

tax rolls, our continued insistence in returning monies on that historical basis courted constitutional disaster, not only for the Legislature but in addition for the governmental subdivisions relying on the return of those dollars. The Nebraska Supreme Court, in its decision of Douglas versus Marsh, made it eminently clear that as of last year LB 882 was unconstitutional, notwithstanding the fact that in years to come the Legislature itself might take corrective action. The Nebraska Supreme Court said simply, you know, in dealing with classification systems, we believe that reliance on historical data which may no longer obtain courts or invites a successful constitutional challenge. Now as you and I know, the last historical data that we have to show the amounts of monies that local subdivisions lost by virtue, by virtue of our exempting actions was 1976. That is five years old. Now ranchers and farmers consider what has happened in five years' time in this state with center pivot irrigation systems. There has been at least a doubling of the numbers of center pivot irrigation systems in the past five years. These are systems that would have been placed on the tax rolls but for our total exemption of farm equipment. These are systems that no longer are in the count at all of valuation in counties. That in and of itself represents a major change in a data base which is not a recorded change. I think we make a tremendous mistake in pushing through this body a piece of legislation which is fraught with constitutional infirmity. Now I took the time to read and reread our Attorney General's Opinion of April 1st, 1981 to Senator Carsten regarding the Schmit formula, and in that opinion, Mr. Ralph Gillan, the Deputy Attorney General, suggests that maybe for two years, maybe for two years he could justify to a court the use of the Schmit formula, but that is it. I just don't believe that you and I do right by our county officials and our city officials and our school district officials by our continued insistence on a formula that is so subject to constitutional challenge. Now the Newell plan...the Newell plan has constitutional problems as well. Number one, it accepts the Schmit formula for this year right now. So it has already got that problem in it. But that is all it does. It says, the Schmit formula shall be used for this current fiscal year. It says, for next year... for next year, this coming year, we are going to use the state school aid formula for the lion's share of the money. Now that formula has been court tested and found all right. Now in my opinion, it is a lot better for us to send back at least four-sevenths of the money on a sound constitutional basis than for us to send back