face critical budgetary problems in the regular session. Your constructive suggestions and help are encouraged.

As we deliberate in this special session, and look forward to future regular sessions, we must insist that the plight of New York City and the Federal Government will not be ours. Nebraska can escape such situations if we are intelligently perspective, plan our work, and work our plan.

We cannot run away from our obligations by conveniently putting them off for another day. We are not going to fold the tent on legitimate Nebraska needs, nor are we going to buy a new center pole just because one has been invented.

We have our financial obligations to meet and needs to be fulfilled. We live in a tremendously progressive state with the most unlimited potential of any in the nation. We must not sell Nebraska short, but we dare not impair her financially. Nebraska has prospered with industrial expansion the last few years because we are recognized as a state with relatively low taxation and debt. The investors and potential investors, who create more and better jobs for our people, know the "Good Life" when they see it. We must remain progressive while recognizing that soaring tax rates are neither a sign of progress or accomplishment.

New York City is broke because its leaders, over the years, have sold the city, lock, stock and barrel, into financial slavery by spending more than it did or could produce in revenue.

New York is turning to Washington for help. Uncle Sam can print money faster and accumulate debt more efficiently than anyone, and he can prove it. His managers have, within only the last six years alone, created for him about one-third of all the debt accumulated in 200 years of our history. Right now they are draping him with a new record $600 billion total debt while expounding the merits of another tax cut, following the one last year. What a wonderful birthday present for Uncle! All hope we can nurse him through his 200th year. The loss of our "rich uncle" would be a calamity we just could not cope with. The least we can do is make him as comfortable as possible in the poor house in his "golden years".

It would not be accurate to compare the financial problems of New York or the Federal Government with those we face in Nebraska today. Yet, we would be foolhardy not to recognize the telltale signs that emerge. Lack of sound management of resources and overspending must not be tolerated.

Both of those giant governmental structures have for years employed tax rates that exceed ours manyfold. That proves that high tax rates do not assure financial stability.

Most importantly, both of these governments are in trouble primarily because they chose unrestrained spending and debt financing as opposed to a "pay as you go" approach.
If and when this Governor feels additional taxation is necessary, I will not hesitate to recommend same. But this is not necessary now if the Legislature will approve the total package I have offered today.

If we are to bring stability to ever-increasing demands, then we must make the hard decisions, regardless of how unpleasant that task might be.

The test is whether we have the courage in this Special Session and the regular ones that will follow to tackle the problems head on and solve them. We can win for Nebraska and make our contribution to a more solvent America.

Members of this Special Session of the 84th Legislature, I leave you to your most important deliberations. With understanding and God's help, we can accomplish much for Nebraska and our fellow citizens whom we are all honored and proud to serve. Thank you.

The committee escorted the Governor from the Chamber.

MESSAGES FROM THE GOVERNOR

June 23, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol Building
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following reappointment requiring legislative confirmation:

Mr. Benjamin M. Wall, 1314 So. 80th St., Omaha, Nebraska, to the Court of Industrial Relations for a 6-year term expiring June 9, 1981.

I respectfully submit this reappointment for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

June 25, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:
This is to inform your honorable body that I have made the following appointments to the Public Welfare, Institutions & Corrections Advisory Committee requiring legislative confirmation:

Reappointment of Ed R. Crowley, 2721 5th Ave., Kearney, Nebraska, to another 4-year term expiring January 1, 1979.

Appointment of Mrs. Sally Bates, 3230 South 40th, Lincoln, Nebraska, to fill the vacancy created by the resignation of Senator Bill Burrows. Mrs. Bates’ term will expire January 1, 1978.

I respectfully submit these appointments for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

July 2, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the Environmental Control Council (4-year terms expiring June 22, 1979) requiring legislative confirmation:

Reappointment of L. E. Donegan, 3010 Plymouth Ave., Lincoln
Reappointment of Paul F. Harm, 2206 Hardison Drive, Norfolk
Reappointment of John T. Harris, Box 61, McCook
Reappointment of Dr. David H. Smith, 1428 Boxwell, Crete
Reappointment c/o Richard A. Veach, 1030 Palamino Road, Omaha
Reappointment c/o Dr. James H. Walston, 3115 "C" Street, So. Sioux City
Appointment of Wendell Gangwish, Shelton
Appointment of Martin Kahle, Route 4, Kearney

Also, Section 81-1503(2) requires that all appointees to the Council must be confirmed by the Legislature every two years. Therefore, I submit the following members serving terms which expire June 22, 1977, for your consideration:

Robert Cox, Box 488, Scottsbluff
Leonard J. Schaefer, Box 34327, Omaha
Theodore C. Reeves, Route 1, Central City
Mrs. Betty Abbott, 6751 Leavenworth, Omaha
Richard Dugdale, 124 South 92nd, Omaha
Dale Sampson, Jr., Utica
Mrs. Margaret Sutherland, 1320 No. 79th, Lincoln

Sincerely,
(Signed) J. James Exon
Governor

August 1, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the Public Employees Retirement Board (3-year terms expiring January 1, 1978) requiring legislative confirmation:

Reappointment of Charles O. Morehouse, 601 So. Howard, Kimball
Appointment of Mrs. Margaret Sullivan, 300 W. Johnson, Clay Center

I respectfully submit these appointments for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

JJE:sa

August 18, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following reappointment to the State Personnel Board requiring legislative confirmation:
Reappointment of Richard E. Person, 1122 Grant, Holdrege, to serve a 5-year term expiring August 4, 1980.

I respectfully submit this appointment for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

JJE:sa

August 25, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointment to the Nebraska Investment Council requiring legislative confirmation:

Appointment of H. Jack Moors, 7100 Lincolnshire Road, Lincoln, for a 5-year term beginning September 18, 1975.

I respectfully submit this appointment for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

JJE:sa

August 28, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointment to the Nebraska Investment Council requiring legislative confirmation:

Appointment of Glenn W. Chase, 2200 Van Dorn, Lincoln, for a 5-year
term beginning September 18, 1975

I respectfully submit this appointment for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

JJE:sa

September 5, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the State Highway Commission requiring legislative confirmation:

Reappointment of Merle Kingsbury, Ponca, for a 6-year term beginning September 14, 1975.

Appointment of Karl E. Dickinson, 1610 Brighton Ave., Lincoln, for a 6-year term beginning September 14, 1975.

I respectfully submit these appointments for you consideration.

Sincerely,

(Signed) J. James Exon
Governor

JJE:sa

August 4, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointment requiring Legislative confirmation:
Jack Cleavenger, Lincoln, Nebraska, as Director of the Department of Public Institutions effective August 4, 1975, serving at the pleasure of the Governor.

I respectfully submit this appointment for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

August 21, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointment requiring Legislative confirmation:

E. Benjamin Nelson, Lincoln, Nebraska, as Director of the Department of Insurance effective September 1, 1975, serving at the pleasure of the Governor.

I respectfully submit this appointment for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

September 12, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointment requiring Legislative confirmation:
R. James Pearson, Norfolk, Nebraska, as Director of the Department of Motor Vehicles effective October 1, 1975, serving at the pleasure of the Governor.

I respectfully submit this appointment for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

September 17, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following reappointment to the Oil & Gas Conservation Commission requiring legislative confirmation:

Reappointment of Ray L. Smith, Chappell, Nebraska, for a 4-year term beginning September 28, 1975.

I respectfully submit this reappointment for your consideration.

Sincerely,
(Signed) J. James Exon
Governor

September 17, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following reappointment to the Board of Educational Lands & Funds requiring legislative confirmation:
Reappointment of Mr. Tom C. Allington, Sunol, Nebraska, for a 5-year term beginning October 1, 1975

I respectfully submit this reappointment for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

September 29, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the State Electrical Board, in accordance with LB 525 passed during the 1975 session, which require Legislative confirmation:

Reappointments
Paul C. Schorr III, P.O. Box 1827, Lincoln, to serve a term ending September 13, 1976.

Ralph Crowl, 3412 So. 81st Ave., Omaha, to serve a term ending September 13, 1978

Norval Bowen, Box 6066 Elmwood Park Station, Omaha, to serve a term ending September 13, 1978

Edward R. Brandt, 612 “D” Street, Fairbury, to serve a term ending September 13, 1979

Weston Webb, P.O. 340, Grand Island, to serve a term ending September 13, 1979

Robert J. Chase, 5840 Vine St., Lincoln, to serve a term ending September 13, 1980

I respectfully submit these appointments for your consideration.

Sincerely,

(Signed) J. James Exon
Governor
ANNOUNCEMENT

Mr. Carsten announced copies of the Governor's recommendations as prepared by Mr. Peters will be passed out to the members.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 1. By F. Lewis, 45th District.

A BILL FOR AN ACT to amend section 77-2715.01, Revised Statutes Supplement, 1975, relating to taxation; to set the sales and income tax rates as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 2. By F. Lewis, 45th District.

A BILL FOR AN ACT to amend section 77-2703, Revised Statutes Supplement, 1974, and section 77-2715.01, Revised Statutes Supplement, 1975, relating to taxation; to provide that the Legislature shall set the income and sales tax rates; to provide for an annual report by the Tax Commissioner; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 3. By Speaker Burbach, 19th District, at request of Governor.

A BILL FOR AN ACT relating to state funds; to provide priorities for payments from the General Fund; to provide duties and procedures; to provide for the deferral of certain payments; to amend sections 77-27,136, 77-27,137, 77-27,137.01, and 79-1333, Reissue Revised Statutes of Nebraska, 1943, sections 77-202.22, 77-202.30, and 79-4,160, Revised Statutes Supplement, 1974, and sections 43-648 and 79-2651, Revised Statutes Supplement, 1975; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 4. By Speaker Burbach, 19th District, at the request of Governor.

A BILL FOR AN ACT to amend section 77-2715.01, Revised Statutes Supplement, 1975, relating to taxation; to provide standards for setting the 1976 sales and use tax rate; to repeal the original section; and to declare an emergency.
LEGISLATIVE BILL 5. By Speaker Burbach, 19th District, at the request of Governor.

A BILL FOR AN ACT to provide for the compensation of employees, mileage of members, and for supplies and other incidental expenses incurred during the Eighty-fourth Legislature, First Special Session, 1975; to make an appropriation therefor; and to declare an emergency.

LEGISLATIVE BILL 6. By Speaker Burbach, 19th District, at the request of Governor.

A BILL FOR AN ACT relating to appropriations; to amend section 2, Legislative Bill 216, Eighty-fourth Legislature, First Session, 1975, sections 2 to 4, 6 to 9, and 11, Legislative Bill 603, Eighty-fourth Legislature, First Session, 1975, sections 2, 5 to 9, 11 to 16, and 18 to 20, Legislative Bill 604, Eighty-fourth Legislature, First Session, 1975, sections 3, 4, and 10, Legislative Bill 604, Eighty-fourth Legislature, First Session, 1975, with items reduced pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, sections 2 to 9 and 11 to 13, Legislative Bill 605, Eighty-fourth Legislature, First Session, 1975, section 2, Legislative Bill 606, Eighty-fourth Legislature, First Session, 1975, sections 3 to 5, 8, 10, 12, 22, 26, and 27, Legislative Bill 607, Eighty-fourth Legislature, First Session, 1975, section 2, Legislative Bill 607, Eighty-fourth Legislature, First Session, 1975, with items reduced pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, sections 2 to 4 and 6 to 10, Legislative Bill 610, Eighty-fourth Legislature, First Session, 1975, sections 11 to 15, Legislative Bill 610, Eighty-fourth Legislature, First Session, 1975, with items reduced pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, section 16, Legislative Bill 610, Eighty-fourth Legislature, First Session, 1975, with items reduced or disapproved pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, and section 10, Legislative Bill 612, Eighty-fourth Legislature, First Session, 1975; to reduce General Fund appropriations; to make an appropriation; to provide flexibility; to provide severability; to repeal the original sections; and to declare an emergency.

MOTION—Adjournment

Mr. F. Lewis moved to adjourn sine die.

Mr. Keyes requested a record vote.

Voting in the affirmative, 7:

Barnett Bereuter Burrows Chambers F. Lewis
Luedtke Simpson
Voting in the negative, 36:

Anderson  Burbach  Carsten  Cavanaugh  Clark  
Cope      Dickinson  Dworak  Fitzgerald  Fowler  
George    Goodrich  Hasebroock  Johnson  Kennedy  
Keyes     Kime      Koch     Kremer     R. Lewis  
Mahoney   Maresh   Nichol    Rasmussen  Rumery  
Moylan    Murphy   Swigart   Syas      Warner  
Schmit    Stull    
Wiltse    

Not voting, 6:

DeCamp  Duis  Kelly  Savage  Skarda  
Stoney  

The motion lost with 7 ayes, 36 nays and 6 not voting.

MOTION—Suspend Rules

Mr. Barnett moved that we discuss only the bills submitted by the Governor during this emergency session.

Mr. Goodrich moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 28 ayes, 8 nays and 13 not voting.

Mr. Barnett requested a roll call vote.

Voting in the affirmative, 31:

Anderson  Barnett  Bereuter  Burbach  Burrows  
Carsten   Cope      Duis      Dworak  Hasebroock  
Kennedy   Kime      Koch      Kremer     Luedtke  
Mahoney   Maresh    Marvel    Moylan     Murphy  
Nichol    Rasmussen  Rumery    Savage    Simpson  
Skarda    Stull     Swigart   Syas      Warner  
Wiltse    

Voting in the negative, 16:

Cavanaugh  Chambers  Clark  Dickinson  Fitzgerald  
Fowler     George    Goodrich  Johnson  Kelly  
Keyes      F. Lewis  R. Lewis  Marsh     Mills  
Schmit     

Not voting, 2:

DeCamp  Stoney
The motion prevailed with 31 ayes, 16 nays and 2 not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 7. By Schmit, 23rd District.

A BILL FOR AN ACT to amend section 29, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, with items disapproved pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, relating to appropriations for capital construction; to increase authority for veteran-care facilities; to appropriate funds; to repeal the original section; and to declare an emergency.

EASE

The Legislature was at ease from 3:57 p.m. to 4:43 p.m. for the Reference Committee to meet for referral of bills.

ANNOUNCEMENT

Mr. Mahoney announced the Audit Review Committee set for October 24, 1975 for all committee chairmen will be cancelled until further notice.

REFERENCE COMMITTEE REPORT

<table>
<thead>
<tr>
<th>LB</th>
<th>Committee</th>
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<tbody>
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<td>General File</td>
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<td>6</td>
<td>Appropriations</td>
</tr>
</tbody>
</table>

(Signed) Eugene T. Mahoney, Chairman

UNANIMOUS CONSENT—Committee Hearings

Speaker Burbach asked unanimous consent to follow this schedule for the committee hearings on LB 3, LB 4 and LB 6.

Revenue - LB 4 - Rm. 1019 - Oct. 29, 30 - 9:00 a.m. and 1:30 p.m.

Appropriations - LB 3, 6 - Rm. 1003 - Oct. 29, 30, 31 - 9:00 a.m. and 1:30 p.m.

No objections. So ordered.
ANNOUNCEMENT

Mr. Duis announced the Administrative Rules Committee will meet on October 25, 1975.

MOTION—Televise Hearings

Mr. Barnett moved to have the Appropriations Committee hearings covered by the Nebraska E.T.V. network.

Mr. Goodrich moved to amend the motion to include the Revenue Committee. The amendment prevailed with 21 ayes, 13 nays and 15 not voting.

Mr. Kelly moved to amend the Barnett motion as amended to strike any words requiring coverage and to make the same permissive.

The amendment prevailed with 24 ayes, 8 nays and 17 not voting.

Mr. Cavanaugh moved to amend the Barnett motion should ETV cover committee hearings in the Special Session ETV shall prepare a separate statement of cost of such coverage.

The amendment prevailed with 30 ayes, 8 nays and 11 not voting.

The Barnett motion as amended lost with 14 ayes, 27 nays and 18 not voting.

MOTION—Committee Hearings

Mr. Koch moved that the Appropriations Committee hold hearings in West Senate Chamber and Revenue Committee hold hearings in the East Chamber.

The motion prevailed with 26 ayes, 5 nays and 18 not voting.

ADJOURNMENT

At 5:11 p.m., on a motion by Speaker Burbach, the Legislature adjourned until 10:00 a.m., Monday, November 3, 1975.

Vincent D. Brown
Clerk of the Legislature
SECOND DAY—NOVEMBER 3, 1975

LEGISLATIVE JOURNAL

EIGHTY-FOURTH LEGISLATURE
FIRST SPECIAL SESSION

SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Monday, November 3, 1975

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Whelan presiding.

PRAYER

The Prayer was offered by the Chaplain.

Lord of our lives, wilt thou teach us true discrimination, that we may be able to discern the difference between faith and fatalism, between activity and accomplishment, between humility and an inferiority complex, between a passing salute to God, and a real prayer that seeks to find out God's will. We can stand criticism. We can stand a certain amount of pressure. But we cannot stand the necessity of making grave decisions with nothing but our own poor human wisdom. Our heads are not enough and our hearts fail us. Cabbages have heads, but they have no souls. We, who are created in the image of God, are restless and unhappy until we know that we are doing thy will by thy help. This is what we pray for, through Jesus Christ our Lord. Amen.

ROLL CALL

The roll was called and all members were present except Mr. Skarda who was excused and Mr. Koch who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the First Day was approved.

UNANIMOUS CONSENT—Member Excused

Mr. Skarda asked unanimous consent to be excused November 3, 4, 5 and 6. No objections. So ordered.
Speaker Burbach moved we hold session on November 4, 5, 6 and 7 and then reconvene on November 12, 13 and 14, if necessary.

The motion prevailed with 28 ayes, 16 nays and 5 not voting.

STANDING COMMITTEE REPORTS

Appropriations

LEGISLATIVE BILL 6. Placed on General File as amended. (Standing Committee amendments printed separate from the Journal and on File in the Clerk's office.)

LEGISLATIVE BILL 3. Placed on General File as amended.

AMENDMENTS TO LB 3

1. Strike original sections 1 to 21 and insert the following:

"Section 1. That section 43-648, Revised Statutes Supplement, 1975, be amended to read as follows:

43-648. Effective July 1, 1974, the State Department of Education shall reimburse each school district for ninety per cent of the excess cost of the special education programs, as defined in section 43-645. The payments shall be made by the State Department of Education to the resident school district on September 30, December 30, March 30, and June 30 in monthly installments between the third and fifteenth day of each month commencing in December, 1975. For the period commencing December 1, 1975 and ending June 30, 1976, the amount yet to be paid each school district shall be distributed in seven, as nearly as possible, equal payments. The State Department of Education, in lieu of the March 30, 1975 payment, shall distribute a maximum of two million dollars from funds appropriated in subdivision (4) of section 4, Legislative Bill 1973, Eighty-third Legislature, Second Session, 1974, to the school districts as provided in sections 1 to 3 of this act.

Sec. 2. That section 77-202.22, Revised Statutes 1974, be amended to read as follows:

1. 77-202.22. The county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner the total tax revenue that will be lost to all taxing agencies within his county because of exemptions from taxes levied and assessed in that year because of exemptions allowed under the provisions of sections 77-202.12 to 77-202.22. The county treasurer may amend the certification to show any change or
SECOND DAY–NOVEMBER 3, 1975

8 correction in the total tax that will be lost until May 30 of
9 the next succeeding year. The Tax Commissioner shall, on or be-
10 fore January 31 next following such certification or within
11 thirty days of any amendment to the certification, direct the
12 Director of Administrative Services to draw his warrant on
13 the state treasury for the amount so certified against funds
14 appropriated for such purpose and deliver such warrant to the
15 county treasurer as follows: Payments on the amount certified
16 shall be made in monthly installments between the third and
17 fifteenth day of each month commencing in December, 1975. For
18 the period commencing December 1, 1975 and ending June 30, 1976,
19 the amount yet to be received by each county treasurer shall
20 be distributed in seven, as nearly as possible, equal payments,
21 except that seventy-five per cent of the amount yet to be trans-
22 ferred to (1) any county containing a metropolitan class city,
23 and (2) any metropolitan class city, shall be distributed on
24 or before the fifteenth day of January, 1976, and the remaining
25 twenty-five per cent shall be distributed in five, as nearly as
1 possible, equal payments between the third and fifteenth day of
2 each month commencing February, 1976. Out of the amount so
3 received the county treasurer shall distribute to each of the
4 taxing agencies within his county the amount so lost by such
5 agency, except that one per cent of such amount shall be deposited
6 in the county general fund; Provided, that the full amount due a
7 Class V school district shall be paid to the district and the
8 county shall be compensated pursuant to section 14-554. Each
9 taxing agency shall, in preparing its annual budget, take into
10 account the amount to be received under the provisions of this
11 section.
12 Sec. 3. That section 77-202.30, Revised Statutes
13 Supplement, 1974, be amended to read as follows:
14 77-202.30. Beginning November 1, 1973, and on
15 November 1 of each year thereafter, the State Treasurer shall
16 place so much of all funds collected by a general sales tax
17 and income tax into a special fund, to be known as the Per-
18 sonal Property Tax Relief Fund which is hereby created, as shall
19 equal sixty-five per cent of the total tax revenue lost to
20 all taxing agencies within the county from taxes levied and
21 assessed in 1972 because of exemptions allowed under the pro-
22 visions of sections 77-202.25 to 77-202.33 as certified each
23 year by the county assessor of each county to the State Treasurer
24 on or before November 1 of each year beginning November 1, 1973,
1 and on April 1, 1974, and on April 1 each year thereafter the
2 State Treasurer shall place the remaining thirty-five per cent
3 of the total tax revenue lost in the preceding year in such
4 fund. The Legislature shall annually review the total tax
5 revenue lost to all taxing agencies within the county and trans-
6 ferred to the county treasurers by the State Treasurer from the
Personal Property Tax Relief Fund. The money in the Personal Property Tax Relief Fund shall be transferred by the State Treasurer, on or before December 15 of each year beginning December 15, 1970, to the various county treasurers equal to sixty-five per cent of the amount certified by the county assessor as provided in this section, and the remaining thirty-five per cent of the amount so certified shall be so transferred on or before April 15 of each year beginning April 15, 1974 in the following manner: Payments on the amount certified by the county assessor, as provided in this section, shall be made in monthly installments between the third and fifteenth day of each month commencing in December, 1975. For the period commencing December 1, 1975 and ending June 30, 1976, the amount yet to be transferred to the county treasurers shall be distributed in seven, as nearly as possible, equal payments, except that seventy-five per cent of the amount yet to be transferred to (1) any county containing a metropolitan class city, and (2) any metropolitan class city, shall be distributed on or before the fifteenth day of January, 1976, and the remaining twenty-five per cent shall be distributed in five, as nearly as possible, equal payments between the third and fifteenth day of each month commencing February, 1976.

The State Treasurer shall, on the first day of each month commencing December 1, 1975, and ending June 30, 1976, transfer from the General Fund to the Personal Property Tax Relief Fund the amount necessary to make the monthly payment required by this section. The State Treasurer shall transfer any amount remaining in the Personal Property Tax Relief Fund after the fifteenth day of each such month to the General Fund. Out of the amount so received, the county treasurer shall retain one per cent thereof and then shall distribute the remainder to each of the taxing agencies within his county.

Each taxing agency shall, in preparing its annual budget, take into account the revenue to be received under the provisions of this section.

Sec. 4. That section 77-27,137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,137. Of the money in the Governmental Subdivision Fund, four million, six hundred thousand dollars shall be transferred by the State Treasurer, on or before the third Monday in January each year commencing in 1972, to the various county treasurers of the state as follows:

(1) Fifty per cent on the basis of the ratio of the population of the particular county to the population of the entire state as determined by the latest federal census; and

(2) Fifty per cent on the basis of the ratio of the valuation of real estate in the particular county to the valuation of real estate in the entire state, as certified.
by the respective county assessors to the Tax Commissioner in
the abstract of the assessment rolls and as equalized by the
State Board of Equalization and Assessment.

Such payments shall be made in monthly installments
between the third and fifteenth day of each month commencing
in December, 1975. For the period commencing December 1, 1975
and ending June 30, 1976, the amount yet to be transferred to
the county treasurers shall be distributed in seven, as nearly as
possible, equal payments, except that seventy-five per cent of
the amount yet to be transferred to (1) any county containing a
metropolitan class city, and (2) any metropolitan class city,
shall be distributed on or before the fifteenth day of January,
1976, and the remaining twenty-five per cent shall be distributed
in five, as nearly as possible, equal payments between the third
and fifteenth day of each month commencing February, 1976. The
State Treasurer shall, on the first day of each month commencing
December 1, 1975, and ending June 30, 1976, transfer from the
General Fund to the Personal Property Tax Relief Fund the amount
necessary to make the monthly payment required by this section.
The State Treasurer shall transfer any amount remaining in the
Personal Property Tax Relief Fund after the fifteenth day of each
such month to the General Fund.

The proceeds of the Governmental Subdivision Fund
received by the various county treasurers shall be credited
to the general fund of the county.

Sec. 5. That section 77-27,137.01, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as follows:

The balance remaining in the Governmental Subdivision Fund after making the transfer provided for
in section 77-27,137 shall be allocated by the State Treasurer
to the various counties, for distribution to the incorporated
municipalities therein. Such allocation shall be made in the manner
provided in section 77-27,137. After making such allocation, the
State Treasurer shall, on the third Monday of each year
commencing in 1972, distribute the amount, so allocated to each
county, among the incorporated municipalities within the
county on the ratio of the population of the particular incorpor­
at ed municipality to the total population of all incorporated
municipalities in the county as determined by the latest federal
census, which amounts shall be placed in the general fund of
such municipalities. Such payments and distributions shall
be made in the manner provided in section 77-27,137.

Sec. 6. That section 79-1333, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as follows:

79-1333. All state financial assistance to districts
pursuant to sections 79-1330 to 79-1344 shall be based upon the
annual financial reports of such districts as required by 
section 79-451, and shall be paid in the following manner:
One fourth on September 30, one fourth on January 15, one 
fourth on March 15 and one fourth on May 15 monthly installments 
between the third and fifteenth day of each month commencing in 
December, 1975. For the period commencing December 1, 1975 and 
ending June 30, 1976, the amount yet to be paid each school 
district shall be distributed in seven, as nearly as possible, 
equal payments. Such reports shall be submitted to the State 
Board of Education by Class I, II, III, or VI school districts 
on or before the first day of September of each year, and by 
Class IV and V school districts on or before the first day of 
November of each year. When any Class I, II, III, or VI school 
district fails to submit its report by the first day of Sep-
tember, any state assistance granted pursuant to sections 79-1330 
to 79-1344 shall be based on the amount granted for the previous 
fiscal year, and shall be reduced by ten per cent of that amount, 
and when any such district fails to submit its report by the 
first day of October, it shall forfeit all assistance pursuant 
to sections 79-1330 to 79-1344 for that year. When any Class 
IV or V school district fails to submit its report by the first 
day of November any state assistance granted pursuant to 
sections 79-1330 to 79-1344 shall be based on the amount granted 
for the previous fiscal year, and shall be reduced by ten per 
cent of that amount, and when any such district fails to submit 
its report by the fifteenth day of November, it shall forfeit all 
assistance pursuant to sections 79-1330 to 79-1344 for that year.

Sec. 7. That section 79-4,160, Revised Statutes 
Supplement, 1974, be amended to read as follows:
79-4,160. In addition to any funds which may be appro-
priated to the School Foundation and Equalization Fund, there 
may be other funds appropriated to the State Department of 
Education to be distributed such that every district in the state 
receives the same amount of funds per unit of average daily 
membership as every other district, which distribution shall be 
based upon average daily membership as defined by the State Depart-
ment of Education for the regular school year. Distribution of 
funds under this section shall be made as follows: -One-fourth-
on September 30, one-fourth on January 15, and one-fourth on-
March 15, Monthly payments between the third and fifteenth day 
of each month commencing in December, 1975. For the period 
commencing December 1, 1975 and ending June 30, 1976, the 
amount yet to be paid each school district shall be distributed 
in seven, as nearly as possible, equal payments, which -three- 
distributions shall be based upon average daily membership for 
the previous school year. The final -one-fourth two monthly
SECOND DAY—NOVEMBER 3, 1975

14 payments shall not be expended but shall be adjusted on or before July 31 so that the total distributions for the year reflect the actual average daily membership for the current year which shall be determined from reports filed by each school district by June 30. If any district shall fail to file such report by June 30 that district’s share of the final one-fourth two month distribution shall be forfeited and the final one-fourth two month distribution shall be made without consideration of the average daily membership of those districts failing to report by June 30. The final one-fourth two month distribution shall be made on or before July 31. Such funds shall not be considered in the computation of state aid under the provisions of sections 79-1330 to 79-1340 and 79-1342 to 79-1344.

Sec. 8. That original sections 77-27,137, 77-27,137.01, and 79-1333, Reissue Revised Statutes of Nebraska, 1943, sections 77-202.22, 77-202.30, and 79-4,160 Revised Statutes Supplement, 1974, and section 43-648, Revised Statutes Supplement, 1975, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.”.

2. In the title strike lines 2 to 13 and insert the following:

“FOR AN ACT relating to state funds; to provide for monthly payments from such funds as prescribed; to provide for more rapid distribution of certain payments; to provide duties of the State Treasurer; to amend sections 77-27,137, 77-27,137.01, and 79-1333, Reissue Revised Statutes of Nebraska, 1943, sections 77-202.22, 77-202.30, and 79-4,160 Revised Statutes Supplement, 1974, and section 43-648, Revised Statutes Supplement, 1975; to repeal the original sections; and to declare an emergency.”.

(Signed) Richard D. Marvel, Chairman
Revenue

LEGISLATIVE BILL 4. Placed on General File as amended. Standing Committee amendment to LB 4:

1. On page 6, line 11 after “rate” insert “and the 1976 individual income tax rate”.

(Signed) Calvin F. Carsten, Chairman
LEGISLATIVE BILL 5. Title read. Considered.
Advanced to E & R for Review with 41 ayes, 2 nays and 6 not voting.

LEGISLATIVE BILL 6. Title read. Considered.
Standing Committee amendments referred to in this day’s Journal were discussed.

Mr. Duis offered the following amendment:
Strike line 2 of Committee amendments and add to LB 6 the Committee amendments.

The Chair ruled the amendment in order.

Mr. Cavanaugh objected.

Mr. Duis asked unanimous consent to withdraw the amendment. No objections. So ordered.

Mr. F. Lewis moved to bracket LB 6 until LB 3 has been discussed. The motion lost with 18 ayes, 25 nays and 6 not voting.

NOTICE OF COMMITTEE HEARING
Committee on Committees
November 3, 1975

The Committee on Committees will meet at 12:00 Noon, Tuesday, November 4, 1975, in the Legislative Council Hearing Room, Room 2102, for the purpose of hearing appointments or reappointments by Governor J. J. Exon as follows:

E. Benjamin Nelson - Director, Department of Insurance
Mrs. Sally Bates
Public Welfare Institutions & Corrections Advisory Committee
Mr. Glenn W. Chase - Nebraska Investment Council
Mr. Forrest F. “Woody” Combs - Motor Vehicle Industry Licensing Board
Mr. Karle E. Dickinson - State Highway Commission
Mr. Richard E. Person - State Personnel Board
Mr. Benjamin M. Wall - Court of Industrial Relations
Mr. Phil Weaver - Liquor Control Commission
Mr. Ed Crowley
Public Welfare, Institutions & Corrections Advisory Committee
November 3, 1975

The Committee on Committees will meet at 12:00 Noon, Wednesday, November 5, 1975, in the Legislative Council Hearing Room, Room 2102, for the purpose of hearing appointments or reappointments by Governor J. J. Exon as follows:

Jack Cleavenger - Director, Department of Public Institutions
Norval Bowen - State Electrical Board
Ed Brandt - State Electrical Board
Robert J. Chase - State Electrical Board
Ralph Crowl - State Electrical Board
Paul C. Schorr, III - State Electrical Board
Weston Webb - State Electrical Board
L. E. Donegan - Environmental Control Council
Paul F. Harm - Environmental Control Council
David H. Smith - Environmental Control Council
Richard A. Veach - Environmental Control Council
Merle Kingsbury - State Highway Commission

November 3, 1975

The Committee on Committees will meet at 12:00 Noon, Thursday, November 6, 1975, in the Legislative Council Hearing Room, Room 2102, for the purpose of hearing appointments or reappointments by Governor J. J. Exon as follows:

R. James Pearson - Director of Department of Motor Vehicles
Tom C. Allington - Educational Lands & Funds
Wendell Gangwish - Nebraska Environmental Control Council
John T. Harris - Nebraska Environmental Control Council
Martin Kahle - Nebraska Environmental Control Council
Dr. James H. Walston - Nebraska Environmental Control Council
Charles O. Morehouse - Public Employees Retirement Board
Ray L. Smith - Oil & Gas Conservation Commission
Margaret Sullivan - Public Employees Retirement Board

(Signed) John S. Savage, Chairman

RESOLUTION

84th Legislature, First Special Session

LEGISLATIVE RESOLUTION 1.

Introduced by Luedtke, 28th District.
WHEREAS, the late George C. Gerdes was an individual whose name became symbolic of truly great Nebraskans in his service to the Legislature of the state; and
WHEREAS, he served as Executive Director of the Nebraska Legislative Council, a member of the Nebraska Legislature from 1958 to 1968, was a recipient of the University of Nebraska, Nebraska Builders Award, was voted Most Able Nebraska Legislator by his fellow Senators in 1967, and devoted much time to progressive agricultural organizations such as the Nebraska Wheat Growers Association; and
WHEREAS, the name of such a man deserves a lasting tribute to the statesman who bore it; and
WHEREAS, the State Office Building now under construction is as yet without an appropriate name.
NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FOURTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:
That the newly constructed State Office Building be named the George C. Gerdes Building in memory of one who contributed so much to the state he served so well.

Laid over.

NOTICE OF COMMITTEE HEARING
Audit Review Committee

Wednesday, November 5, 1975, Room 1019 12:00 Noon

(Signed) Eugene T. Mahoney

RECESS

At 11:59 a.m., on a motion by Speaker Burbach, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:31 p.m., President Whelan presiding.

ROLL CALL

The roll was called and all members were present except Mr. Skarda who was excused and Mr. Koch who was excused until he arrives.

UNANIMOUS CONSENT—Members Excused

Messrs. Luedtke and Hasebroock asked unanimous consent to be excused at 3:00 p.m. No objections. So ordered.
SECOND DAY—NOVEMBER 3, 1975

GENERAL FILE

LEGISLATIVE BILL 6. Considered.

Mr. Marvel asked unanimous consent to divide the question on the Standing Committee Amendments.

Mr. George objected.

Mr. Marvel moved to divide the question. The motion prevailed with 32 ayes, 2 nays and 15 not voting.

Mr. Marvel moved the adoption of the first part of the Standing Committee Amendment, to strike sections 1 through 69.

Speaker Burbach moved the previous question. The question is, “Shall the debate now close?” The motion lost with 19 ayes, 24 nays and 6 not voting.

Mr. Savage moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 25 ayes, 8 nays and 16 not voting.

The Marvel motion to adopt the first part of Standing Committee Amendment to strike sections 1 through 69 was renewed.

The Chair ruled the motion to adopt in order at this time.

Mr. Cavanaugh appealed the decision of the Chair. The question is, “Shall the Chair be overruled?” The motion lost with 6 ayes, 32 nays and 11 not voting.

The Marvel motion to adopt first part of Standing Committee Amendments to strike sections 1 through 69 lost with 15 ayes, 27 nays and 7 not voting.

SPEAKER BURBACH PRESIDING

EASE

The Legislature was at ease from 3:33 p.m. until 3:35 p.m.

GENERAL FILE

LEGISLATIVE BILL 6. Considered.

Mr. Marvel offered the following amendments to the Standing Committee Amendments.
Amendments to Committee Amendments to L.B. 6

1. Insert a new section 39 to read as follows:
   "Sec. 39. That section 7, Legislative Bill 604, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:
   
   Sec. 7. Agency No. 16 -- Department of Revenue
   (1) Program No. 102 -- Revenue Administration
       GENERAL FUND 4,531,985
       CASH FUND 2,450,985
       REVENUE SHARING 775,700
       TRUST FUND 2,081,000
       PROGRAM TOTAL 5,307,685

   There is included in the amount shown $25,000 General Funds for two additional research analysts in the research division.

   (2) Program No. 105 -- Property Tax Administration
       GENERAL FUND 348,700
       REVENUE SHARING 500,000
       PROGRAM TOTAL 848,700

   (3) Program No. 106 -- Energy Office Administration
       GENERAL FUND 81,950
       PROGRAM TOTAL 81,950

   The unexpended General Fund balance existing on June 30, 1975, is hereby reappropriated which amount shall be in addition to the amount shown.

   (4) Program No. 108 -- Reimbursements to Local Governments
       GENERAL FUND 17,800,000
       PROGRAM TOTAL 17,800,000

   For Informational Purposes Only: Total Appropriations to Agency No. 16 and Fund Source
   GENERAL FUND 22,762,635
   CASH FUND 775,700
   REVENUE SHARING 500,000
   TRUST FUND 2,081,000
   AGENCY TOTAL 24,038,335.


3. On page 24, line 11 after the first semicolon insert "to reduce General Fund appropriations;".

SECOND DAY—NOVEMBER 3, 1975

5. Renumber original sections 39 to 40 as sections 39 and 40, respectively.

The amendments were adopted with 35 ayes, 0 nays and 14 not voting.

The remaining Standing Committee Amendments, as amended, were adopted with 34 ayes, 5 nays and 10 not voting.

Mr. DeCamp asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Swigart asked unanimous consent to be excused at 4:00 p.m. No objections. So ordered.

Mr. George offered the following amendments:

Amendment to LB 6

(1) Add a new section to read as follows:

"Sec. __. That original section 8, Legislative Bill 603, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

Sec. 8. Agency No. 55 -- Nebraska Natural Resources Commission
(1) Program No. 044 - Departmental Administration
GENERAL FUND 151,446
PROGRAM TOTAL 151,446

The General Fund appropriation of $1,000,000 to Program No. 044 for the Nebraska Natural Resources Development Fund for fiscal year 1975-76, made by subsection (1) of section 39, Legislative Bill 997, Eighty-third Legislature, Second Session, 1974, is hereby lapsed to the General Fund on the effective date of this act.

(2) Program No. 303 - State Aid - Small Watersheds
GENERAL FUND 99,953
CASH FUND 679,779
PROGRAM TOTAL 779,732

(3) Program No. 307 - Resources Development Fund
GENERAL FUND 1,021,498
PROGRAM TOTAL 1,021,498

The unexpended General Fund balance existing on June 30, 1975, in the Resources Development Fund, Program No. 044, is hereby reappropriated to Program No. 307, pursuant to the provisions of section 2-3264, Revised Statutes Supplement, 1974, which amount is hereby appropriated and is in addition to the amount shown.

(4) Program No. 334 - Soil and Water Conservation
GENERAL FUND 721,295
For Informational Purposes Only: Total Appropriations to Agency No. 55 and Fund Source

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<th>Fund Source</th>
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<td>1,994,192</td>
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<tr>
<td>CASH FUND</td>
<td>697,979</td>
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<tr>
<td>FEDERAL FUND est.</td>
<td>95,134</td>
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<tr>
<td>AGENCY TOTAL</td>
<td>2,787,305</td>
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</tbody>
</table>

That original section 8, Legislative Bill 603, Eighty-fourth Legislature, First Session, 1975, be repealed.

MR. SAVAGE PRESIDING

The George amendments lost with 9 ayes, 24 nays and 16 not voting.

Mr. Cavanaugh moved to bracket LB 6.

Mr. F. Lewis moved for a Call of the House. The motion prevailed with 25 ayes, 4 nays and 20 not voting.

The Call showed 43 members present.

Mrs. Marsh moved the Call be raised. The motion prevailed with 30 ayes, 0 nays and 19 not voting.

The motion to bracket prevailed with 25 ayes, 15 nays and 9 not voting.

PRESIDENT WHELAN PRESIDING

MESSAGES FROM THE GOVERNOR

October 24, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:


Due to a conflict Mr. Moors was unable to accept the position and therefore confirmation will not be required.
SECOND DAY—NOVEMBER 3, 1975

Sincerely,

(Signed) J. James Exon
Governor

JJE:sa

October 24, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the Agricultural Products Industrial Utilization Committee:

4-year terms ending July 1, 1975
Reappointment of Gary Shults, 5131 Clair Avenue, Lincoln
Reappointment of Holly Hodge, 1111 Hill, Holdrege
Reappointment of Robert Rauner, 1520 King, Sidney
Reappointment of Ronald Kelly, 623 Emerson, Alliance

2-year terms ending July 1, 1977
Reappointment of John Sullivan, Wallace, Nebraska
Reappointment of Jack Quackenbush, 815 North 8th, Beatrice

I respectfully submit these appointments for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

JJE:sa

October 28, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the Board of Public Roads Classifications & Standards
(5-year terms expiring November 3, 1980) requiring legislative confirmation:

Reappointment of Mr. Don Swing, Dept. of Roads, Lincoln
Reappointment of Mr. R. Doyle Hanson, Newcastle
Reappointment of Norman A. Magnusson, 2006 Tulip Lane, Bellevue
Reappointment of Terrance E. Pesek, 23500 Dodge St., Omaha
Reappointment of Joseph J. Cascio, 1620 South 10th, Omaha
Reappointment of J. R. McBride, 148 West 1st, Minden
Appointment of Donald Hyde, 415 E. Braasch, Norfolk

I respectfully submit these appointments for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

October 30, 1975

Mr. President, Mr. Speaker and Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President & Senators:

This is to inform your honorable body that I have made the following appointments to the Advisory Committee to the Department of Economic Development:

4-year term ending July 1, 1979
W. W. Cook, Sr., 723 No. 7th, Beatrice (Reappointment)
William A. Spitzenberger, 2223 Dodge Street, Omaha (Reappointment)
John W. Cattle, Sr., 1144 North 5th, Seward (Appointment)
Ed Loutzenheiser, 1135 Oswego, Hastings (Appointment)

I respectfully submit these appointments for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

JJE:sa
ADJOURNMENT

At 4:04 p.m., on a motion by Speaker Burbach, the Legislature adjourned until 9:00 a.m., Tuesday, November 4, 1975.

Vincent D. Brown
Clerk of the Legislature
THIRD DAY—NOVEMBER 4, 1975

LEGISLATIVE JOURNAL

EIGHTY-FOURTH LEGISLATURE
FIRST SPECIAL SESSION

THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, November 4, 1975

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

PRAYER

The Prayer was offered by the Chaplain.

Our Father, we know that we, by ourselves, are not sufficient for these days and for problems greater than the measure of our best wisdom. May we here be aware of the unseen delegate. May Thy spirit move among us, that there may be concession without coercion, and conciliation without compromise. May these senators, who represent us, represent Thee and, in Thy spirit be courageous enough to begin anew, fearless enough to admit mistakes, and loving enough to forgive others. May we have the courage to apply what we applaud, to the end that we may help to establish Thy way of life for the people of this state. So may we all do the best we can, by Thy help, and be willing to leave the issue in Thy hands, through Jesus Christ our Lord. Amen.

ROLL CALL

The roll was called and all members were present except Mr. Skarda who was excused, Messrs. F. Lewis, Schmit and Koch who were excused until they arrive, and Mr. Chambers who was absent until 9:30 a.m., and Mr. DeCamp who was absent until 9:35 a.m.

CORRECTIONS FOR THE JOURNAL

The Journal for the Second Day was approved.

GENERAL FILE

LEGISLATIVE BILL 4. Title read. Considered.
Standing Committee amendment found in the Journal on page 29 for the Second Day was adopted with 32 ayes, 0 nays and 17 not voting.
Mr. Burrows offered the following amendment:

AMENDMENT TO LB 4
Eighty-Fourth Legislature, First Special Session
1. On page 2, line 11, strike "twelve" and insert "twelve-thirteen".
2. On page 6, line 16, after "or" strike "any" and insert "up to two and one half per cent of the".

The amendment lost with 2 ayes, 29 nays and 18 not voting.

Mr. George offered the following amendment:
To change "overlay" on line 16, page 6, to "overlevy".

The amendment was adopted with 27 ayes, 0 nays and 22 not voting.

Speaker Burbach offered the following amendments:
1. On page 4, lines 1 and 2, strike the new matter and reinstate the stricken matter; and in line 10 insert "except that, in setting the rates for calendar year 1976, such excess shall be not less than three per cent" after "subsection".
2. On page 6, strike lines 11 to 17 as amended.

The amendments were adopted with 26 ayes, 16 nays and 7 not voting.

Mr. F. Lewis offered the following amendments:
1. Amend the first paragraph of Section 77-2703, Revised Statutes Supplement, 1974, be amended to read as follows:
2. 77-2703. (1) There is hereby imposed a tax of two per cent upon the gross receipts from all sales of tangible personal property sold at retail in this state, the gross receipts of every person engaged as a public utility or as a community antenna television service operator, and the gross receipts from the sale of admissions in this state as set by the Legislature.
3. until January 1, 1970, and on and after such date the rate shall be that which is set by the State Board of Equalization and Assessment as provided in section 77-2715.01. When there is a sale, as defined in subdivision (13) of section 77-2702, after March 26, 1974, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his books and records.
4. On page 2, line 3 after "(1)" insert "The Legislature" and strike beginning with "On" in line 3 through "Assessment" in line 4 and show as stricken; in line 6 after "77-2715" insert "" and
strike beginning with “for” in line 6 through the period in line 10 and show as stricken; in line 10 strike “1975” and insert “1975-1976”; in line 11 strike “not exceed twelve” and show as stricken and insert “be thirteen”; in line 12 after “cent” insert “and the sales tax rate shall be two and one half per cent”; in line 12 after the period insert “Such sales and income tax rates shall remain in force until changed by the Legislature.”; and in lines 19 and 20 strike “State Board of Equalization and Assessment” and show as stricken and insert “Legislature”.

3. On page 3 in lines 1 and 2 strike “State Board of Equalization and Assessment” and show as stricken and insert “Legislature”; in line 14 strike “such board” and insert “such board the Legislature”; and in lines 16 and 22 strike “board” and insert “board Legislature”.

4. On page 4, line 2 strike “board” and insert “board Legislature”.

5. On page 5, line 2 strike “by the board” and show as stricken; and strike lines 10 to 26 and show as stricken.

6. On page 6, line 1 strike “In the event the board” and show as stricken and insert “(2) If the Legislature” and in line 1 after “determines” insert “that”; in line 2 strike “such” and insert “such any”; and in line 12 strike “State Board of Equalization and Assessment” and insert “Legislature”.

7. On page 6 after line 17 insert the following new section:

“Sec. 3. The Tax Commissioner shall, on November 15 of each year report to the Legislature (1) all receipts credited to the General Fund, identified by major source, for each of the immediately preceding twenty-four months, (2) a forecast, identified by major source, of all receipts to be credited to the General Fund for each of the immediately succeeding twenty-four months, and (3) all significant changes in the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes or the rules and regulations issued under such laws.”

8. On page 6, line 18 after “section” insert “77-2703, Revised Statutes Supplement, 1974, and section”; and in line 19 strike “is” and insert “are”.

9. Renumber original sections 1, 2, and 3 as sections 2, 4, and 5 respectively.

Mr. Warner raised a point of order on whether the F. Lewis amendment is within the Call of the Governor.

The Chair ruled the amendment was in order.
Mr. Kelly raised a point of order that the F. Lewis amendment is not included in the Barnett motion adopted on page 20 of the Legislative Journal.

The Chair ruled the Kelly point out of order. The Chair stated the Barnett motion applied to that particular day only.

Mr. Kelly appealed the decision of the Chair. The question is, “Shall the Chair be overruled?” The motion lost with 6 ayes, 26 nays and 17 not voting.

Mr. F. Lewis moved the adoption of his amendments 1, 3, 4, 5 and 6.

Mr. F. Lewis requested a record vote.

Voting in the affirmative, 18:

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Voting in the negative, 27:

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Not voting, 4:

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The amendments 1, 3, 4, 5, and 6 lost with 18 ayes, 27 nays and 4 not voting.

Remaining amendments pending.

NOTICE OF COMMITTEE HEARING
Committee on Committees

November 4, 1975

The Committee on Committees will meet at 12:00 Noon, Friday, November 7, 1975, in the Legislative Council Hearing Room, Room 2102,
for the purpose of hearing appointments or reappointments by Governor J. J. Exon as follows:

Gary Shults – Agricultural Products Industrial Utilization
Holly Hodge – Agricultural Products Industrial Utilization
Robert Rauner – Agricultural Products Industrial Utilization
Ronald Kelly – Agricultural Products Industrial Utilization
John Sullivan – Agricultural Products Industrial Utilization
Jack Quackenbush – Agricultural Products Industrial Utilization

(Signed) John S. Savage, Chairman

CORRECTED NOTICE OF COMMITTEE HEARING

The Legislative Audit Review Committee gives notice that the Committee will meet today, November 4, 1975 at 12:00 noon in Room 1019 rather than November 5, 1975 as previously announced.

(Signed) Eugene T. Mahoney
Chairman, Exec. Board

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 5. Placed on Select File.

(Signed) Donald N. Dworak, Chairman

UNANIMOUS CONSENT—Bracket LB 5 on Select File

Speaker Burbach asked unanimous consent to bracket LB 5 on Select File.

Mr. Fowler objected.

RECESS

At 12:01 p.m., on a motion by Speaker Burbach, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Whelan presiding.

ROLL CALL

The roll was called and all members were present except Mr. Skarda who was excused and Mr. Koch who was excused until he arrives.
LEGISLATIVE BILL 4. Considered.

Mr. F. Lewis renewed his pending amendment No. 2 found on page 41 in this day's Journal.

Mr. F. Lewis asked unanimous consent to bracket LB 4 with pending amendments.

Mr. Stull objected.

Mr. F. Lewis moved to bracket LB 4 with pending amendments.

Mrs. Marsh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays and 20 not voting.

The F. Lewis motion to bracket lost with 6 ayes, 33 nays and 10 not voting.

The F. Lewis pending amendment No. 2 lost with 6 ayes, 32 nays and 11 not voting.

Mr. F. Lewis asked unanimous consent to withdraw his remaining amendments Nos. 7, 8 and 9 found in this day's Journal on page 42. No objections. So ordered.

Mr. Cavanaugh offered the following amendment:
Amend Burbach amendment
Strike 3 per cent add one per cent on page 6 reinstate line 11-17.

Mrs. Marsh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 6 nays and 17 not voting.

Mr. Cavanaugh requested a record vote on the amendment.

Voting in the affirmative, 16:

Anderson Cavanaugh DeCamp Fitzgerald Fowler
George Goodrich Johnson Kennedy Keyes
F. Lewis Mahoney Maresh Mills Moylan
Rumery

Voting in the negative, 24:

Barnett Bereuter Burbach Burrows Clark
Not voting, 9:

Carsten Chambers Dickinson Koch R. Lewis
Savage Simpson Skarda Stoney

The amendment lost with 16 ayes, 24 nays and 9 not voting.

Advanced to E & R for Review with 29 ayes, 12 nays and 8 not voting.

**UNANIMOUS CONSENT—Members Excused**

Mr. Marvel asked unanimous consent to be excused at 3:00 p.m. for the balance of the day. No objections. So ordered.

Mr. Anderson asked unanimous consent to be excused at 3:00 p.m. today and tomorrow until he arrives. No objections. So ordered.

**MOTION—Suspend Rules**

Mr. Cavanaugh moved to suspend the rules, Rule 6, Sec. 2 and 3, to advance LB 3, LB 4 and LB 6 to Select File.

Mr. Barnett moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 32 ayes, 5 nays and 12 not voting.

The Cavanaugh motion to suspend the rules lost with 13 ayes, 26 nays and 10 not voting.

**UNANIMOUS CONSENT—Members Excused**

Mr. Moylan asked unanimous consent to be excused at 3:00 p.m. today and until he arrives in the morning. No objections. So ordered.

Mr. Kelly asked unanimous consent to be excused at 3:00 p.m. today. No objections. So ordered.

Mr. Chambers asked unanimous consent to be excused at 2:45 p.m. today. No objections. So ordered.
THIRD DAY—NOVEMBER 4, 1975

GENERAL FILE

LEGISLATIVE BILL 3. Title read. Considered.

Standing Committee amendments found in the Journal on page 24 for the Second day were considered.

Standing Committee amendment to Section 1 was adopted with 32 ayes, 0 nays and 17 not voting.

The remaining Standing Committee amendments were adopted with 36 ayes, 0 nays and 13 not voting.

Advanced to E & R for Review with 42 ayes, 0 nays and 7 not voting.

UNANIMOUS CONSENT—Bracket LB 5

Speaker Burbach asked unanimous consent to bracket LB 5 on Select File. No objections. So ordered.

MOTION—Unbracket LB 6

Speaker Burbach moved to unbracket LB 6 on General File. The motion prevailed with 30 ayes, 2 nays and 17 not voting.

GENERAL FILE

LEGISLATIVE BILL 6. Considered.

Mr. Schmit offered the following amendments:

1. Strike original sections, 2, 5, 13, 15, 19, 20, 25, 34, 40, 41, 42, 47, 51, 52, 58, 59, 60, 61 and 66 and renumber remaining sections accordingly.

2. On page 149, line 13 strike “2 to” and insert “3,” and strike “6” and insert “7”; in line 15 strike “5 to” and insert “6, 8,” strike “11” and insert “13” and strike “and 18 to” and insert “19 and”; in line 24 strike “3 to”, strike “22,”; and strike beginning with “section” in line 25 through line 27.

3. On page 150 strike line 1; and in line 2 strike “Nebraska,” and after “2” insert “,” and strike “to 4”.

Mr. Stull offered the following amendment to the Schmit amendment:

to amend the Schmit amendment by also striking Sec. 53, 54, 55, 56, 57.

The amendment was adopted with 23 ayes, 9 nays and 17 not voting.
Mr. Luedtke offered the following amendment to the Schmit amendment:

to amend Senator Schmit’s amendment by inserting sections 10 and 11.

The amendment was adopted with 20 ayes, 13 nays and 16 not voting.

Mr. Mahoney offered the following amendment to the Schmit amendment:

Strike Section 1.

The amendment was adopted with 25 ayes, 13 nays and 11 not voting.

Mr. F. Lewis offered the following amendment to the Schmit amendment:

the 3% cut will not apply to Mental Retardation Program in section 31.

The amendment was adopted with 27 ayes, 4 nays and 18 not voting.

The Schmit amendment pending, as amended.

EXPLANATION OF VOTE

Had I been present I would have voted “Aye” on the F. Lewis amendment to the Schmit amendment to LB 6.

(Signed) John S. Savage

ANNOUNCEMENT

Mr. Carsten announced a meeting of the State Board of Equalization on Rules and Regulations at 10:00 a.m., November 10, 1975 in Room 1019, Statehouse.

ADJOURNMENT

At 3:58 p.m., on a motion by Speaker Burbach, the Legislature adjourned until 9:00 a.m., Wednesday, November 5, 1975.

Vincent D. Brown
Clerk of the Legislature
FOURTH DAY—NOVEMBER 5, 1975

LEGISLATIVE JOURNAL

EIGHTY-FOURTH LEGISLATURE
FIRST SPECIAL SESSION

FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, November 5, 1975

Pursuant to adjournment, the Legislature met at 9:01 a.m., President Whelan presiding.

PRAYER

The prayer was offered by the Chaplain.

O Thou Holy Spirit, who hast promised to lead us into all truth, prepare our hearts and minds for the business of this day, that we may behave with true courtesy and honor.

Compel us to be just and honest in our dealings. Let our motives be above suspicion. Let our word be our bond. Save us from the fallacy of depending upon our personality, our ingenuity, or position to solve our problems.

Since Thou hast the answers, make us willing to listen to Thee, that we may vote on God’s side, and that God’s will may be done in us. Through Christ our Lord. Amen.

ROLL CALL

The roll was called and all members were present except Mr. Skarda who was excused, Messrs. Anderson, Burrows and Koch who were excused until they arrive; Mr. DeCamp who was absent until 9:20 a.m. and Mr. Chambers who was absent until 9:30 a.m.

CORRECTIONS FOR THE JOURNAL

The Journal for the Third Day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 1. Mr. Luedtke asked unanimous consent to substitute the following for LR 1 found in the Journal on page 31. No objections. So ordered.
LEGISLATIVE RESOLUTION 1.

Introduced by Roland A. Luedtke, 28th Legislative District.

WHEREAS, the late George C. Gerdes was an individual whose name became symbolic of truly great Nebraskans in his service to the Legislature of the state; and

WHEREAS, he served as Executive Director of the Nebraska Legislative Council, a member of the Nebraska Legislature from 1959 to 1969, was a recipient of the University of Nebraska, Nebraska Builders Award, was voted Most Able Nebraska Legislator by his fellow Senators in 1967, and devoted much time to progressive agricultural organizations such as the Nebraska Wheat Growers Association; and

WHEREAS, the name of such a man deserves a lasting tribute to the statesman who bore it; and

WHEREAS, the State Office Building now under construction is as yet without an appropriate name,

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FOURTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

That it be recommended to the State Building Advisory Commission that the newly constructed State Office Building be named the George C. Gerdes Building in memory of one who contributed so much to the state he served so well; and

That a copy of this resolution be sent by the Clerk of the Legislature to the State Building Advisory Commission and the Administrator Thereof.

Mr. Luedtke asked unanimous consent to add all members names to LR 1. No objections. So ordered.

LR 1 was adopted with 42 ayes, 0 nays and 7 not voting.

MESSAGE FROM THE AUDITOR OF PUBLIC ACCOUNTS

November 4, 1975

Mr. President, Mr. Speaker, and
Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Mr. President and Senators:

This is to inform your honorable body that I have made the following appointment requiring Legislative confirmation, in accordance with Section 84-304 of the Revised Statutes:
FOURTH DAY—NOVEMBER 5, 1975

Charles R. Patteson, Analyst
I respectfully submit this appointment for your consideration.

Yours very truly,
(Signed) Ray A. C. Johnson
Auditor of Public Accounts

RACJ:dm

GENERAL FILE

LEGISLATIVE BILL 6. Considered.

The Schmit pending amendment found in the Journal on page 47 was renewed.

Mr. Johnson offered the following amendment to the Schmit amendment:
Amend the Schmit amendment to include Sec. 18.

The amendment was adopted with 18 ayes, 17 nays and 14 not voting.

Mr. Mahoney offered the following amendment:
Amend the Schmit amendment by adding Section 39.

The amendment lost with 12 ayes, 22 nays and 15 not voting.

Mr. Schmit asked unanimous consent to speak an additional 10 minutes on his pending amendment. No objections. So ordered.

Mr. F. Lewis offered the following amendment to the Schmit amendment:
Strike sections 15 and 19 from the Schmit amendment.

The amendment was adopted with 28 ayes, 9 nays and 12 not voting.

Mr. Cavanaugh offered the following amendment to the Schmit amendment:
Amend the Schmit amendment by inserting section 37.

The amendment was adopted with 23 ayes, 12 nays and 14 not voting.

Mr. Chambers offered the following amendment to the Schmit amendment:
Amend Schmit amendment to strike Sections 36 of LB 6.

The amendment was adopted with 19 ayes, 15 nays and 15 not voting.

Mr. Warner requested a division of the question, the adoption of the F. Lewis amendment to Section 31, found on page 48 of the Journal, voted on separate from the pending Schmit amendment, as amended.
The amendment to Section 31 was adopted with 32 ayes, 0 nays and 17 not voting.

Mr. Schmit moved for a Call of the House on his amendment. The motion prevailed with 28 ayes, 6 nays and 15 not voting.

The Call showed 47 members present.

Mr. Warner requested a roll call vote on the Schmit amendment, as amended.

Voting in the affirmative, 24:
- Anderson
- Cope
- Johnson
- Mills
- Simpson
- Barnett
- DeCamp
- F. Lewis
- Moylan
- Stull
- Bereuter
- Fitzgerald
- Luedtke
- Rumery
- Swigart
- Chambers
- Fowler
- Mahoney
- Savage
- Syas

Voting in the negative, 23:
- Burbach
- Duis
- Kennedy
- Maresh
- Stoney
- Burrows
- Dworak
- Keyes
- Marvel
- Warner
- Carsten
- George
- Kime
- Murphy
- Wiltse
- Clark
- Hasebroock
- Kremer
- Nichol
- Dickinson
- Kelly
- R. Lewis
- Rasmussen

Not voting, 2:
- Koch
- Skarda

The Schmit amendment, as amended, lost with 24 ayes, 23 nays and 2 not voting.

Mr. Goodrich moved the Call be raised. The motion prevailed with 33 ayes, 0 nays and 16 not voting.

Mr. Dickinson asked unanimous consent to be excused at 10:45 a.m. No objections. So ordered.

Mr. Chambers moved to indefinitely postpone LB 6.

The motion lost with 8 ayes, 30 nays and 11 not voting.

Mr. Warner requested a record vote on advancing to E & R for Review.
FOURTH DAY—NOVEMBER 5, 1975

Voting in the affirmative, 28:

Burbach  Burrows  Carsten  Clark  DeCamp
Duis     Dworak  George   Hasebroock Johnson
Kelly    Kennedy Keyes   Kime   Kremer
F. Lewis Maresh  Marvel  Murphy  Nichol
Rasmussen Rumery  Schmit  Stoney  Stull
Swigart  Warner   Wiltse

Voting in the negative, 18:

Anderson Barnett Bereuter Cavanaugh Chambers
Cope     Fitzgerald Fowler Goodrich R. Lewis
Luedtke  Mahoney  Marsh   Mills   Moylan
Savage   Simpson  Syas

Not voting, 3:

Dickinson Koch Skarda

Advanced to E & R for Review with 28 ayes, 18 nays and 3 not voting.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 4. Placed on Select File as amended.
E & R amendment to LB 4:
1. In the title, strike line 4 and through “rate” in line 5 and insert “provide a standard for setting the 1976 tax rates”.

LEGISLATIVE BILL 3. Placed on Select File as amended.
E & R amendment to LB 3:
1. In committee amendments, section 8, line 3, insert a comma after “79-4,160”.

(Signed) Donald N. Dworak, Chairman

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed LR 1.
LEGISLATIVE RESOLUTION 2.

Introduced by Bereuter, 24th District; Fowler, 27th District; Goodrich, 20th District; Chambers, 11th District; Marsh, 29th District; Simpson, 46th District; F. Lewis, 45th District; Swigart, 8th District; Savage, 10th District; Anderson, 37th District; Moylan, 6th District; Maresh, 32nd District; R. Lewis, 38th District; Nichol, 48th District; Carsten, 2nd District; Burbach, 19th District.

WHEREAS, the Department of Public Welfare, after extensive public hearings and citizen input, allocated the Nebraska share of Title XX Social Service Funds; and

WHEREAS, the allocation to the community-based mental retardation programs was at a level lower than the federal funds anticipated for such programs when the 1975 Legislature made its appropriations; and

WHEREAS, the reduction in federal funds will necessitate either a cutback in community-based mental retardation program services or a deficit appropriation of state funds to the program; and

WHEREAS, the Legislature desires to explore in full the impact of the shift of federal social service funds at its 1976 legislative session before any programs are cut; and

WHEREAS, the Governor has established a level of reimbursement to the community-based mental retardation programs for the months of July, August, and September so that programs can maintain their current level of services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FOURTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

(1) That the Legislature calls upon the Governor to continue a level of reimbursement to the community-based mental retardation programs such that no reduction in quantity or quality of services occurs until the Legislature can meet in regular session and establish a proper level of services for the remainder of the fiscal year.

(2) That the Legislature directs its staff to fully investigate alleged program mismanagement and to scrutinize carefully the operations and programs of the community-based mental retardation agencies.

(3) That the Legislature encourages the Governor and executive staff to cooperate and participate in such efforts so that sufficient information is developed to enable the Legislature and the Governor to respond appropriately to any deficit funding proposals that are forthcoming.

Laid over.

UNANIMOUS CONSENT—Member Excused

Mr. Kennedy asked unanimous consent to be excused at 11:15 a.m. until he returns. No objections. So ordered.
FOURTH DAY—NOVEMBER 5, 1975

UNANIMOUS CONSENT—Change of Order

Speaker Burbach asked unanimous consent to consider LB 4 and LB 3 on Select File at this time. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 3. E & R amendment found in this day’s Journal was adopted.

Mr. Clark offered the following amendments:

Amendments to Standing Committee Amendments to LB 3
1. In standing committee amendment 1, strike sections 1 to 7 and insert the following:

“Section 1. That section 43-648, Revised Statutes Supplement, 1975, be amended to read as follows:

43-648. Effective July 1, 1974, the State Department of Education shall reimburse each school district for ninety per cent of the excess cost of the special education programs, as defined in section 43-645. The payments shall be made by the State Department of Education to the resident school district on September 30, December 30, March 30, and June 30, except that for the period commencing January 1, 1976, and ending July 31, 1976, the amount yet to be paid each school district shall be distributed as follows: (1) Two-thirds of the amount claimed as excess costs for the quarter beginning October 1, 1975 and ending December 31, 1975 shall be distributed between the third and fifteenth day of January, 1976, and the remaining one-third of the claimed excess cost for such quarter shall be distributed between the third and fifteenth day of February; (2) two-thirds of the amount claimed as excess cost for the quarter beginning January 1, 1976 and ending March 31, 1976 shall be paid between the third and fifteenth day of April, 1976, and the remaining one-third claimed as excess cost for such quarter shall be distributed between the third and fifteenth day of May, 1976; and (3) the claim for the quarter beginning April 1 and ending June 30, 1976, shall be submitted to the State Department of Education on or before July 6, 1976, and the final adjusted payment shall be made on or before July 31, 1976. The State Department of Education, in lieu of the March 30, 1975 payment, shall distribute a maximum of two million dollars from funds appropriated in subdivision (4) of section 4, Legislative Bill 1053, Eighty-third Legislature, Second Session, 1974, to the school districts as provided in sections 1 to 3 of this act.

Sec. 2. That section 77-202.22, Revised Statutes Supplement, 1974, be amended to read as follows:
77-202.22. The county treasurer shall, on or before
November 30 of each year, certify to the Tax Commissioner the
total tax revenue that will be lost to all taxing agencies within
his county because of exemptions from taxes levied and assessed
in that year because of exemptions allowed under the provisions
of sections 77-202.12 to 77-202.22. The county treasurer may
amend the certification to show any change or correction in the
total tax that will be lost until May 30 of the next succeeding
year. The Tax commissioner shall, on or before January 31
next following such certification or within thirty days of any
amendment to the certification, direct the Director of Adminis­
trative Services to draw his warrant on the state treasury
for the amount so certified against funds appropriated for such
purpose and deliver such warrant to the county treasurer; Provided,
that for the period commencing December 1, 1975 and ending June
30, 1976, the amount yet to be received by each county treasurer
shall be distributed in seven, as nearly as possible, equal
monthly payments between the third and fifteenth day of each
month; and provided further, that seventy-five per cent of the
amount yet to be transferred to (1) any county containing a
metropolitan class city and (2) any metropolitan class city,
shall be distributed on or before the fifteenth day of January,
1976, and the remaining twenty-five per cent shall be distributed
in five, as nearly as possible, equal payments between the third
and fifteenth day of each month commencing February, 1976.
Out of the amount so received the county treasurer shall dis­
tribute to each of the taxing agencies within his county the amount
so lost by such agency, except that one per cent of such amount
shall be deposited in the county general fund; Provided, that
the full amount due a Class V school district shall be paid to
the district and the county shall be compensated pursuant to
section 14-554. Each taxing agency shall, in preparing its annual
budget, take into account the amount to be received under the
provisions of this section.

Sec. 3. That section 77-202.30, Revised Statutes
Supplement, 1974, be amended to read as follows:

77-202.30. Beginning November 1, 1973, and on
November 1 of each year thereafter, the State Treasurer shall
place so much of all funds collected by a general sales tax
and income tax into a special fund, to be known as the Personal
Property Tax Relief Fund which is hereby created, as shall
equal sixty-five per cent of the total tax revenue lost to all
taxing agencies within the county from taxes levied and assessed
in 1972 because of exemptions allowed under the provisions of
sections 77-202.25 to 77-202.33 as certified each year by the
county assessor of each county to the State Treasurer on or before
November 1 of each year beginning November 1, 1973, and on April 1, 1974, and on April 1 each year thereafter the State Treasurer shall place the remaining thirty-five per cent of the total tax revenue lost in the preceding year in such fund. The Legislature shall annually review the total tax revenue lost to all taxing agencies within the county and transferred to the county treasurers by the State Treasurer from the Personal Property Tax Relief Fund. The money in the Personal Property Tax Relief Fund shall be transferred by the State Treasurer, on or before December 15 of each year beginning December 15, 1973, to the various county treasurers equal to sixty-five per cent of the amount certified by the county assessor as provided in this section, and the remaining thirty-five per cent of the amount so certified shall be so transferred on or before April 15 of each year beginning April 15, 1974; Provided, that for the period commencing December 1, 1975 and ending June 30, 1976, the amount yet to be transferred to the county treasurers shall be distributed in seven, as nearly as possible, equal monthly payments between the third and fifteenth day of each month; and provided further, that seventy-five per cent of the amount yet to be transferred to (1) any county containing a metropolitan class city, and (2) any metropolitan class city, shall be distributed on or before the fifteenth day of January, 1976, and the remaining twenty-five per cent shall be distributed in five, as nearly as possible, equal payments between the third and fifteenth day of each month commencing February, 1976. The State Treasurer shall, on the first day of each month commencing December 1, 1975, and ending June 30, 1976, transfer from the General Fund to the Personal Property Tax Relief Fund the amount necessary to make the monthly payment required by this section. The State Treasurer shall transfer any amount remaining in the Personal Property Tax Relief Fund after the fifteenth day of each such month to the General Fund. Out of the amount so received the county treasurer shall retain one per cent thereof and then shall distribute the remainder to each of the taxing agencies within his county.

Each taxing agency shall, in preparing its annual budget, take into account the revenue to be received under the provisions of this section.

Sec. 4. That section 77-27,137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,137. Of the money in the Governmental Sub-division Fund, four million, six hundred thousand dollars shall be transferred by the State Treasurer, on or before the third Monday in January each year commencing in 1972, to the various county treasurers of the state as follows:
(1) Fifty per cent on the basis of the ratio of the population of the particular county to the population of the entire state as determined by the latest federal census; and
(2) Fifty per cent on the basis of the ratio of the valuation of real estate in the particular county to the valuation of real estate in the entire state, as certified by the respective county assessors to the Tax Commissioner in the abstract of the assessment rolls and as equalized by the State Board of Equalization and Assessment.

The State Treasurer shall transfer the money provided in this section to the county treasurers on or before the third Monday in January each year; Provided, that for the period commencing December 1, 1975 and ending June 30, 1976, the amount yet to be transferred to the county treasurers shall be distributed in seven, as nearly as possible, equal monthly payments, between the third and fifteenth day of each month; and provided further, that seventy-five per cent of the amount yet to be transferred to (1) any county containing a metropolitan class city, and (2) any metropolitan class city, shall be distributed on or before the fifteenth day of January, 1976, and the remaining twenty-five per cent shall be distributed in five, as nearly as possible, equal payments between the third and fifteenth day of each month commencing February, 1976. The State Treasurer shall, on the first day of each month commencing December 1, 1975, and ending June 30, 1976, transfer from the General Fund to the Governmental Subdivision Fund the amount necessary to make the monthly payment required by this section. The State Treasurer shall transfer any amount remaining in the Governmental Subdivision Fund after the fifteenth day of each such month to the General Fund.

The proceeds of the Governmental Subdivision Fund received by the various county treasurers shall be credited to the general fund of the county.

Sec. 5. That section 77-27,137.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,137.01. The balance remaining in the Governmental Subdivision Fund after making the transfer provided for in section 77-27,137 shall be allocated by the State Treasurer to the various counties, for distribution to the incorporated municipalities therein. Such allocation shall be made in the manner provided in section 77-27,137. After making such allocation, the State Treasurer shall, on the third Monday of each year commencing in 1972, distribute the amount, so allocated to each county, among the incorporated municipalities within the county on the ratio of the population of the particular incorporated municipality to the total population of all incorporated municipalities
in the county as determined by the latest federal census, which amounts shall be placed in the general fund of such municipalities. Such payments and distributions shall be made in the manner provided in section 77-27,137.

Sec. 6. That section 79-1333, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1333. All state financial assistance to districts pursuant to sections 79-1330 to 79-1344 shall be based upon the annual financial reports of such districts as required by section 79-451, and shall be paid in the following manner:

One-fourth on September 30, one-fourth on January 15, one-fourth on March 15 and one-fourth on May 15, except that for the period commencing December 1, 1975 and ending June 30, 1976, the amount yet to be paid each school district shall be distributed in seven, as nearly as possible, equal monthly payments between the third and fifteenth day of each month. Such reports shall be submitted to the State Board of Education by Class I, II, III, or VI school districts on or before the first day of September of each year, and by Class IV, V and VI school districts on or before the first day of November of each year. When any Class I, or II, III, or VI school district fails to submit its report by the first day of September, any state assistance granted pursuant to sections 79-1330 to 79-1344 shall be based on the amount granted for the previous fiscal year, and shall be reduced by ten per cent of that amount, and when any such district fails to submit its report by the first day of October, it shall forfeit all assistance pursuant to sections 79-1330 to 79-1344 for that year. When any Class III, IV, or V school district fails to submit its report by the first day of November any state assistance granted pursuant to sections 79-1330 to 79-1344 shall be based on the amount granted for the previous fiscal year, and shall be reduced by ten per cent of that amount, and when any such district fails to submit its report by the fifteenth day of November, it shall forfeit all assistance pursuant to sections 79-1330 to 79-1344 for that year.

Sec. 7. That section 79-4,160, Revised Statutes Supplement, 1974, be amended to read as follows:

79-4,160. In addition to any funds which may be appropriated to the School Foundation and Equalization Fund, there may be other funds appropriated to the State Department of Education to be distributed such that every district in the state receives the same amount of funds per unit of average daily membership as every other district, which distribution shall be based upon average daily membership as defined by the State Department of Education for the regular school year.
tion of funds under this section shall be made as follows:
One-fourth on September 30, one-fourth on January 15, and one-fourth on March 15, which three distributions shall be based upon average daily membership for the previous school year, except that for the period commencing December 1, 1975, and ending June 30, 1976, the amount yet to be paid each school district shall be distributed in seven, as nearly as possible, equal monthly payments between the third and fifteenth day of each month. The State Department of Education may withhold, until the final adjusted payment, any or all of the payments due commencing December 1, 1975 and ending June 30, 1976 when it appears that an overpayment would result. The final one-fourth or the May and June payments in 1976 shall not be expended but shall be adjusted on or before July 31 so that the total distributions for the year reflect the actual average daily membership for the current year which shall be determined from reports filed by each school district by June 30. If any district shall fail to file such report by June 30 that district’s share of the final one-fourth or the May and June payments in 1976 distribution shall be forfeited and the final one-fourth or the May and June payments in 1976 distribution shall be made without consideration of the average daily membership of those districts failing to report by June 30. The final one-fourth or the May and June payments in 1976 distribution shall be made on or before July 31. Such funds shall not be considered in the computation of state aid under the provisions of sections 79-1330 to 79-1340 and 79-1342 to 79-1344.”.

The amendments were adopted with 34 ayes, 0 nays and 15 not voting.

Advanced to E & R for Engrossment.

LEGISLATIVE BILL 4. E & R amendment found in this day’s Journal was adopted.

Mr. Keyes offered the following amendment:
   Strike the Burbach amendment from LB 4.

Mr. Cavanaugh moved to bracket LB 4 until after LB 6 is advanced to Final Reading. The motion lost with 12 ayes, 22 nays and 15 not voting.

Mr. Luedtke asked unanimous consent to be excused at 11:30 a.m. for the remainder of the day. No objections. So ordered.

Messrs. Kremer, Wiltse and Hasebroock asked unanimous consent to be excused this afternoon. No objections. So ordered.
Mr. Keyes requested a record vote on his amendment.

Mr. Keyes moved for a Call of the House. The motion prevailed with 19 ayes, 17 nays and 13 not voting.

The Call showed 44 members present.

Mrs. Marsh moved the Call be raised. The motion lost with 17 ayes, 22 nays and 10 not voting.

Mrs. Marsh asked unanimous consent to be excused. No objections. So ordered.

Mr. Keyes requested a roll call vote on his amendment to LB 4.

Voting in the affirmative, 21:

<table>
<thead>
<tr>
<th>Cavanaugh</th>
<th>Clark</th>
<th>DeCamp</th>
<th>Fitzgerald</th>
<th>Fowler</th>
</tr>
</thead>
<tbody>
<tr>
<td>George</td>
<td>Goodrich</td>
<td>Hasebroock</td>
<td>Keyes</td>
<td>F. Lewis</td>
</tr>
<tr>
<td>Mahoney</td>
<td>Maresh</td>
<td>Marvel</td>
<td>Mills</td>
<td>Moylan</td>
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<tr>
<td>Rumery</td>
<td>Savage</td>
<td>Stoney</td>
<td>Stull</td>
<td>Syas</td>
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<tr>
<td>Wiltse</td>
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</table>

Voting in the negative, 22:

<table>
<thead>
<tr>
<th>Anderson</th>
<th>Barnett</th>
<th>Bereuter</th>
<th>Burbàch</th>
<th>Burrows</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carsten</td>
<td>Chambers</td>
<td>Cope</td>
<td>Duis</td>
<td>Dworak</td>
</tr>
<tr>
<td>Johnson</td>
<td>Kelly</td>
<td>Kime</td>
<td>Kremer</td>
<td>R. Lewis</td>
</tr>
<tr>
<td>Murphy</td>
<td>Nichel</td>
<td>Rasmussen</td>
<td>Schmit</td>
<td>Simpson</td>
</tr>
<tr>
<td>Swigart</td>
<td>Warner</td>
<td></td>
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</tbody>
</table>

Not voting, 6:

<table>
<thead>
<tr>
<th>Dickinson</th>
<th>Kennedy</th>
<th>Koch</th>
<th>Luedtke</th>
<th>Marsh</th>
</tr>
</thead>
<tbody>
<tr>
<td>Skarda</td>
<td></td>
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</tbody>
</table>

The Keyes amendment lost with 21 ayes, 22 nays and 6 not voting.

Mr. Goodrich moved the Call be raised. The motion prevailed with 37 ayes, 0 nays and 12 not voting.

Mr. F. Lewis re-offered his amendment to LB 4 found in the Journal on pages 41 and 42.

The Chair ruled the amendment to be a reconsideration.
ANNOUNCEMENT

Mr. Marvel announced a meeting of the Appropriations Committee at adjournment under the South Balcony. No objections. So ordered.

RECESS

At 12:17 p.m., on a motion by Speaker Burbach, the Legislature recessed until 2:00 p.m.

AFTER RECESS

The Legislature reconvened at 2:04 p.m., President Whelan presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Dickinson, Hasebroock, Kennedy, Kremer, Luedtke, Skarda and Wiltse who were excused; and Mr. Koch who was excused until he arrives.

SELECT FILE

LEGISLATIVE BILL 4. Mr. F. Lewis reoffered his amendment found in the Journal on pages 41 and 42 and changed Sec. 2, line 7 to read 14 rather than 13.

Mr. Clark moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 26 ayes, 5 nays and 18 not voting.

The F. Lewis amendment lost with 14 ayes, 25 nays and 10 not voting.

Mr. Cavanaugh offered the following amendment:
    Amend the Burbach amendment by striking three per cent and inserting one per cent.

Mr. Johnson moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 27 ayes, 2 nays and 20 not voting.

Mr. Cavanaugh moved for a Call of the House. The motion prevailed with 21 ayes, 20 nays and 9 not voting. The Chair voted aye to break the tie.

The Call showed 42 members present.

Mr. Cavanaugh requested a roll call vote on his amendment:
FOURTH DAY—NOVEMBER 5, 1975

Voting in the affirmative, 23:

Anderson  Barnett  Cavanaugh  Clark  DeCamp
Dickinson  Fitzgerald  Fowler  George  Goodrich
Keyes  F. Lewis  Mahoney  Maresh  Marvel
Mills  Moylan  Rumery  Savage  Stoney
Stull  Swigart  Syas

Voting in the negative, 19:

Bereuter  Burbach  Burrows  Carsten  Cope
Duis  Dworak  Johnson  Kelly  Kime
Koch  R. Lewis  Marsh  Murphy  Nichol
Rasmussen  Schmit  Simpson  Warner

Not voting, 7:

Chambers  Hasebroock  Kennedy  Kremer  Luedtke
Skarda  Wiltse

The Cavanaugh amendment lost with 23 ayes, 19 nays and 7 not voting.

Mr. Cavanaugh moved the Call be raised. The motion prevailed with 31 ayes, 0 nays and 18 not voting.

Mr. F. Lewis requested a machine vote to advance LB 4 to E & R for Engrossment.

Advanced to E & R for Engrossment with 25 ayes, 14 nays and 10 not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 3. Replaced on Select File as amended. E & R amendments to LB 3:

1. In section 1, line 23, insert “, 1976” after 1”.

2. In section 4, line 22, strike the third comma; in line 25 strike “(1)” and insert “(a)” ; and in line 26 strike “(2)” and insert “(b)”.

3. In section 6, line 8, insert a comma after the first “15” as in the statutes; and insert an underscored comma after “V” in lines 15 and 24.

4. In section 7, line 23, strike “not be expended but” and insert “be delayed and”; strike the new
matters in lines 29 and 30 and reinsert the same after
“distribution” in line 30; insert “distribution” at the end
of line 30 as in the statutes and in line 31 strike “district-
ion”; and strike the new matter in line 34 and reinsert the
same after “distribution” in the same line.

(Signed) Donald N. Dworak, Chairman

SELECT FILE

LEGISLATIVE BILL 3. E & R amendments found in this day’s Journal
were adopted.

Advanced to E & R for Engrossment.

MOTION—Return LB 3 to Select File

Mr. Barnett moved to return LB 3 to Select File for the following specific
amendment:

AMENDMENTS TO LB 3
1     1. Strike sections 4 and 5 of the Clark amendment
2     to the Standing Committee Amendment and renumber remaining
3     sections accordingly.
4     2. In the Standing Committee Amendment, page 29 of
5     the Journal, line 1 strike “sections 77-27,137, 77-27,137.01,
6     and” and insert “section”; in line 5 after the comma
7     insert “and also sections 77-27,136 to 77-27,137.01,
8     77-27,139, and 77-27,140, Reissue Revised Statutes of
9     Nebraska, 1943,”.

The motion lost with 3 ayes, 32 nays and 14 not voting.

Speaker’s Tentative Adjournment Plans

Speaker Burbach suggested we hold sessions on Thursday, November 6
(5th Day); Friday, November 7 (6th Day); Saturday, November 8 at 12:01
a.m. (7th Day) and Monday, November 10 (8th Day).

MOTION—Adjournment

Mr. Koch moved that the Legislature adjourn until Tuesday, November 18.
The motion lost.
SELECT COMMITTEE REPORT
Committee on Committees

November 5, 1975

The Committee on Committees desires to report favorably upon the appointments or reappointments listed below which were submitted by J. J. Exon. The Committee suggests the appointments be confirmed by the Legislative Body and suggest a record vote.

E. Benjamin Nelson
Director of Department of Insurance

No one appeared in support and no one appeared in opposition to Mr. Nelson's appointment.


Mrs. Sarah (Sally) Bates
Nebraska Public Welfare, Institutions & Corrections Advisory Committee

No one appeared in support and no one appeared in opposition to Mrs. Bates appointment.


Mr. Glenn W. Chase
Nebraska Investment Council

Senator Marsh appeared in support of Mr. Chase's appointment and no one appeared in opposition.

Committee Vote: For: (8) Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage and Wiltse. Against: None. Absent and not voting: (5) Chambers, Clark, DeCamp, Koch, and Skarda.

Forrest F. "Woody" Combs
Motor Vehicle Industry Licensing Board

No one appeared in behalf of Mr. Comb's appointment and no one appeared in opposition.
Committee Vote: For: (8) Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage and Wiltse. Against: None. Absent and not voting: (5) Chambers, Clark, DeCamp, Koch, and Skarda.

Karl E. Dickinson
State Highway Commission

No one appeared in behalf of Mr. Dickinson's appointment and no one appeared in opposition.


Richard E. Person
State Personnel Board

Senator Duis and Senator Cope appeared in behalf of Mr. Person's appointment. No one appeared in opposition.


Mr. Benjamin M. Wall
Court of Industrial Relations

Senator Savage appeared in behalf of Mr. Wall's reappointment since Mr. Wall was in the hospital on November 4. No one appeared in opposition to this reappointment.


Phil Weaver
Liquor Control Commission

Senator Wiltse appeared in behalf of Mr. Weaver's appointment. No one appeared in opposition.

Committee Vote: For: (8) Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: Chambers, Clark, DeCamp, Koch, and Skarda.
Ed Crowley
Public Welfare, Institutions & Corrections Advisory Committee

Senator Cope appeared in behalf of Mr. Crowley's appointment. No one appeared in opposition.


(Signed) John S. Savage, Chairman

ADJOURNMENT

At 3:45 p.m., on a motion by Speaker Burbach, the Legislature adjourned until 10:00 a.m., Thursday, November 6, 1975.

Vincent D. Brown
Clerk of the Legislature
Pursuant to adjournment, the Legislature met at 10:00 a.m., President Whelan presiding.

PRAYER

The prayer was offered by the Chaplain.

Our Father, give us the faith to believe that the words now spoken, and the yearnings of the hearts now open before thee, are heard and understood in thy presence. We, the members and officers and servants of this body, unite our petitions for thy blessing, thy guidance, and they help, that we faithfully may do what is best, and what is right in thy sight, O God. Give to these, thy servants, the representatives of the people throughout this State, the will to work together as a team for the welfare of all our people. Give them courage to withstand the pressure of the selfish, and give to the people the vision to see that sacrifice must be shared by all, that there is no substitute for hard work, and no joy is unmerited reward and there's no such thing as a free lunch. May we fear nothing, save that, knowing what is right, we fail to do it. So help us God, in Jesus' name. Amen.

ROLL CALL

The roll was called and all members were present except Mr. Skarda who was excused; Messrs. Kennedy, Koch and Marvel who were excused until they arrive and Mr. Chambers who was absent until 9:10 a.m.

NOTICE OF CANCELLATION OF COMMITTEE MEETING

November 6, 1975

The Interim Study Committee on Post-Secondary Education scheduled to meet in Room 1019 on Friday, November 7, 1975, at 9:30 a.m., has been cancelled.

(Signed) Jerome Warner, Chairman
LEGISLATIVE BILL 6. Placed on Select File as amended.

E & R amendments to LB 6:

1. In lieu of the Marvel amendments 1 to 5
   inserting a new section 39 in the committee amendments, on
   page 25, line 25 strike "4,402,765" and insert "2,321,765";
   on page 25, after line 26 insert:
   "REVENUE SHARING
   TRUST FUND 2,081,000"; on
   page 27, line 1, strike "22,613,735" and insert "20,532,735";
   and on page 27, after line 3 insert:
   "REVENUE SHARING
   TRUST FUND 2,081,000".

2. On page 29, lines 23 and 24, strike
   "595,284" and insert "555,395"; and after line 24 insert:
   "(3) Program No. 529 - Land Surveys".

3. Pursuant to the F. Lewis amendment to
   section 31, on pages 62 to 64 strike the new matter and
   reinstate the stricken matter; on page 65, line 24, strike
   "27,635,287" and insert "27,727,088"; and on page 66 strike
   "41,398,014" and insert "41,489,815".

4. In committee amendments, insert new sections
   1 to 33 as sections 67 to 99; strike section 34 as duplicating
   original section 65; insert new sections 35 to 38 as sections
   100 to 103; and strike sections 39 and 40.

5. Renumber original sections 67 to 69 as
   sections 104 to 106.

6. On page 150, line 11, strike "and"; and in
   line 12 after "1975" insert ", section 77-2602, Revised
   Statutes Supplement, 1974, and section 32, Legislative
   Bill 609, Eighty-fourth Legislature, First Session,
   1975, with items disapproved pursuant to authority granted
   by Article IV, section 15, of the Constitution of Nebraska,
   and also sections 7 and 37, Legislative Bill 256, Eighty-
   third Legislature, First Session, 1973, sections 2, 3,
   7, 16, 17, 35, and 52, Legislative Bill 1055, Eighty-
   third Legislature, Second Session, 1974, section 3,
   Legislative Bill 1058, Eighty-third Legislature, Second
   Session, 1974, Legislative Bills 215A and 417A, Eighty-
   fourth Legislature, First Session, 1975, section 1, Legislative
   Bill 553, Eighty-fourth Legislature, First Session, 1975,
   sections 2 to 6, 13, 14, 16, 18 to 21, 23, and 25, Legislative
   Bill 609, Eighty-fourth Legislature, First Session, 1975, and
   sections 3, 4, and 6, Legislative Bill 611, Eighty-fourth
   Legislature, First Session, 1975,".
7. In the title, line 37, strike “and”; in line 39, after “1975” insert “; section 77-2602, Revised Statutes Supplement, 1974, and section 32, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, with items disapproved pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska”; in line 42 after “sections” insert “; and also sections 7 and 37, Legislative Bill 256, Eighty-third Legislature, First Session, 1973, sections 2, 3, 7, 16, 17, 35, and 52, Legislative Bill 1055, Eighty-third Legislature, Second Session, 1974, section 3, Legislative Bill 1058, Eighty-third Legislature, Second Session, 1974, Legislative Bills 215A and 417A, Eighty-fourth Legislature, First Session, 1975, section 1, Legislative Bill 553, Eighty-fourth Legislature, First Session, 1975, sections 2 to 6, 13, 14, 16, 18 to 21, 23, and 25, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, and sections 3, 4, and 6, Legislative Bill 611, Eighty-fourth Legislature, First Session, 1975”; and in line 40 strike “make an appropriation;” and insert “appropriate and reappropriate funds; to provide for capital construction; to lapse funds;”.

8. On page 60, line 17, strike “18,944,644” and insert “18,944,664”.

(Signed) Donald N. Dworak, Chairman

RESOLUTIONS

LEGISLATIVE RESOLUTION 2. Read and considered.

LR 2 was adopted with 37 ayes, 0 nays and 12 not voting.

EXPLANATION OF VOTE

Had I been present I would have voted “aye” on LR 2.

(Signed) Ernest Chambers

SELECT FILE

LEGISLATIVE BILL 6. E & R amendments found in this day’s Journal were adopted.

Mr. Barnett offered the following amendment:

AMENDMENT TO LB 6

1. Insert a new section 65 to read as follows:

Sec. 65. No agency shall discharge any employee because of the
reduction of appropriations from the General Fund required by sections 1 to 64 of this act.
2. Renumber remaining sections accordingly.

The amendment lost with 14 ayes, 25 nays and 10 not voting.

Mr. Clark moved the adoption of the following amendment for Mr. Marvel.

AMENDMENT TO LB 6

1) Add a new section as follows:
"Sec. 67. The University of Nebraska, the state colleges, and other state agencies that have appropriations from cash fund sources in addition to the General Fund, are hereby directed to spend those cash funds to the maximum extent feasible before spending General Fund appropriations. The Department of Administrative Services is directed to consider this in the administration of the allotment status system and to make the necessary adjustments to accommodate this change in fund expenditures. The purpose of this section is to assist in the treasury management of General Fund cash flow and, to the extent possible, minimize expenditures of General Fund money during the early months of 1976."
2) In committee amendments, strike section 34.
3) Renumber sections accordingly.

The amendment was adopted with 39 ayes, 0 nays and 10 not voting.

Mr. Clark offered the following amendment:

AMENDMENT TO LB 6

1. In renumbered section 101, insert "Legislative Bill 938, 83rd Legislature, Second Session," at the end of line 8.

The amendment was adopted with 38 ayes, 0 nays and 11 not voting.

Mr. Warner offered the following amendment:

AMENDMENTS TO LB 6

1. On page 15, lines 25 and 26, strike "1,021,498" and insert "1,021,498,1,021,497".
2. On page 16, line 1, strike "The" and insert "The Of the"; in line 3, insert "$999,999" after the first comma; in line 18 strike "1,964,367" and insert "1,964,366"; and in line 22, strike "2,757,480" and insert "2,757,479".
3. On page 17, line 26, strike "The" and insert "The Of the"; and after the comma in line 27 insert "$7,706,247".
4. On page 27, line 26, strike "The" and insert "The Of the"; and after the second comma in line 27 insert "$923,580".
Mr. Warner asked unanimous consent to have the amendment laid over until this afternoon. No objections. So ordered.

Mr. Goodrich offered the following amendment:
To exclude Sects 2, 5, 13, 20, 25, 34, 40, 41, 42, 47, 51, 52, 10, 11, 1, 53, 54, 55, 56, 57, 58, 59, 60, and 61 and 66 from LB 6 and renumber the remaining Sects accordingly.

The Chair ruled the amendment a reconsideration.

Mr. Koch moved to reconsider action on the Schmit amendment, as amended, which failed on November 5, 1975 on page 52 of the Journal.

Mr. DeCamp moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 1 nay and 14 not voting.

The Koch motion to reconsider prevailed with 27 ayes, 19 nays and 3 not voting.

Mr. F. Lewis requested a division of the question on the Schmit amendment, as amended, to vote on each amendment separately.

Mr. Dickinson asked unanimous consent to be excused this afternoon. No objections. So ordered.

ANNOUNCEMENT

Mr. Marvel announced a meeting of the Appropriations Committee as soon as possible this afternoon.

RECESS

At 12:00 noon, on a motion by Speaker Burbach, the Legislature recessed until 2:00 p.m.

AFTER RECESS

The Legislature reconvened at 2:00 p.m., President Whelan presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Dickinson and Skarda who were excused and Mr. Kennedy who was excused until he arrives.
The Committee on Committees desires to report favorably upon the appointments or reappointments listed below which were submitted by J. J. Exon. The Committee suggests the appointments be confirmed by the Legislative Body and suggest a record vote.

Jack Cleavenger – Director of Department of Public Institutions

No one appeared in support and no one appeared in opposition to Mr. Cleavenger’s appointment.

Committee Vote: For (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Norval Bowen – State Electrical Board

No one appeared in support and no one appeared in opposition to Mr. Bowen’s appointment.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Ed Brandt – State Electrical Board

No one appeared in support and no one appeared in opposition to Mr. Brandt’s appointment.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Robert J. Chase – State Electrical Board

No one appeared in support and no one appeared in opposition to Mr. Chase’s appointment.

Committee Vote: For (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Ralph Crowl – State Electrical Board

No one appeared in support and no one appeared in opposition to Mr. Crowl’s appointment.
Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Paul C. Schorr III – State Electrical Board

No one appeared in support and no one appeared in opposition to Mr. Schorr's appointment.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Weston Webb – State Electrical Board

No one appeared in support and no one appeared in opposition to Mr. Webb's appointment.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

L. E. Donegan – Environmental Control Council

Senator Marsh and Mr. Dan Drain, Director, Environmental Control Council, appeared in support of Mr. Donegan's appointment and no one appeared in opposition.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Paul F. Harm – Environmental Control Council

Senator Hasebroock and Mr. Dan Drain, Director, Environmental Control Council, appeared in support of Mr. Harms' appointment and no one appeared in opposition.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

David H. Smith – Environmental Control Council

Mr. Dan Drain, Director, Environmental Control Council, appeared in support of Mr. Smith's appointment and no one appeared in opposition.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Richard A. Veach – Environmental Control Council

Mr. Dan Drain, Director, Environmental Control Council, appeared in support of Mr. Veach's appointment and no one appeared in opposition.
Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

Merle Kingsbury – State Highway Commission

Senator Hasebroock and Senator Murphy appeared in support of Mr. Kingsbury’s appointment and no one appeared in opposition.

Committee Vote: For: (10) Senators Clark, DeCamp, Duis, Hasebroock, Kelly, Keyes, Kime, Marsh, Savage, and Wiltse. Against: None. Absent and not voting: (2) Senators Koch and Skarda. Passing: (1) Senator Chambers.

(Signed) John S. Savage, Chairman

SELECT FILE

LEGISLATIVE BILL 6. The Chair ruled the F. Lewis request out of order to divide the question on the Schmit amendment, as amended, to vote on each amendment separately.

Mr. F. Lewis appealed the decision of the Chair. The question is, “Shall the Chair be overruled?”

Mr. Barnett moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 36 ayes, 1 nay and 12 not voting.

The motion to overrule the Chair lost with 12 ayes, 28 nays and 9 not voting.

Mr. Warner requested a record vote on the Schmit amendment, as amended.

Voting in the affirmative, 27:

Anderson Barnett Bereuter Cavanaugh Chambers
Cope DeCamp Fitzgerald Fowler Goodrich
Johnson Koch F. Lewis Luedtke Mahoney
Marsh Mills Moylan Nichol Rumery
Savage Schmit Simpson Stoney Stull
Swigart Syas

Voting in the negative, 17:

Burbach Burrows Carsten Clark Duis
Dworak George Hasebroock Kelly Keyes
Kremer Maresh Marvel Murphy Rasmussen
Warner Wiltse

Not voting, 5:

Dickinson Kennedy Kime R. Lewis Skarda
The amendment was adopted with 27 ayes, 17 nays and 5 not voting.

**UNANIMOUS CONSENT—Record Votes**

Mr. Chambers asked unanimous consent to have every vote from now on a record vote in the Journal.

Mrs. Marsh objected.

**SELECT FILE**

**LEGISLATIVE BILL 6.** Mr. Warner renewed his pending amendment found in the Journal on page 71.

Mr. Cavanaugh offered the following amendment to the Warner amendment:

**CAVANAUGH AMENDMENT TO THE WARNER AMENDMENT TO LB 6**

In lieu of the Warner Amendment, item 4, insert:

4. On page 27, strike lines 26 and 27, and show as stricken; on page 28, strike line 1.

The amendment lost with 6 ayes, 24 nays and 19 not voting.

Mr. Cavanaugh offered the following amendment to the Warner amendment found in the Journal on page 71:

**CAVANAUGH AMENDMENT TO THE WARNER AMENDMENT TO LB 6**

In lieu of the Warner Amendment, item 3, insert:

3. On page 17, strike lines 26 and 27 and show as stricken and insert "Of the unexpended general fund balance existing on June 30, 1975, there is hereby reappropriated $6,406,248, which amount shall be in".

Mr. Cavanaugh requested a record vote.

Voting in the affirmative, 27:

Anderson  Bereuter  Burbach  Carsten  Cavanaugh  Fowler  Kremer  Murphy  Swigart
Clark  DeCamp  Duis  Dworak
George  Goodrich  Johnson  Koch
Mahoney  Marsh  Mills  Moylan
Nichol  Rumery  Stoney  Stull
Warner  Wiltse

Voting in the negative, 3:

Barnett  Keyes  F. Lewis
Not voting, 19:

Burrows    Chambers    Cope    Dickinson    Fitzgerald
Hasebroock  Kelly       Kennedy   Kime       R. Lewis
Luedtke     Marsh       Marvel    Rasmussen  Savage
Schmit      Simpson     Skarda    Syas

The amendment was adopted with 27 ayes, 3 nays and 19 not voting.

Mr. Duis moved to reconsider action on the Cavanaugh amendment to item 4 of the Warner amendment.

The motion prevailed with 28 ayes, 0 nays and 21 not voting.

Mr. Cavanaugh offered the following amendment:

CAVANAUGH AMENDMENT TO THE
WARNER AMENDMENT TO LB 6

In lieu of the Warner Amendment, items 1 and 2, insert:
1. On page 15, lines 25 and 26, strike “1,021,498” and show as stricken and insert “421,498”.
2. On page 16, strike lines 1 to 6 and show as stricken; on line 18 strike “1,964,367” and insert “1,364,367”; and on line 22 strike “2,757,480” and insert “2,157,480”.

The amendment lost with 0 ayes, 28 nays and 21 not voting.

The Cavanaugh amendment to item 4 of Warner amendment was adopted with 21 ayes, 9 nays and 19 not voting.

Mr. Cavanaugh offered the following amendment:

To strike Sec. 1 & 2 of the Warner Amendment.

Mr. Cavanaugh moved for a Call of the House. The motion prevailed with 22 ayes, 12 nays and 15 not voting.

Mr. Savage moved the Call be raised. The motion prevailed with 25 ayes, 0 nays and 24 not voting.

The Cavanaugh amendment was adopted with 24 ayes, 17 nays and 8 not voting.

The Warner amendment found in this day’s Journal on page 71 was adopted, as amended, with 33 ayes, 4 nays and 12 not voting.

Mr. Schmit offered the following amendment:

AMENDMENTS TO L.B. 6, AS AMENDED

1. Insert the following new sections:
“Sec. 104. Each agency shall pay all accounts payable
within thirty days of the effective date of this act. Each agency shall thereafter pay for all goods and services within thirty days after the date such goods and services are received.

Sec. 105. Each agency shall monthly report to the Director of Administrative Services and the Legislative Fiscal Analyst any account that has not been paid within thirty days after such account becomes due pursuant to section 104 of this act.

Sec. 106. If any account reported pursuant to section 105 of this act shall remain unpaid for an additional thirty days the Director of Administrative Services shall notify in writing the Governor, the State Treasurer, the Auditor of Public Accounts, and the Attorney General of such noncompliance and after such notification a hearing shall be held at which hearing the department or agency head shall be directed to show cause why payment has not been made. After such hearing the Attorney General shall take all actions he deems necessary to insure compliance with sections 104 to 106 of this act."

2. Renumber remaining sections accordingly.

Mr. Schmit moved the previous question. The question is, "Shall the debate now close?"

The motion lost with 21 ayes, 8 nays and 20 not voting.

Mr. Schmit moved for a Call of the House. The motion prevailed with 22 ayes, 2 nays and 25 not voting.

Mr. Johnson moved the Call be raised. The motion prevailed with 31 ayes, 0 nays and 18 not voting.

Mr. Cavanaugh requested a record vote on the Schmit amendment.

Voting in the affirmative, 25:

Bereuter  Burbach  Burrows  Cope  DeCamp
Fitzgerald  Hasebroock  Johnson  Keyes  Kremer
F. Lewis  R. Lewis  Luedtke  Maresh  Marsh
Moylan  Murphy  Rasmussen  Rumery  Savage
Schmit  Simpson  Stoney  Swigart  Wiltse

Voting in the negative, 16:

Anderson  Barnett  Carsten  Cavanaugh  Clark
Duis  Dworak  Fowler  George  Koch
Mahoney  Marvel  Mills  Nichol  Stull
Warner
Not voting, 8:

Chambers  Dickinson  Goodrich  Kelly  Kennedy
Kime      Skarda     Syas

The Schmit amendment was adopted with 25 ayes, 16 nays and 8 not voting.

Mr. Burrows offered the following amendment:
   To strike the new language in LB 6, page 61, lines 16 through 21 and
   re-instate the original.

The amendment was adopted with 26 ayes, 6 nays and 17 not voting.

The Chair introduced former Senator P.J. Morgan from Omaha.

Mr. F. Lewis moved to reconsider the following action on LB 6 to reinsert original Section 1.

Mr. Goodrich moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 29 ayes, 3 nays and 17 not voting.

The motion lost with 13 ayes, 23 nays and 13 not voting.

Mr. F. Lewis moved to reconsider action on LB 6 to reinsert original section 2.

Mr. Goodrich moved the previous question. The question is, “Shall the debate now close?” The motion lost with 24 ayes, 2 nays and 23 not voting.

The F. Lewis motion to reconsider section 2 lost with 12 ayes, 26 nays and 11 not voting.

Mr. Mills requested a machine vote on advancing LB 6.

LB 6 advanced to E & R for Engrossment with 33 ayes, 9 nays and 7 not voting.

ATTORNEY GENERAL'S OPINIONS

Opinion No. 137
November 6, 1975

Dear Senators Goodrich and Syas:

You have written to this office requesting our advice as to the requisite
number of votes for the passage of LB 6 with the Bereuter amendment which is now being considered by the Legislature. You state that LB 6 is presently the same as introduced at the request of the Governor except for two changes. One change is the elimination of section 31 of LB 6 and the other is the addition of the “Bereuter Amendment.”

In order to respond to your request as promptly as possible, we have discussed the “Bereuter Amendment” with Senator Bereuter and with the Legislative Fiscal Analyst. We have not checked each of these items of appropriation against the original appropriation made during the 1975 Session. In our discussion with the above named individuals, we were assured that no new or greater appropriation has been made in the “Bereuter Amendment” in addition to or in excess of the amount appropriated for the same purposes in the regular Session of 1975. Reductions have been made and the payment of appropriations has been directed to different funds than those indicated in the original appropriation. We are thus assuming that there is no new appropriation or greater appropriation made in these provisions. Were such the case and a greater or new appropriation be included then, of course, the requirement of Section 22, Article III, Constitution of Nebraska, would come into play with reference to deficiency appropriations. This section, in part, provides:

“... And whenever it is deemed necessary to make further appropriations for deficiencies, the same shall require a two-thirds vote of all the members elected to the Legislature. . . .”

The number of votes required for the passage of an act is set forth in Section 13, Article III, of the Constitution which provides that a majority of the members elected to the Legislature must vote for passage. However, Section 27, Article III, of the Constitution provides that no act shall take effect until three calendar months after the adjournment of the session at which it was passed. The exception to this would be with the proper inclusion of the emergency clause. In such event, the requirement is for a two-thirds vote of the members elected. Thus for mere passage of the act, twenty-five votes are needed and for passage with the emergency clause, thirty-three votes would be needed. Also thirty-three votes of the members elected would be needed to approve a deficiency appropriation bill.

Yours very truly,

PAUL L. DOUGLAS
Attorney General

(Signed) Gerald S. Vitamvas
Deputy Attorney General

cc Mr. Vincent D. Brown
Clerk of the Legislature
Dear Senator Carsten:

In your letter of November 6, 1975 you ask whether it would be advisable to amend sec. 77-2715.01 (1) (d), Supp. 1975. Sec. 77-2715.01 makes provision for the setting of the sales and income tax rates by the State Board of Equalization, and subsection (1) (d) provides in part:

"The board shall then set the rates of the sales tax and income tax so that the estimated funds available pursuant to subdivision (c) of this subsection plus estimated receipts from the sales, use, income, and franchise taxes will be not less than five per cent in excess of the appropriations and express obligations for the next two succeeding calendar years. . . ."

Your specific question with respect to this statutory provision is whether it would be advisable to have a specific limitation on the reserve provided for by the provision in question. We conclude that it would be wise, and that it might eliminate a possibly successful attack on the constitutionality of this provision. It is true that in Anderson v. Tiemann, 182 Neb. 393, 155 N.W.2d 322 (1967), the court discussed the general question of the delegation of legislative power to the State Board of Equalization and Assessment to set the tax rates, pursuant to sec. 77-2715.01, and held that the bill constituted a valid and lawful delegation of authority to the board, and did not violate the Constitutions of Nebraska or the United States. However, we have examined the plaintiff's petition in that case, and the briefs filed in the Supreme Court. We find that the question of delegation of legislative authority to the state board was not mentioned in the petition, nor in the plaintiff's brief. The court did not specifically address its attention to the question of the five per cent reserve. Under those circumstances, we cannot regard Anderson v. Tiemann as being completely decisive of the question of the constitutional validity of this particular provision.

The basic difficulty we see with this provision is that it may be held to confer too much discretionary power upon the board, and therefore to be an unlawful delegation of legislative power. The fixing of tax rates is a legislative function. The Legislature, however, may delegate this function to an administrative body, but such power must be limited by standards prescribed in the legislative act. See Lincoln Dairy Company v. Finigan, 170 Neb. 777, 104 N. W. 2d 227 (1960), cited in Anderson v. Tiemann. The general theory in this area, particularly in one so clearly legislative as fixing tax rates, is that the exercise of discretion is largely the function of the Legislature, and that the administrative body carries out the legislative purpose under standards prescribed by the Legislature. Applied to the rate fixing function, the theory, which the court approved in Anderson v. Tiemann, is that the state board is simply performing the mechanical
function of making the necessary computations, based upon ascertainable figures specified in the statute. This theory breaks down somewhat when an open-ended figure of "not less than five per cent" is used. In theory, this could permit the board to set the tax rates at such figures as to produce an excess of five per cent, ten per cent, twenty per cent, or more, in their discretion, with no standards to limit the exercise of that discretion.

Since the court did not discuss this specific question, and since it was not directed to the attention of the court by the litigants, we cannot say with any confidence that the court might not now invalidate this provision, if it was called to its attention. We are therefore of the opinion that it would be well to provide for an upper limit to the reserve which may be provided for in the rate setting operation.

Very truly yours,

(Signed) PAUL L. DOUGLAS
Attorney General

(Signed) Ralph H. Gillan
Assistant Attorney General

RHG:saa
cc: Mr. Vincent D. Brown
Clerk of the Legislature

NOTICE OF COMMITTEE HEARING
Committee on Committees

November 6, 1975

The Committee on Committees will meet at 12:00 Noon Friday, November 7th, 1975, in the Legislative Council Hearing Room, Room 2102, for the purpose of hearing the following appointment by Governor J. J. Exon, in accordance with Section 84-304 of the Revised Statutes:

Mr. Charles R. Patteson — Auditor of Public Accounts

(Signed) John S. Savage, Chairman

PRESIDENT SIGNS

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 2.

MOTION—Return LB 4 to Select File

Mr. Cavanaugh moved to return LB 4 to Select File for the following specific amendment:
AMENDMENTS TO L.B. 4, as AMENDED

1. Insert a new section 1 to read as follows:

"Section 1. That section 77-2703, Revised Statutes Supplement, 1974, be amended to read as follows:

77-2703. (1) There is hereby imposed a tax of two and one half per cent upon the gross receipts from all sales of tangible personal property sold at retail in this state, the gross receipts of every person engaged as a public utility or as a community antenna television service operator, and the gross receipts from the sale of admissions in this state until January 1, 1970, and on and after such date the rate shall be that which is set by the State Board of Equalization and Assessment as provided in section 77-2715.01. When there is a sale, as defined in subdivision (13) of section 77-2702, after March 26, 1974, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his books and records.

2. On page 2, line 7 after "year" insert an underscored period; strike beginning with the comma in line 7 through the period in line 10 and show as stricken; in line 18 strike "sales and" and show as stricken and strike "rates" and insert "rates rate"; in line 20 strike "rates" and insert "rates the income tax rate"; and in line 27 strike "rates" and insert "rates rate".

3. On page 3, line 1 strike "rates" and insert "rates income tax rate"; and in line 25 strike "sales, use," and show as stricken and strike the last comma in line 25 and show as stricken.

4. On page 4 strike beginning with "rates" in line 2 through "and" in line 3 and show as stricken; in line 3 after "tax" insert "rate"; in line 5 strike "sales, use," and show as stricken and in line 5 strike the comma after "income" and show as stricken; strike lines 16 to 20 and show as stricken and in line 21 strike "(f)" and insert "(f)(e)".

5. On page 5, line 2 strike "(g)" and insert "(g) (f)"; strike beginning with "sales" in line 2 through "the" in line 4 and show as stricken; in line 4 after "fixed" insert "by the board"; in line 6 strike "(h)" and insert "(h)-(g)"; and in line 20 strike "rates for sales tax and" and show as stricken and insert "rate for the".

6. On page 6, line 1 strike "rates" and insert "rates income tax rate"; strike beginning with the second "such" in line 7 through "and" in line 9 and show as stricken; in line 18 after "section" insert "77-2703, Revised Statutes Supplement, 1974, and section"; and in line 19 strike "is" and insert "are".
7. Renumber original sections 1 to 3 as sections 2 to 4 respectively.

Mr. Cavanaugh requested a record vote.

Voting in the affirmative, 12:

- Anderson
- Goodrich
- Simpson
- Cavanaugh
- F. Lewis
- Syas
- Chambers
- Mahoney
- Fitzgerald
- Moylan
- Fowler
- Savage

Voting in the negative, 27:

- Burbach
- George
- Kime
- Maresh
- Rasmussen
- Warner
- Carsten
- Hasebroock
- Koch
- Marsh
- Rumery
- Wiltse
- Clark
- Johnson
- Kremer
- Marvel
- Schmit
- Not voting, 10:

- Barnett
- Duis
- Bereuter
- Kennedy
- Burrows
- Mills
- DeCamp
- Skarda
- Dickinson
- Swigart

The motion lost with 12 ayes, 27 nays and 10 not voting.
MOTION—Return LB 4 to Select File

Mr. Carsten moved to return LB 4 to Select File for the following specific amendment:

1. In the Burbach amendment 1, line 4, insert "two nor more than" after "than".

Mr. Dworak moved to amend the Carsten motion as follows:

1. In the Carsten amendment 1, line 4, insert "two nor more than 5%" after "not".

The Chair ruled the Dworak amendment was in order.

Mr. Warner appealed the decision of the Chair. The question is, "Shall the Chair be overruled?" The motion prevailed with 27 ayes, 0 nays and 22 not voting.

The Chair was overruled.

The Carsten motion prevailed with 30 ayes, 9 nays and 10 not voting.

SELECT FILE

LEGISLATIVE BILL 4. The Carsten specific amendment found in this day's Journal was adopted with 32 ayes, 6 nays and 11 not voting.

Advanced to E & R for Engrossment.

MOTION—Return LB 4 to Select File

Mr. Dworak moved to return LB 4 to Select File for the following specific amendment:

In the Carsten amendment 1, line 4, insert "two nor more than 5%" after "not".

The motion lost with 15 ayes, 21 nays and 13 not voting.

UNANIMOUS CONSENT—Unbracket LB 5

Speaker Burbach asked unanimous consent to unbracket LB 5 on Select File. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 5. Advanced to E & R for Engrossment.
MOTION—Return LB 4 to Select File

Mr. Murphy moved to return LB 4 to Select File for the following specific amendment:

Amend the Burbach amendment to LB 4 as follows:
Line 5 – After “three per cent” insert “nor more than seven per cent”

The motion lost with 14 ayes, 24 nays and 11 not voting.

MOTION—Return LB 4 to Select File

Mr. Cavanaugh moved to return LB 4 to Select File for the following specific amendment:

1. On page 4, strike lines 16 to 20 and show as stricken and insert:

“(e) The rates of the sales and income taxes shall be fixed so that the total individual income tax levied will not exceed by more than twenty-five per cent the total sales and use taxes levied for the calendar year for which the rates so fixed will be effective.”

Mr. Luedtke asked the Chair if the amendment was within the Call. The Chair ruled the amendment was.

Mr. Cavanaugh requested a record vote.

Voting in the affirmative, 16:

Anderson Barnett Burrows Cavanaugh Fitzgerald
Fowler Goodrich Keyes F. Lewis Mahoney
Mills Moylan Savage Simpson Swigart
Syas

Voting in the negative, 27:

Bereuter Burbach Carsten Clark Cope
Duis Dworak George Hasebroock Johnson
Kelly Kime Koch Kremer R. Lewis
Luedtke Maresh Marsh Murphy Nichol
Rasmussen Rumery Schmit Stoney Stull
Warner Wiltse

Not voting, 6:

Chambers DeCamp Dickinson Kennedy Marvel
Skarda

The motion lost with 16 ayes, 27 nays and 6 not voting.
MOTION—Return LB 4 to Select File

Mr. Kelly moved to return LB 4 to Select File for the following specific amendment:
   Line 4 strike "not less than" in Burbach amendment

The motion lost with 7 ayes, 35 nays and 7 not voting.

ANNOUNCEMENT

Mr. Marvel announced a meeting of the Appropriations Committee in Room 1003 at 9:00 a.m., Friday morning.

ADJOURNMENT

At 5:18 p.m., on a motion by Speaker Burbach, the Legislature adjourned until 3:00 p.m., Friday, November 7, 1975.

Vincent D. Brown
Clerk of the Legislature
Pursuant to adjournment, the Legislature met at 3:00 p.m., Speaker Burbach presiding.

PRAYER

The prayer was offered by the Chaplain.

O Lord, if it were just a question of a three per cent cut the decision might be a lot easier, but so many attendant questions are also involved: which three per cent? why? when? where? and what is most important?

So often we feel we are caught in the squeeze between actually serving, and only sitting around and trying to serve; between what is expected of us, and what is possible for us; between what is demanded, and what we can deliver; between the aspirations of the many, and the limitations of their representatives.

Guide us in our predicament, and ease the pressures that tend to squeeze us, so that the time remaining may be redeemed from the luxury of waiting, the rust of wasting, and fulfilled by the knowledge that we have done our best, together, and by Your help. Amen.

ROLL CALL

The roll was called and all members were present except Messrs. Stull and Wiltse who were excused and Messrs. Anderson, Koch, Johnson, Nichol, Mahoney, and Skarda who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 68, line 7, strike “Wednesday” and insert “Thursday.”

The Journal for the Fifth day was approved as corrected.
SIXTH DAY—NOVEMBER 7, 1975

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 3. Correctly Engrossed.
LEGISLATIVE BILL 4. Correctly Engrossed.
LEGISLATIVE BILL 5. Correctly Engrossed.

(Signed) Donald N. Dworak, Chairman

SELECT COMMITTEE REPORT
Committee on Committees

November 6, 1975

The Committee on Committees desires to report favorably upon the appointments or reappointments listed below which were submitted by J. J. Exon. The Committee suggests the appointments be confirmed by the Legislative Body and suggest a record vote.

R. James Pearson – Department of Motor Vehicles

Senator Burbach and Senator Hasebroock appeared in support of Mr. Pearson's appointment and no one appeared in opposition.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

Tom C. Allington – Board of Educational Lands and Funds

Senator Clark appeared in support of Mr. Allington's appointment and no one appeared in opposition.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

Wendell Gangwish – Environmental Control Council

Senator Cope appeared in support of Mr. Gangwish's appointment and no one appeared in opposition.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.
John T. Harris – Environmental Control Council

No one appeared in support and no one appeared in opposition to Mr. Harris' appointment.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

Martin Kahle – Environmental Control Council

Senator Cope appeared in support of Mr. Kahle's appointment and no one appeared in opposition.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

Dr. James H. Walston – Environmental Control Council

No one appeared in support and no one appeared in opposition to Mr. Walston's reappointment.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

Charles O. Morehouse – Public Employees Retirement Board

Senator Clark appeared in support of Mr. Morehouse's appointment and no one appeared in opposition.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

Ray L. Smith – Oil & Gas Conservation Commission

Senator Clark appeared in support of Mr. Smith's appointment and no one appeared in opposition.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.
Margaret Sullivan – Public Employees Retirement Board

No one appeared in support of and no one appeared in opposition to Ms. Sullivan's appointment.

Committee Vote: For: (8) Senators Clark, Hasebroock, Kelly, Keyes, Kime, Koch, Marsh, and Savage. Against: None. Absent and not voting: (5) Senators Chambers, DeCamp, Duis, Skarda, and Wiltse.

(Signed) John S. Savage, Chairman

MESSAGE FROM THE GOVERNOR

November 7, 1975

Mr. President, Mr. Speaker,  
and Members of the Legislature  
State Capitol Building  
Lincoln, Nebraska

Dear Mr. President and Senators:

The Legislature has essentially eliminated the three point total program that I offered to hold the line on the state sales and income taxes. Nevertheless, I feel that it is necessary that all have an understanding of what the situation actually is as a result of your actions thus far in the special session.

I am advised by the Tax Commissioner that an increase in taxes has been mandated by your actions. At best the income tax would increase by 25% from 12% to 15%. The sales tax might conceivably be held at 2½%, pending final accumulations of all figures and factors, but we are perilously close to forcing this up to 3%. If this would happen, the income tax might be held to 13 or 14%.

Confusion has so abounded on the floor, that one Senator mistakenly said yesterday that we might see a $25 million reduction in expenditures. The terms "cuts" and "reduction in expenditures" have been used with great inaccuracy by members of the Legislature.

The fact is that the majority of your body has not cut a penny in spending aside from what I recommended in my message and bills of October 22. You have actually scuttled over one half of the $6.9 million in the operations budget cuts that I proposed.

In so doing, you have let the University of Nebraska, our largest spender of state tax dollars, and others completely off the hook.

I have strong objection to your majority actions of yesterday in that you accepted my reductions from those agencies who, in the interest of cooperation and conservation of funds made an honest effort to decrease
spending by 3% while you let off Scott-free some of the largest spenders who traditionally take the "poverty oath" when it comes to limiting spending.

Legislative action to date has essentially been one of not reducing but "postponing" or "deferring" capital construction authorizations into the next fiscal year by a series of parliamentary maneuvers and budget manipulations. They cannot be interpreted as "cuts" in spending.

These are the figures you have produced as of your adjournment last evening:

<table>
<thead>
<tr>
<th></th>
<th>Governor's recommendation</th>
<th>Majority legislative action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating fund reduction</td>
<td>6.9 million</td>
<td>2.9 million</td>
</tr>
<tr>
<td>Excess education aid funds</td>
<td>2.5</td>
<td>2.5</td>
</tr>
<tr>
<td>Governor's emergency fund</td>
<td>1.0</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>10.4 million</td>
<td>6.4 million</td>
</tr>
</tbody>
</table>

In addition to your rejection of my suggested actual reduction of $10.4 million to only $6.4 million, the legislative majority has "deferred" or "delayed" but certainly not cut $1.3 million from sewage treatment funds not scheduled for expenditure by June 30, 1976. Furthermore, an additional $8.2 million again has simply been deferred but not cut from authorized spending.

Certainly we will be required to appropriate next year new funds for these deferrals or illusory budget cuts of $9.5 million.

You will note that while some Senators have been harping about recognizing "express obligations," such has not been recognized in the projected tax rate increases. If the term has any meaning at all, for the purposes of rate setting, which I doubt, it would push the projected tax increases higher.

"Express obligations" is so vague and void of meaning that the Legislature itself failed to give it any consideration last year when you set a maximum income tax rate of 12%. You have done the same thing in your tax rate discussions during the special session.

Because of the significant tax rate impact of your actions to date, I therefore urge you to consider once again my proposals before proceeding on your present course.

Very truly yours,

(Signed) J. James Exon
Governor

JJE:fw
SELECT COMMITTEE REPORTS
Committee on Committees

November 7, 1975

The Committee on Committees desires to report favorably upon the appointments or reappointments listed below which were submitted by J. J. Exon. The Committee suggests the appointments be confirmed by the Legislative Body and suggest a record vote.

Senator Carsten and Senator Warner substituted on the Committee on Committees on Friday, November 7th, 1975 to complete a quorum.

Gary Shults
Agricultural Products Industrial Utilization Committee

No one appeared in support and no one appeared in opposition to Mr. Shults' appointment.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.

Holly Hodge
Agricultural Products Industrial Utilization Committee

Senator Duis appeared in support of Mr. Hodge's appointment and no one appeared in opposition.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.

Robert Rauner
Agricultural Products Industrial Utilization Committee

Senator Clark appeared in support of Mr. Rauner's appointment and no one appeared in opposition.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.
Ronald Kelly
Agricultural Products Industrial Utilization Committee

No one appeared in support of and no one appeared in opposition to Mr. Kelly's appointment.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.

John Sullivan
Agricultural Products Industrial Utilization Committee

No one appeared in support of and no one appeared in opposition of Mr. Sullivan's appointment.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.

Jack Quackenbush
Agricultural Products Industrial Utilization Committee

Senator Carsten appeared in support of Mr. Quackenbush's appointment and no one appeared in opposition.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.

Charles R. Patteson
Analyst for Mr. Ray Johnson, Auditor of Public Accounts

Mr. Harvey Carne, Office of Auditor of Public Accounts, appeared in support of Mr. Patteson's appointment and no one appeared in opposition.

Committee Vote: For: (9) Senators Clark, DeCamp, Duis, Kelly, Keyes, Marsh, Savage, Warner, and Carsten. Against: None. Absent and not voting: (6) Senators Chambers, Hasebroock, Kime, Koch, Skarda, and Wiltse.

(Signed) John S. Savage, Chairman
UNANIMOUS CONSENT—Members Excused


EASE

The Legislature was at ease from 3:08 p.m. until 3:58 p.m.

UNANIMOUS CONSENT—Member Excused

Mr. Bereuter asked unanimous consent to be excused on Monday, November 10, 1975. No objections. So ordered.

ANNOUNCEMENT

Mr. Duis announced the Prayer Books by Dr. Palmer are available in the Clerk's office for the members.

NOTICE OF COMMITTEE HEARING

Committee on Committees

The Committee on Committees will meet at 12:00 Noon, Monday, November 10, 1975, in the Legislative Council Hearing Room, Room 2102, for the purpose of hearing the following appointment by Governor J. J. Exon.

George Rebensdorf – Board of Trustees of Nebraska State Colleges

(Signed) John S. Savage, Chairman

JSS:rab

ATTORNEY GENERAL’S OPINION

Opinion No. 140
November 7, 1975

Dear Senator Warner:

You have asked whether the Governor's power of line item veto of appropriations extends to appropriations made in special session which are reconsiderations of appropriations made in the regular session. Three portions of the Constitution are relevant to the consideration of this issue -- Article IV, Section 15, Article IV, Section 7 and Article IV, Section 8.

Article IV, Section 8 provides the authority for the Governor to call special sessions of the Legislature in extraordinary circumstances. It has been exercised at this time for the purpose of reviewing the appropriations made in the regular session. Article IV, Section 7 provides in part:
"... No appropriations shall be made in excess of the recommendation contained in such budget including any amendment the Governor may make thereto unless by three-fifths vote of the Legislature, and such excess so approved shall be subject to veto by the Governor."

Article IV, Section 15 provides in part as follows:

"Every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor. If he approves he shall sign it, and thereupon it shall become a law, but if he does not approve or reduces any item or items of appropriations, he shall return it with his objections to the Legislature, which shall enter the objections at large upon its journal, and proceed to reconsider the bill.... The Governor may disapprove or reduce any item or items of appropriation contained in bills passed by the Legislature, and the item or items so disapproved shall be stricken therefrom, and the items reduced shall remain as reduced unless repassed in the manner herein prescribed in cases of disapproval of bills." (Emphasis added).

An amendment to the Constitution becomes an integral part of the document. It must be harmonized if possible with all other provisions and effect must be given to every section and clause of the entire instrument. Swanson v. State, 132 Neb. 82, 271 N.W. 264. It should be remembered that the line item veto was adopted in 1972 as an amendment to the Constitution. Effect must be given if possible to all parts of the Constitution. While Section 7 states that no appropriation shall be made in excess of the Governor's recommendation as contained in the budget, Article IV, Section 15 provides that the Governor may disapprove or reduce any item of appropriation contained in bills passed by the Legislature. This is a much broader power than the restriction upon legislative action contained in Section 7.

Article IV, Section 15 refers to all items of appropriation in any bill passed by the Legislature. It is clear that actions taken in the form of bills at special sessions are just as much appropriations contained in the bills as those occurring at a regular session of the Legislature. There are no limitations contained in the Constitution on gubernatorial authority with regard to special sessions as distinguished from regular sessions. In fact, the only limitation found is that the Legislature may not enter upon business except that for which they were called contained in Section 8 of Article IV. Thus it is our opinion that the plain meaning of the words of the Constitution must be given effect, that is, that the Governor's power to veto or reduce appropriations made in bills is the same in a regular session as in a special session. The Supreme Court of the State of Nebraska has stated:

"...: 'We are indebted to the suffrage of the people for the adoption of all amendments submitted and indeed for the
adoption of the original Constitution which such amendments changed. From this fact it is patent that, where the language employed is plain, the courts should accord to it the meaning which obviously would be accepted by the layman.' . . .” See, State ex rel. Meyer v. State Board of Equalization and Assessment, 185 Neb. 488, 496, 176 N.W.2d 732 (1970).

Thus the language used in Article IV, Section 15 which refers to the power of the Governor to reduce any item or items of appropriation contained in bills refers to all bills whether passed at special or regular sessions of the Legislature.

Very truly yours,

PAUL L. DOUGLAS
Attorney General

(Signed) Patrick T. O'Brien
Special Assistant Attorney General

PTO:smh
cc: Mr. Vincent D. Brown
Clerk of the Legislature
State Capitol Building
Lincoln, Nebraska

VISITORS

The Speaker introduced 41 students and sponsors from Ord High School.

DISCUSSION

The members discussed the Governor's letter found in this Day's Journal.

RESOLUTION

LEGISLATIVE RESOLUTION 3.

Introduced by F. Lewis, 45th District.

WHEREAS, the American Indian is a true native of North America, which later became the United States of America; and

WHEREAS, the American Indians were the original inhabitants of the territory of Nebraska – later to become the State of Nebraska; and

WHEREAS, for two hundred years the several tribes of Nebraska Indians have been denied the rights, privileges, and opportunities that all other Nebraska citizens have enjoyed these two centuries.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FOURTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:
1. That all Nebraska citizens, of all races and creeds, strive to promote unity of action in programs to permit Nebraska Indians to better understand their own community of interest and to enhance their economic opportunity and self-determination and to receive and evaluate proposals for projects and activities initiated by Indian Groups.

2. That all Nebraska citizens cooperate with and help coordinate the projects and activities of the United Indians of Nebraska, local community action committee agencies, and other Indian organizations.

3. That all Nebraska citizens challenge and appeal to government, industrial, religious, and other private sources of capital to support Nebraska Indians in their economic development and their need of Indian services.

Laid over.

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 6. Replaced on Select File as amended.
E & R amendments to LB 6:

1. Renumber sections as follows:
   LB 6 as introduced — sections 3, 4, 6 to 9, 12, 14 to 17, 19, 21 to 24, 26 to 33, 35, 38, 39, 43 to 46, 48 to 50, and 62 to 65, as sections 1 to 38, respectively, new section 67, added by the Marvel amendment as section 39, sections 1 to 33 of committee amendments as sections 40 to 72 respectively, sections 35 to 38 of committee amendments as sections 73 to 76 respectively, sections 104 to 106 added by the Schmit amendments as sections 77 to 79 respectively, and original sections 67 to 69 as sections 80 to 82 respectively.

2. Strike committee amendment 2.

3. In line 4 of E & R 3 adopted 11/6, insert ", line 2," after "66".


5. In renumbered section 39, line 3, strike the comma.

6. In the second Clark amendment 1, found on page 71 of the Journal, strike "83rd Legislature, Second Session."

7. In line 2 of the Warner amendment 4 as amended by the Cavanaugh amendment, insert "and show as stricken" after "1".

8. In renumbered section 77, line 1, insert "outstanding" after "all"; and in line 4 insert "on which bills for" after "date".
9. In renumbered section 78, line 4, strike "104" and insert "77."

10. In renumbered section 79, line 2, strike "105" and insert "78"; in line 3, insert an underscored comma after "days"; and in the last line strike "104 to 106" and insert "77 to 79".

11. Pursuant to the Burrows amendment to page 61, on page 65, line 24, as amended, strike "27,727,088" and insert "27,892,976"; and on page 66, line 2, as amended, strike "41,489,815" and insert "41,655,703".

12. In committee amendments, page 22, line 6, strike "1 to 34" and insert "40 to 72".

13. Strike the Schmit amendments 2 and 3 found on page 47 of the Journal.

14. On page 149, strike beginning with "section" in line 11 through line 12; in line 13 strike "2 to 4, 6" and insert "3, 4, 7"; strike line 15 through the third "to" and insert "6 to 9, 11, 13 to 16, 19, and"; in line 16 strike "sections" and insert "section"; in line 17 strike "3", and strike "and 10,"; in line 20 strike "9 and 11" and insert "7, 9, and"; in line 21 strike "to"; in line 24 strike "3 to" and strike "22,"; strike beginning with "section" in line 25 through "10" on page 150, line 2 and insert "section 2"; on page 150, line 4, strike "sections 11 to" and insert "section"; in line 11 strike "and"; and in line 12, after "1975" insert ", section 77-2602, Revised Statutes Supplement, 1974, and section 32, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, with items disapproved pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, and also sections 7 and 37, Legislative Bill 256, Eighty-third Legislature, First Session, 1973, sections 2, 3, 7, 16, 17, 35, and 52, Legislative Bill 1055, Eighty-third Legislature, Second Session, 1974, section 3, Legislative Bill 1058, Eighty-third Legislature, Second Session, 1974, Legislative Bills 215A and 417A, Eighty-fourth Legislature, First Session, 1975, section 1, Legislative Bill 553, Eighty-fourth Legislature, First Session, 1975, sections 2 to 6, 13, 14, 16, 18 to 21, 23, and 25, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, and sections 3, 4, and 6, Legislative Bill 611, Eighty-fourth Legislature, First Session, 1975".

15. In the title, strike beginning with "section" in line 2 through the third comma in line 4; in line 4 strike "2"; in line 5 strike "to 4, 6" and insert "3, 4, 7"; strike line 7 and insert "1975, sections"
6 to 9, 11, 13 to 16, 19, and”; in lines 9 and 10 strike “sections 3, 4, and 10” and insert “section 4”; in line 14 strike “9 and 11 to” and insert “7, 9, and”; in line 18 strike “3”; in line 19 strike “to” and strike “22,”; strike beginning with “section” in line 21 through line 25 and insert “section 2”; in line 26 strike “6 to 10”; in lines 27 and 28 strike “sections 11 to” and insert “section”; in line 37, strike “and”; in line 39, after “1975” insert “, section 77-2602, Revised Statutes Supplement, 1974, and section 32, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, with items disapproved pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska”; strike line 40 and through the first semicolon in line 41 and insert “to appropriate and reappropriate funds; to provide directions; to provide for capital construction; to provide for the payment of accounts; to provide for construction;”; and after “sections” in line 42 insert “, and also sections 7 and 37, Legislative Bill 256, Eighty-third Legislature, First Session, 1973, sections 2, 3, 7, 16, 17, 35, and 52, Legislative Bill 1055, Eighty-third Legislature, Second Session, 1974, section 3, Legislative Bill 1058, Eighty-third Legislature, Second Session, 1974, Legislative Bills 215A and 417A, Eighty-fourth Legislature, First Session, 1975, section 1, Legislative Bill 553, Eighty-fourth Legislature, First Session, 1975, sections 2 to 6, 13, 14, 16, 18 to 21, 23, and 25, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, and sections 3, 4, and 6, Legislative Bill 611, Eighty-fourth Legislature, First Session, 1975”.

(Signed) Donald N. Dworak, Chairman

SELECT FILE

LEGISLATIVE BILL 6. E & R amendments found in this day’s Journal were adopted.

Advanced to E & R for Engrossment.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: LB 6.

(Signed) Donald N. Dworak, Chairman
MOTION—Tax Commissioner

Mr. Swigart moved to have the Tax Commissioner meet with the members at 2:00 p.m., Monday, November 10, 1975.

The motion prevailed with 26 ayes, 2 nays and 21 not voting.

ADJOURNMENT

At 4:23 p.m., on a motion by Mr. Simpson, the Legislature adjourned until 2:00 p.m., Monday, November 10, 1975.

Vincent D. Brown
Clerk of the Legislature
Pursuant to adjournment, the Legislature met at 2:00 p.m., President Whelan presiding.

PRAYER

The prayer was offered by the Chaplain.

Lord Jesus, when we get sick of ourselves, ashamed of our littleness, our selfishness, and the petty things that irritate us, then let it be the beginning of spiritual health by making us willing to have thee create in us clean hearts and renew right spirits within us. Hold us steady lest we lose our poise. Guard our speech lest by cutting words and careless deeds we hurt our colleagues in the cause for which we seek. Where we differ in approach to a problem, may we ever be open to consider another and a better way, guided, not by whether it be popular, or expedient, or practical, but always whether it be right. Hear our prayer, O Lord, and help us, through Jesus Christ. Amen.

ROLL CALL

The roll was called and all members were present except Messrs. Bereuter, Kremer, Mahoney, Moylan, Simpson and Warner who were excused; Mr. Marvel who was excused until he arrives; and Mr. Nichol who was absent.

CORRECTIONS FOR THE JOURNAL

Correct the Committee on Committee report page 93, line 21 to read “Mr. Hodge” instead of “Ms. Hodge”.

(Signed) John S. Savage

The Journal for the Sixth Day was approved as corrected.
Mr. R. Lewis asked unanimous consent to be excused tomorrow. No objections. So ordered.

Speaker Burbach asked unanimous consent to print the following Attorney General's Opinion in the Journal and have copies passed out to the members. No objections. So ordered.

Opinion No. 141
November 10, 1975

The Honorable J. James Exon
Governor of the State of Nebraska
State Capitol Building
Lincoln, Nebraska

Dear Governor:

In your letter of November 6, 1975, you ask our opinion as to the constitutional validity of the language in Sections 77-2715.01 and 77-2715.03, 1975 Supp., requiring the State Board of Equalization and Assessment to take into account in setting sales and income tax rates "express obligations," as defined in those sections. We believe there may be some difficulty in sustaining some of the language involved. Section 77-2715.01(1)(h), provides:

"For purposes of this section, express obligation shall mean an obligation which has fiscal impact identifiable by a sum certain or by an established percentage or other determinative factor or factors."

Section 77-2715.03 provides:

"(1) For the purposes of sections 77-2715.01 to 77-2715.03 and 77-2734, express obligations shall include, but not be limited to, incremental increases in the homestead exemption, personal property tax relief, specific appropriations for future years, or other items identified by the State Board of Equalization and Assessment as express obligations under the provisions of subsections (2) and (3) of this section.

"(2) The State Board of Equalization and Assessment shall adopt and promulgate rules and regulations pursuant to Chapter 84, article 9, prescribing what the board considers to be an express obligation for purposes of section 77-2715.01, estimates of costs for each of the obligations, and the method of determining such costs.

"(3) The State Board of Equalization and Assessment shall
annually submit a statement to the Governor and the Clerk of the Legislature identifying all express obligations, along with the factors considered in making such determinations, and the costs of such obligations. Such statement shall be submitted on or before September 1 of each year. The clerk shall distribute copies of the statement to each member of the Legislature and to the Legislative Fiscal Analyst.

In approaching this problem, we must remember that the fixing of tax rates is a legislative function. In *Anderson v. Tiemann*, 182 Neb. 393, 155 N.W.2d 322 (1967), the court held that the delegation of the rate-fixing power to the State Board of Equalization and Assessment was proper, under the standards set up in the act. The court cited *Lincoln Dairy Company v. Finnigan*, 170 Neb. 777, 104 N.W.2d 227 (1960). In that case the court held that the delegation of power to an administrative body to carry out an expressed legislative purpose was not the delegation of legislative powers, but of administrative ones, but that it was fundamental that the grant of power must be limited to the expressed legislative purpose and administered in accordance with standards provided in the legislative act. It was the conclusion of the court in *Anderson v. Tiemann* that the act, as it then read, contained sufficient standards to enable the board to perform the delegated rate-fixing function.

The language we are considering, however, was not in the original sales and income tax act. In 1971, in LB 167, the Legislature first required the board to take into account “fixed obligations,” without defining the term. In 1973, Section 77-2715.01 was amended to require the board to take “express obligations” into account, and defined the term as found in subsection (1) (h). Section 77-2715.03 was adopted in 1975. *Anderson v. Tiemann* is therefore not helpful to us in determining the question you ask.

We do not believe that the definition found in Section 77-2715.01 is helpful. It attempts to define “express obligations” by the use of the word “obligation” and does not define what an obligation is. To what extent is the Legislature “obligated” to finance programs for which it has not yet appropriated money? There are many programs which, as a political matter, the Legislature is certain to continue, but can we say they are “obligations?” We think not. We do not believe it is proper to delegate to the State Board of Equalization and Assessment the decision as to whether or not taxes should be levied to support programs which, in the discretion of the Legislature, may be dropped. Section 77-2715.03 requires the board to adopt rules and regulations identifying express obligations being taken into account. No standards or guidelines are set out to limit the board. The power given is so broad that the court could very well hold that too much discretionary power has been given to the board. The exercise of discretion is a legislative function. In giving this broad, vague, ill-defined and unlimited power to the board, the Legislature may well have delegated
legislative powers, in violation of the Nebraska Constitution.

To the extent that "express obligations" have been identified, they can, and should be taken into account. Some are identified in Section 77-2715.03(1). We believe that in some cases the Legislature, in enacting statutes dealing with certain programs, have said that those programs should be considered express obligations by the state board. Where that has happened, the board should obey the legislative mandate. Other than that, we feel a court might well hold the statutory language too vague, and too broad, to comply with the constitutional requirements for the delegation of legislative functions to administrative bodies.

Very truly yours,
PAUL L. DOUGLAS
Attorney General
(Signed) Ralph H. Gillan
Assistant Attorney General

MESSAGE FROM THE GOVERNOR

November 7, 1975

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following appointment to the Board of Trustees of Nebraska State Colleges requiring legislative confirmation:

Appointment of George Rebensdor, 502 South 67th St., Omaha, to serve a term ending January 1, 1979. This vacancy was created by the resignation of George Egermayer of Omaha.

I respectfully submit this appointment for your consideration.

Sincerely,

(Signed) J. James Exon
Governor

SELECT COMMITTEE REPORT
Committee on Committees

November 10, 1975
The Committee on Committees desires to report favorably upon the appointment of Mr. George Rebensdorf to the Board of Trustees of Nebraska State Colleges. The Committee suggests the appointment be confirmed by the Legislative Body and suggests a record vote.

George Rebensdorf
Board of Trustees of Nebraska State Colleges

No one appeared in favor of Mr. Rebensdorf’s appointment and no one appeared in opposition.

Committee Vote: For: (7) Senators Kelly, Keyes, Kime, Marsh, Savage, Wiltsæ, and Murphy. Against: None. Absent and Not voting: (7) Senators Chambers, Clark, DeCamp, Duis, Hasebroock, Koch, and Skarda.

(Signed) John S. Savage, Chairman

RESOLUTION

LEGISLATIVE RESOLUTION 3. Read and Considered.

Laid over until Tuesday, November 11, 1975 at the request of Mr. F. Lewis.

UNANIMOUS CONSENT—Confirm Appointments

Mr. Savage asked unanimous consent to vote on confirmation of the Governor appointments referred to on pages 65, 73, 89 and 93 of the Legislative Journal in four separate votes. No objections. So ordered.


Voting in the affirmative, 36:

Anderson  Barnett  Burbach  Burrows  Carsten  Dickson
Cavanaugh  Chambers  Cope  DeCamp  Goodrich
Duis  Dworak  Fitzgerald  George  G. Lewis
Hasebroock  Kelly  Kennedy  Kime  Mills
R. Lewis  Luëdtke  Maresh  Marsh  Schmit
Murphy  Rasmussen  Rumery  Savage  Syas
Skarda  Stoney  Stull  Swigart  Syas
Wiltsæ
SEVENTH DAY—NOVEMBER 10, 1975

Voting in the negative, 0.

Not voting, 13:

<table>
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<tr>
<th>Bereuter</th>
<th>Clark</th>
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<th>Johnson</th>
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The Chair declared the appointments confirmed.


Voting in the affirmative, 36:

<table>
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<tr>
<th>Barnett</th>
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Voting in the negative, 0.

Not voting, 13:

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<tr>
<th>Anderson</th>
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The Chair declared the appointments confirmed.

Vote on R. James Pearson, Tom C. Allington, Wendell Gangwish, John T. Harris, Martin Kahle, Dr. James H. Walston, Charles O. Morehouse, Ray L. Smith, Margaret Sullivan.

Voting in the affirmative, 35:

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</table>
Voting in the negative, 0.

Not voting, 14:

Bereuter    Cavanaugh    Chambers    Clark    Goodrich
Kime        Kremer       R. Lewis     Mahoney  Marvel
Moylan      Nichol       Simpson     Warner

The Chair declared the appointments confirmed.


Voting in the affirmative, 39:

Anderson    Burbach    Burrows    Carsten    Cavanaugh
Chambers    Cope       DeCamp     Dickinson  Duis
Dworak      Fitzgerald Fowler   George    Goodrich
Hasebroock  Johnson    Kelly      Kennedy   Keyes
Kime        Koch       F. Lewis    R. Lewis   Luedtke
Maresh      Marsh      Mills      Murphy    Rasmussen
Rumery      Savage     Schmit     Skarda    Stoney
Stull       Swigart    Syas       Wiltse

Voting in the negative, 0.

Not voting, 10:

Barnett    Bereuter    Clark    Kremer    Mahoney
Marvel     Moylan      Nichol    Simpson  Warner

The Chair declared the appointments confirmed.

ANNOUNCEMENT

Mr. Barnett announced a meeting of the Executive Board immediately after Mr. Peters meets with the members today.

ADJOURNMENT

Speaker Burbach moved to adjourn until 9:00 a.m. The motion prevailed with 23 ayes, 12 nays and 14 not voting. The Legislature adjourned at 2:23 p.m. until 9:00 a.m., Tuesday, November 11, 1975.

Vincent D. Brown
Clerk of the Legislature
Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

PRAYER

The prayer was offered by the Chaplain.

O God, our Father, may the Session that is now concluding teach us and not torment us. Help us to be realistic about ourselves, and our accomplishments.

May we not steal credit for success, nor deny blame for failure. Give us the grace to take things as they are, and to resolve, by thy help, to make them what they ought to be, in the strong name of Jesus Christ our Lord.

So go with us as we leave this place, and remain with us during the coming weeks, as we prepare for our Session together in January, that through our private actions as citizens we may reinforce what, through our public actions as senators we have accomplished in this chamber, together. Amen.

ROLL CALL

The roll was called and all members were present except Mr. R. Lewis who was excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventh Day was approved.

MOTION—Confirm Appointment

Mr. Savage moved the adoption of the committee report on the Confirmation of George Rebensburg found in the Journal on page 105.
Voting in the affirmative, 36:

Anderson Barnett Burbach Burrows Clark
Cope DeCamp Duis Dworak George
Goodrich Hasebrook Johnson Kelly Kennedy
Keyes Koch Kremer F. Lewis Luedtke
Mahoney Maresh Marsh Mills Moylan
Nichol Rasmussen Rumery Savage Simpson
Skarda Stoney Swigart Syas Warner
Wiltse

Voting in the negative, 0.

Not voting, 13:

Bereuter Carsten Cavanaugh Chambers Dickinson
Fitzgerald Fowler Kime R. Lewis Marvel
Murphy Schmit Stull

The Chair declared the appointment confirmed.

**MOTION—Suspend Rules**

Speaker Burbach moved to suspend the rules, Rule 6, sec. 6b, and consider tomorrow's Final Readings today.

The motion prevailed with 41 ayes, 0 nays and 8 not voting.

**MOTION—Return LB 3 to Select File**

Mr. Murphy moved to return LB 3 to Select File for the following specific amendment:

To strike the present matter, and re-instate the original

Mr. Koch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 13 nays and 8 not voting.

The Murphy motion lost with 10 ayes, 33 nays and 6 not voting.

**BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 3. With Emergency.**

A BILL FOR AN ACT relating to state funds; to provide for monthly payments from such funds as prescribed; to provide for more rapid distribution of certain payments; to provide duties of the State Treasurer;
to amend sections 77-27,137, 77-27,137.01, and 79-1333, Reissue Revised Statutes of Nebraska, 1943, sections 77-202.22, 77-202.30, and 79-4,160, Revised Statutes Supplement, 1974, and section 43-648, Revised Statutes Supplement, 1975; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

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Voting in the negative, 2:

| Kime     | F. Lewis |

Not voting, 1:

| R. Lewis |

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**MOTION—Return LB 4 to Select File**

Mr. Duis moved to return LB 4 to Select File for the following specific amendment:

To return to original form plus committee amendments and the overlay to overlevy amendment.

Mrs. Marsh raised a point of order on whether we are on Final Reading and the Senators need be in their chairs.

The Chair ruled we are on Final Reading.
Mrs. Marsh appealed the decision of the Chair.

The question is, "Shall the Chair be overruled?" The motion lost with 15 ayes, 24 nays and 10 not voting.

Mr. Savage moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 13 nays and 11 not voting.

Mr. Duis requested a roll call vote.

Voting in the affirmative, 23:

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Voting in the negative, 23:

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Not voting, 3:

| Chambers | Johnson | R. Lewis |

The Duis motion lost with 23 ayes, 23 nays and 3 not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:


A BILL FOR AN ACT to amend section 77-2715.01, Revised Statutes Supplement, 1975, relating to taxation; to provide a standard for setting the 1976 tax rates; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"
EIGHTH DAY—NOVEMBER 11, 1975

Voting in the affirmative, 42:

Anderson Barnett Bereuter Burbach Carsten
Clark Cope DeCamp Dickinson Duis
Fitzgerald Fowler George Goodrich Hasebroock
Kelly Kennedy Keyes Kime Koch
Kremer Luedtke Mahoney Maresh Marsh
Marvel Mills Moylan Murphy Nichol
Rasmussen Rumery Savage Schmit Simpson
Skarda Stoney Stull Swigart Syas
Warner Wiltse

Voting in the negative, 5:

Burrows Cavanaugh Chambers Dworak F. Lewis

Not voting, 2:

Johnson R. Lewis

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT—Change of Order

Speaker Burbach asked unanimous consent to consider LB 6 on Final Reading before LB 5. No objections. So ordered.

MOTION—Return LB 6 to Select File

Mr. Dickinson moved to return LB 6 to Select File for the following specific amendment:

To return LB 6 to Select File for specific amendment that amendment being to strike all amendments adopted to this time, excluding mental health amendment.

Mr. Koch moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 30 ayes, 10 nays and 9 not voting.

The Dickinson motion lost with 16 ayes, 30 nays and 3 not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:

A BILL FOR AN ACT relating to appropriations; to amend sections 3, 4, 7 to 9, and 11, Legislative Bill 603, Eighty-fourth Legislature, First Session, 1975, sections 6 to 9, 11, 13 to 16, 19, and 20, Legislative Bill 604, Eighty-fourth Legislature, First Session, 1975, section 4, Legislative Bill 604, Eighty-fourth Legislature, First Session, 1975, with items reduced pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, sections 2 to 7, 9, and 13, Legislative Bill 605, Eighty-fourth Legislature, First Session, 1975, section 2, Legislative Bill 606, Eighty-fourth Legislature, First Session, 1975, sections 5, 8, 10, 12, 26, and 27, Legislative Bill 607, Eighty-fourth Legislature, First Session, 1975, section 2, Legislative Bill 610, Eighty-fourth Legislature, First Session, 1975, section 15, Legislative Bill 610, Eighty-fourth Legislature, First Session, 1975, with items reduced pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska, section 10, Legislative Bill 612, Eighty-fourth Legislature, First Session, 1975, section 77-2602, Revised Statutes Supplement, 1974, and section 32, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, with items disapproved pursuant to authority granted by Article IV, section 15, of the Constitution of Nebraska; to reduce General Fund appropriations; to appropriate and reappropriate funds; to provide directions; to provide for capital construction; to provide for the payment of accounts; to provide for construction; to provide severability; to repeal the original sections, and also sections 7 and 37, Legislative Bill 256, Eighty-third Legislature, First Session, 1973, sections 2, 3, 7, 16, 17, 35, and 52, Legislative Bill 1055, Eighty-third Legislature, Second Session, 1974, section 3, Legislative Bill 1058, Eighty-third Legislature, Second Session, 1974, Legislative Bills 215A and 417A, Eighty-fourth Legislature, First Session, 1975, section 1, Legislative Bill 553, Eighty-fourth Legislature, First Session, 1975, sections 2 to 6, 13, 14, 16, 18 to 21, 23, and 25, Legislative Bill 609, Eighty-fourth Legislature, First Session, 1975, and sections 3, 4, and 6, Legislative Bill 611, Eighty-fourth Legislature, First Session, 1975; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 42:

Anderson Bereuter Burbach Burrows Carsten
Cavanaugh Clark Cope DeCamp Dickinson
Duis Dworak Fitzgerald Fowler Goodrich
Hasebroock Johnson Keyes Kime Koch
Voting in the negative, 6:
Barnett Murphy

Not voting, 1:
R. Lewis

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT—Members Excused

Messrs. Marvel and Bereuter asked unanimous consent to be excused the remainder of the day. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 5. With Emergency.

A BILL FOR AN ACT to provide for the compensation of employees, mileage of members, and for supplies and other incidental expenses incurred during the Eighty-fourth Legislature, First Special Session, 1975; to make an appropriation therefor; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:
Voting in the negative, 1:
Barnett

Not voting, 3:
Bereuter  R. Lewis  Marvel

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Enrolled

The following bills were correctly enrolled: 3, 4, 5, and 6.

(Signed) Donald N. Dworak, Chairman

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 3, 4, 5, and 6.

UNANIMOUS CONSENT—Member Excused

Mr. Anderson asked unanimous consent to be excused the remainder of the day. No objections. So ordered.

EXPLANATION OF VOTE

Had I been present I would have voted:

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<th>Bill</th>
<th>Vote</th>
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<tbody>
<tr>
<td>LB 3</td>
<td>Yes</td>
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<td>LB 4</td>
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<td>LB 5</td>
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<td>LB 6</td>
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(Signed) Richard Lewis
EIGHTH DAY—NOVEMBER 11, 1975

RESOLUTION

LEGISLATIVE RESOLUTION 3. Read and Considered.

Speaker Burbach offered the following amendment to LR 3:

paragraph 1, last line insert "peaceful" before "Indian Groups"
paragraph 2, last line insert "peaceful" before "Indian Organizations"

The amendment was adopted with 31 ayes, 0 nays and 18 not voting.

Mr. Chambers offered the following amendment to LR 3:
Amend third "Whereas" to delete the word "all"

The amendment was adopted with 29 ayes, 0 nays and 20 not voting.

LR 3 was adopted, as amended, with 33 ayes, 0 nays and 16 not voting.

PRESENTED TO GOVERNOR

Presented to the Governor on November 11, 1975, at 11:25 a.m., were the following bills: 3, 4, 5, and 6.

(Signed) Emory P. Burnett
E & R Attorney

RESOLUTION

LEGISLATIVE RESOLUTION 4.

Introduced by DeCamp, 40th District; Schmit, 23rd District; Swigart, 8th District; Luedtke, 28th District.

WHEREAS, the Legislature was called into Special Session by Proclamation of the Governor on the fifteenth day of October, 1975; and
WHEREAS, the Governor in his message to the Legislature stated that the "twin demons of substantial tax increases on one hand and the inability to meet state obligations on the other" could be overcome if the Legislature adopted his total package of proposed legislation; and
WHEREAS, the Legislature convened in Special Session on October 22, 1975 and carefully deliberated upon the Governor's proposed remedies to "Nebraska's Financial Crunch"; and
WHEREAS, Legislative Bill 3, as amended by the Legislature directly deals with the cash flow problem by restructuring the method of payments to governmental subdivisions; and
WHEREAS, Legislative Bills 4 and 6, as amended provide (1) substantial reductions in General Funds appropriations, (2) availability of Capitol Construction Funds, and (3) greater flexibility to the State Board of Equalization and Assessment in setting the sales and income tax rates; and

WHEREAS, the Legislature has, in an even larger degree than the Governor had proposed, taken steps to avert a potential financial predicament in Nebraska; and

WHEREAS, the actions taken by the Legislature have eliminated the need for a sales tax increase and the need for any significant income tax increase; and

WHEREAS, by action taken on Legislative Bills 3, 4, and 6 the Legislature has with detail dealt with the issues for which the special session was called.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FOURTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Governor be encouraged and requested to develop and implement appropriate administrative procedures to carry out the policy embodied in Legislative Bills 3, 4, and 6, which policy is to (1) PREVENT ANY SALES TAX INCREASE, (2) TO SELECTIVELY ADJUST THE BUDGET WITH CUTS WHERE THEY CAN BEST BE ABSORBED WHILE NOT DAMAGING OR INFLECTING SERIOUS FINANCIAL PROBLEMS UPON AREAS OF GOVERNMENT WHICH AT THIS TIME MIGHT BE SERIOUSLY DAMAGED BY FINANCIAL CUTS, (3) AND FINALLY, TO GIVE THE GOVERNOR BOTH THE FLEXIBILITY AND THE DIRECTION TO KEEP NEBRASKA ON A SOUND FINANCIAL COURSE WHILE MAKING PROMPT PAYMENT OF STATE OBLIGATIONS.

2. That because the complexity of present tax problems affords the opportunity for confusion and misunderstanding, that a copy of this resolution be sent to all news media in this state to provide them additional information to aid them in their job of providing the people of Nebraska a clear and concise picture of (1) the nature of the problem, (2) the actions of the Legislature in the Legislature's work towards a resolution of the problem, and (3) the attitude of the Legislature that these actions should prevent any sales tax increase or any substantial income tax increase if the policies are properly administered and if the data provided to the Legislature is accurate.

Mr. DeCamp asked unanimous consent to consider LR 4 today. No objections. So ordered.

Mr. DeCamp moved LR 4 be adopted.

Mr. Koch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 15 nays and 9 not voting.
Mr. Cavanaugh requested a record vote on LR 4.

Voting in the affirmative, 25:

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Voting in the negative, 15:

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LR 4 was adopted with 25 ayes, 15 nays and 9 not voting.

MOTION—Advise Governor

Mr. Barnett moved that a committee of five be appointed to wait upon the Governor to advise him that the Legislature has completed its work and is ready to adjourn and to ask if he has any further message for the Legislature.

The motion prevailed. The Chair appointed Messrs. Barnett, Maresh, Burrows, Cavanaugh and DeCamp to serve on said committee.

The Committee returned and escorted Governor J. James Exon to the rostrum.

Governor Exon addressed the members briefly. The Committee escorted the Governor from the Chamber.

MOTION—Permanent Journal and Session Laws

Mr. Warner moved that the Clerk of the Legislature be instructed to send to each member of the Legislature, to the Lieutenant Governor, and to each authorized member of the press assigned to the Legislature for the Eighty-Fourth (First Special Session) Session a copy of the Permanent Legislative Journal of said session and a copy of the Session Laws passed thereat.
The motion prevailed.

**MOTION—Committee Records**

Mr. Dickinson moved that the chairman of each standing committee be requested to file with the Clerk of the Legislature any standing committee records, so that a proper record may be made of the final disposition of such bills.

The motion prevailed.

**MOTION—Retain Help**

Mr. George moved that the Executive Board of the Legislative Council be directed to retain such help as may be required to complete the business of the office for the Eighty-Fourth (First Special Session) Session of the Legislature.

The motion prevailed.

**MOTION—Approve Journal**

Mr. Kelly moved that the Legislative Journal for the Eighth Day be approved as prepared by the Clerk.

The motion prevailed.

**MOTION—Adjournment**

Mr. Skarda moved that the Eighty-Fourth (First Special Session) Session of the Legislature, having finished all business before it, now adjourn, sine die.

The motion prevailed and at 12:06 p.m. the Legislature adjourned sine die.

Vincent D. Brown
Clerk of the Legislature
I, Vincent D. Brown, Clerk of the Legislature, hereby certify that the foregoing is a true and correct copy of the Legislative Journal of the Eighty-fourth Legislature, First Special Session of the State of Nebraska, convened and held in the City of Lincoln, State of Nebraska, October 22, 1975 to November 11, 1975.

(Signed) Vincent D. Brown
Clerk of the Legislature
RECEIVED AFTER ADJOURNMENT

The Executive Office
November 14, 1975

Mr. Vince Brown
Clerk of the Legislature
State Capitol Building
Lincoln, Nebraska

Dear Mr. Brown:

We have received Engrossed Legislative Bills Nos. 3, 4, 5, and 6.

These bills were signed by me on November 14, 1975 and delivered to the Secretary of State.

Very truly yours,

(Signed) J. James Exon
Governor

JJE:fw
cc: The Honorable Allen Beermann