

January 5, 1989

LB 48, 52, 84, 161-189

the Executive Board will meet in...the Reference Committee will meet in Room 2102 at three-fifteen today for purposes of referencing bills, Reference Committee at three-fifteen.

Mr. President, new bills. (Read LBs 161-189 by title for the first time. See pages 82-88 of the Legislative Journal.)

Mr. President, in addition to those items, I have requests from Senators Chambers, Nelson, Schellpeper, Hefner, Lamb, Crosby and Hartnett to add their name to LB 48 as co-introducer; Senator McFarland and Schellpeper to LB 52 as co-introducer and Senator Carson Rogers to LB 84 as co-introducer. (See page 88 of the Legislative Journal.)

PRESIDENT: No objections, so ordered.

CLERK: Mr. President, an announcement from the Agriculture Committee and signed by Senator Rod Johnson, the Ag Committee has selected Senator Owen Elmer as its Vice-Chairperson. Mr. President, I believe that is all that I have.

PRESIDENT: Ladies and gentlemen, we're about to start the proceedings for the afternoon, and we're very grateful to have with us Father Dawson this afternoon for our invocation. Would you please rise for Father Dawson.

FATHER DAWSON: (Prayer offered.)

PRESIDENT: Thank you, Father Dawson. Please feel free to stay with us as long as you like. We're privileged to have with us this afternoon the Nebraska National Guard who will present colors. Would you please rise.

PRESENTATION OF COLORS

PRESIDENT: Ladies and gentlemen of the National Guard, we appreciate your being with us and presenting the colors today. If I might say a word to those who will be escorting the folks in today, it will be necessary that we do it a little bit different than we usually do it. When one group of ushers brings in their group, please bring them up onto the stage and then retire back to your seats until the inauguration proceedings are over with and then I will call you back one group at a time to take your group back, because if we should all come in and all stay up here on the podium, we wouldn't have

January 9, 1989

LB 52, 58, 121, 187, 188

PRESIDENT NICHOL PRESIDING

PRESIDENT: Good morning, ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We have with us today as Chaplain of the day, Reverend John Loudon of the Eastridge Presbyterian Church. Would you please rise.

REVEREND LOUDON: (Prayer offered.)

PRESIDENT: Thank you, Reverend Loudon. Please come back and see us again. Roll call, please.

CLERK: There is a quorum present, Mr. President.

PRESIDENT: Thank you. Do you have any corrections to the Journal this morning?

CLERK: Mr. President, I do have a correction. (Read. See page 91 of the Legislative Journal.) That is the only correction that I have, Mr. President.

PRESIDENT: We will move on to the adoption of the temporary rules, please. Senator Moore, please.

SENATOR MOORE: Mr. President, members of the body, I simply move that we adopt the temporary rules this morning.

PRESIDENT: Thank you. All those in favor say aye. Opposed nay. They are adopted. Mr. Clerk, do you have any messages, reports, or announcements this morning?

CLERK: Yes, Mr. President, I do. Mr. President, the first order of business, we received a Reference Report from the Reference Committee referring LBs 1 through 101.

Mr. President, a series of unanimous consent requests: Senator Dierks to add his name to LB 58 as co-introducer, Senator Lamb to LB 188, Senator Lindsay to LB 187, Senator Scofield to LB 52, Senator Ashford to LB 121.

PRESIDENT: No objections, so ordered.

CLERK: Mr. President, a series of reports from a variety of Natural Resources Districts regarding payment of attorney fees as is required by statute. Those will be on file in my office

March 20, 1989

LB 188, 262, 311, 643  
LR 2

reviewed LB 311 and recommend the same be placed on Select File; LR 2CA, on Select File; and LB 643 on Select File, those signed by Senator Lindsay as Chair. Education Committee reports LB 188 as indefinitely postponed. That is signed by Senator Withem as Chair of the Education Committee. Amendments to be printed to LB 262 by Senators Lindsay and Ashford. That is all that I have, Mr. President. (See pages 1225-26 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, and let the record reflect that Senator McFarland had 15 first and second graders visiting with us this morning from Hawthorne School. They were in the north balcony and have since had to leave. Senator Moore, please.

SENATOR MOORE: I move we recess until 1:30 p.m.

SPEAKER BARRETT: You have heard the motion to recess until 1:30 p.m. Those in favor say aye. Opposed no. The ayes have it. Motion carried. We are recessed.

RECESS

PRESIDENT NICHOL PRESIDING

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Thank you. Senator Wehrbein, do you have some special guests back there you would like to introduce, and if you would go to your microphone and have them step out even with the columns there so we can see who they are, we'd like to know who your special guests are today.

SENATOR WEHRBEIN: Mr. President, members, yes, thank you. I'd like to introduce some special guests that are here on behalf of Ag Day. They will be going down to see the Governor in just a few minutes for some of their awards. First of all, it concerns a resolution I had this morning honoring Marlan and Mary Johnson from Eagle, Nebraska, which were one of the four national winners in the Outstanding Young Farmer Awards sponsored by the National Jaycees, Marlan and Mary Johnson. In addition to that, Don and Linda Anthony from Lexington, Nebraska, was the first Nebraska winner in the National Outstanding Young Farmer Award, I believe in 1986. Also, Larry Abrahams from West Point,

April 4, 1989

LB 183, 188, 775, 809  
LR 64, 66, 67

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the 58th working day in this the First Session of the Ninety-first Legislature. Our Chaplain of the day, our own Harland Johnson. Mr. Johnson.

HARLAND JOHNSON: (Prayer offered.)

SPEAKER BARRETT: (Gavel.) Thank you, Harland, very much. Roll call.

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: No corrections this morning, Mr. President.

SPEAKER BARRETT: Messages, announcements or reports?

CLERK: Mr. President, a series of Attorney General's Opinions, one to Senator Beck regarding LB 775; an amendment to...or an opinion to Senator Lamb and a third opinion to Senator Hall regarding LB 809, Mr. President. Also, LR 64, LR 66, LR 67 as passed by the Legislature yesterday are now ready for your signature, Mr. President. That's all that I have. (See pages 1465-1474 of the Legislative Journal. The opinion to Senator Lamb is in regard to LB 183.)

SPEAKER BARRETT: Thank you. And while the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 64, LR 66 and LR 67. To item 5, Mr. Clerk, special motion.

CLERK: Mr. President, Senators Withem and Schmit would move to suspend Rule 3, Section 17, so as to place LB 188 on General File notwithstanding the action of the Education Committee. The motion was filed on March 29 and is found on page 1383 of the Journal, Mr. President. LB 188 was reported by the Education Committee as indefinitely postponed on March 20 of this year.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I will only use a portion of my opening time because I want Senator Withem to use a portion of it also. So perhaps if the Speaker would notify me

when half of my time is up, I will try to have my remarks terminated by that time. Ladies and gentlemen, members of the Legislature, we are...Senator Withem and I are asking this morning to bring to the floor LB 188. LB 188, as originally drafted, provided for the sale of school lands. Because I have another bill on the floor which will provide for that, when I appeared before the Education Committee I offered an amendment to the bill which would have provided for the repeal of the language which provides for in lieu of tax payments to those counties, to those schools within the counties where the school lands are located. Now I understand that this sort of a bill and this sort of an idea is not very interesting. It doesn't have nearly the excitement of some of the other bills we talk about on this floor, except for the fact that it involves about \$6 million annually of money which is distributed to those counties, to those schools for the purpose of, as was originally explained, providing those schools some benefits in lieu of taxes that would have been paid had that land been on the tax rolls. It's my belief that the in lieu of taxes are unconstitutional. I requested an opinion from the Attorney General on March 10th. A reply came back on March 15th relative to another proposal. Senator Withem has handed his opinion...or his copy of an Attorney General's Opinion which is a parallel opinion to the one which I requested. In both instances the Attorney General said the diversion which we requested would be unconstitutional. I want to point out another very serious fact. If you will check the Constitution of the State of Nebraska, you will find that any funds diverted from the use for which they were intended when the grants were made to the school children of this state must be replaced by this Legislature. The language in the Constitution is "shall be replaced" at approximately \$6 million annually and it's been about 16 years since we have started that. I have deep concerns that we may need to place into the school fund approximately \$80 million of money that was diverted. Now I do not know how the courts or how the Attorney General will look at the diversion of that money if and when...I shall say when it comes to their attention, but I would suggest that there may be some little matter of interest that might be involved also. If interest is involved, then we may have solved the problem unwittingly of aid to schools for some time because, as you can calculate very quickly, interest on \$80 million for the past 16 years makes the principal number fade into obscurity and certainly will cause this Legislature some serious problems. It will relieve us of one problem though and that will be what to do with the surplus

that we have been burdened with for the last few months. I believe the bill ought to be on the floor. I believe it ought to be debated. I do not intend to use LB 188 for the purpose of selling the school lands. I intend to have it on the floor for the purpose, if you agree, of repealing the language which provides for in lieu of taxes. I have also written to the Attorney General and I have asked him, very frankly, to notify the appropriate officials that they should not continue to distribute the monies under the present statute. I was here when the bill was passed and we're going to be talking about a lot of other factors, about the sacredness of the school lands and the sacredness of the school trusts and the high performance of the Board of Lands and Funds. Let me tell you that back in the early seventies when myself and Senator DeCamp changed the law relative to school land rentals, we increased the income, as I recall, at that time from the school land rentals by almost eight times, from about a million and a half dollars to more than 12 million, just by requiring some ordinary factors of accounting to be used in determining the value of those school lands. The Legislature has acted responsibly several times over the last 20 years that I have been here relative to school lands. We did not act responsibly when we provided...when we passed the in lieu of tax legislation. You all, of course, are familiar with the fact that we had to pass a constitutional amendment so that the public power districts could pay in lieu of taxes. There was no constitutional amendment passed to provide for that with the school lands and, therefore, I suggest it is unconstitutional. We should bring 188 to the floor and we should repeal the provision which provides for the in lieu of tax payments to schools and we should do it this session. We should do that regardless of whether or not this Legislature takes another further responsible step, as I believe they should, and provide for the sale of school lands. Even if we were to provide for the sale of school lands, it would be done over a period of time when leases expire and we should not continue to compound the problem we have already created. Mr. President, I would turn the rest of my time over to Senator Withem.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes. How much time do I have, Mr. President? Thank you, Senator Baack.

SPEAKER BARRETT: One minute.

April 4, 1989

LB 188

SENATOR WITHEM: One minute, okay. Well, I've got my...oh. I've got my light pushed.

SPEAKER BARRETT: Senator Withem, I'm sorry, four minutes.

SENATOR WITHEM: Oh, okay, thank you.

SPEAKER BARRETT: Starting now.

SENATOR WITHEM: Okay, thank you very much, Mr. Speaker. Members of the body, Senator Schmit and I brought this motion for you today for your consideration. Some people have asked me why Senator Schmit has a personal priority bill out there that sells education lands, why do we need LB 188 out there? Simply because there are two separate issues. One of them is the sale of the lands, the other is, is the in lieu of tax formula a constitutional provision. It's blatantly obvious if you have read either of the two Attorney General's Opinions that our current in lieu of tax formula is completely and totally unconstitutional. When you have an unconstitutional statute on the books, it is incumbent upon us to change it. If we don't, in this case, as Senator Schmit has pointed out, we may, as a Legislature, have some very serious appropriation responsibilities for reappropriating the funds. Senator Schmit accurately described the history of LB 188. He had another bill, went through Revenue Committee, Revenue Committee advanced it to the floor. When the hearing date on LB 188 came in, he said we suggest to the Education Committee that you use LB 188 to repeal the unconstitutional in lieu of taxes distribution of the proceeds from the Educational Lands and Funds. At that time, the Education Committee did not have in our hands an Attorney General's Opinion on the in lieu of taxation. The committee, unwisely, I might add, to some of the members of the committee who are listening here, unwisely killed the bill. After the bill was unceremoniously indefinitely postponed, both Senator Schmit and I asked for an AG's Opinion on...the basic question was is anything other than a direct rebate back to the common schools constitutional? Both of us got an Attorney General's Opinion that says...says the law is well settled. The grant by Congress of land to a state for the benefit of the common schools is an absolute grant, vesting title for a specific purpose. Hence, Section 7 of the enabling act and Section 9 of Article VII of the the Constitution of Nebraska mandate that the income from the unsold school lands be...and

here it is in quotation, "be exclusively used for the support and maintenance of the common schools in each school district in the state. As noted in your inquiry, some school districts do not receive funds pursuant to", and we asked about equalization aid, the same thing would be true of in lieu of taxes beings some school districts do not receive in lieu of taxes, it would be an unconstitutional...it would be an unconstitutional statute. We have an obligation as a state, as a Legislature, to correct problems as we discover them in our statutes. Senator Schmit and I are suggesting that LB 188 be used as that vehicle. True, it's not a priority bill if you advance it onto the floor of the Legislature today. It will sit and await our action at the beginning of the...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...session next year, but I think that's a much wiser course of action to take than us as a Legislature to be told that we have a problem, be told by our Attorney General that we have an unconstitutional provision of our statutes and to do nothing. If you vote not to bring this bill to the floor today, you will be endorsing continuation of an uncon...enforcement of an unconstitutional statute. Senator Schmit has read...and we don't have an AG's Opinion on this, but I tend to suspect that he may be correct that if we choose to do nothing, particularly after it's pointed out to us, we may have a much, much larger problem in the future in terms of paying back this money that has been taken out of the funds improperly. So I think the proper course of action for the Legislature today is to suspend the rules, first of all, to bring this bill to the full Legislature.

SPEAKER BARRETT: Thank you, sir. Discussion on the motion to place LB 188 on General File notwithstanding the action of the committee. Senator Haberman, followed by Senators Lamb, Dierks and Chizek. Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the body, if my understanding is correct, this is an exercise in futility, a waste of time, as LB 807 is on the floor and the committee amendments to LB 807 strikes everything in the bill and it says the amendments clarify that the land would have to be sold. So 807, on the floor, does exactly what 188 is. It provides for the sale of the school land. So, therefore, we do not need to pull 188 as we already have or they already have the instrument



to sell the school land. So what we're doing this morning is we're going to spend a lot of time and hear a lot of words on an issue that is already before this body. So, therefore, I would suggest, strongly, Mr. President, that we reject the motion on LB 188. Thank you.

SPEAKER BARRETT: Thank you. Senator Lamb.

SENATOR LAMB: Thank you, Mr. President. Robbery in progress. We should call the cops. This is a bill that should not...should not come to this Legislature. You will notice my name is on LB 188. LB 188 is a bill to sell the school lands and I would support that. I support selling those school lands. But Senator Schmit wants to turn this into a vehicle to do a different thing, to change the in lieu of tax or eliminate the in lieu of tax in those school districts in which school land is located. Now, as you all well know, most of the school land is in the western part of the state because many years ago the school land was sold in the eastern part of the state. That land was returned to the tax rolls. That land is on the tax rolls so that the counties, the school districts, the fire districts, the NRDs, the tech colleges, every subdivision of government gets tax money from that land which was originally school land and has been sold. In the western part of the state there was not much of a demand for that land at the time that it was being sold so a lot of it was not sold, so it is not on the tax roll. It does not contribute to the county. It does not contribute to the fire districts. It does not contribute to the upkeep of the roads that service that land. So, as compensation for that, there is the in lieu of tax which goes to the school district in which that land is located. That is to make up for the fact that in other parts of the state the land has been sold. It's a fair way to do it. Now, is it unconstitutional? I don't know. We don't have...we don't have even an Attorney General's Opinion which definitely says it is unconstitutional. We have one that some people have used to say, look, this will also apply to school land but it's not right on point. It's not right on point. So, at this juncture, as Senator Haberman has pointed out, there certainly is no need for this bill since if you really want to do what the bill says, there is another bill that Senator Schmit has which is on the floor of the Legislature to sell the school land. Now, the issue of distribution of the money, the in lieu of tax is in court. I'm not sure whether it's in Sarpy County or in Douglas County but I believe the Millard School District, that would be in Douglas County, it

must be Douglas County, this issue is being considered right now. So there is no need for the Legislature to get into the issue. The courts are already deciding that issue. Millard school district has said basically the same thing that I think Senator Schmit is saying that in lieu of school tax or at least the way the revenue from that school land is distributed is not proper and it is in court. So it would not be, in my opinion, appropriate for this Legislature to interfere with that. Now, as I mentioned before, I signed onto this bill with Senator Schmit and he is the primary introducer of LB 188. I am willing to support legislation which will sell the school land. We get into all these arguments about how the money should be distributed and, furthermore, out in the area where that land is located there are all the arguments between the local people every time that comes up for lease. They have what they call bonus lease bidding. So you all gather at the courthouse or some other place and the Educational Lands and Funds Board representative is there and then all the local ranchers and farmers bid on that lease. Now, the unfair part of this is you bid on the lease for, say, a seven-year period and that's a one-chunk of money.

SPEAKER BARRETT: One minute.

SENATOR LAMB: It might be a \$1,000 or \$2,000 or as much as as 10 or \$15,000. But you don't know what the annual lease payment is going to be because the board can change that after you have purchased the lease. So that's an unfair situation that should be remedied and I think the best remedy is just sell all the land, everybody is on the same footing and we go from there. So I just strongly oppose bringing this bill out of committee.

SPEAKER BARRETT: Thank you, sir. The gentleman from Ewing, Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, I rise in opposition to this motion of Senator Withem and Senator Schmit's. The term highway robbery may be a little bit understated. This...you know, I can remember my grandpa was running the ranch, he had many conversations with a professional criminal by the name of Doc Middleton and Doc Middleton used to stop by the ranch and keep his horses overnight, water them, and gramps said, well, you don't have to worry about Doc because as long as you treat him fair why he will treat you all right and he never did have any problems with Doc. But I'm beginning to

think that maybe we've got a couple fellows on the floor here that are going to fill in for some of the Doc Middletons and Kid Wades out in our country. They really are trying to ambush us a little bit. This in lieu of taxes has been a real boon to the schools in our district. We have depended on this for so long and found it to be a very fair way to distribute some of our school land monies. There is a possibility that my district could lose \$500,000 with the loss that's in lieu of taxes and I have difficulties with that and so do the people that I have contacted out there. Everybody from my district has called and said, boy, we don't want to lose that thing. Now, for that matter, I don't really go along with Senator Lamb as far as selling the land is concerned either, but the in lieu of taxes is definitely a no-no. We just can't lose that. Thank you.

SPEAKER BARRETT: Thank you. Before recognizing Senator Chizek for additional discussion, the Chair is pleased to take a moment and suggest that Senators Chizek, Abboud and Beyer have 105 seniors from Millard South High School in the north balcony with their teachers. Would you guests please stand and be recognized by your Legislature. Thank you very much. We're extremely pleased to have you with us this morning. Additional discussion on the motion at hand. Senator Chizek, followed by Senator Wesely.

SENATOR CHIZEK: Mr. President and colleagues, I don't blame my good friend, Senator Dierks, for opposing this. If you look at the kind of money that is unequally distributed, I would oppose it also. Senator Lamb talked about robbery. For 15 years, colleagues, that's what we have dealt with here, robbery. There has been an unequal distribution. The Attorney General has identified that there is a problem. Senator Lamb talked about a court case at the district level that was filed by the Millard school district but I think we're going to be a long time before that's resolved, but it's clear what the outcome will be. Now, perhaps we should go back, a little bit of a history lesson that those lands in the eastern end of the state were sold off at the turn of the century. That decision to sell those school lands was made by the governor and the then commissioner of education and for what reason I'm not sure that I know. But if I was my good friend, Senator Haberman, who his share of the split in terms of in lieu of taxes is close to a million dollars. I think my good friend, Senator Lamb, is somewhat close. And I think it's interesting if you look and you see the largest, most populous county in the state, Douglas County, with about \$5,000.

I'm glad you recognize we have a problem, Senator. But in the opinion of the Attorney General, colleagues, it's very clear, it shall be exclusively used for the support and maintenance of the common schools in each school district of this state. And I think you should remember that because it is not being done now and I would urge your support to pull the bill from committee. If I have any time left, Mr. Speaker, I will yield it to Senator Withem.

SPEAKER BARRETT: Senator Withem. Two and a half minutes, Senator Withem.

SENATOR WITHEM: Yes, thank you, Mr. Speaker. Thank you, Senator Chizek, I do appreciate that. I did want to speak on a number of things that were raised and two or three points. The opponents of this amendment...first of all, Senator Haberman, I'm not sure if he understands what it is we're doing here. He's correct. Senator Schmit has a bill that will sell the school lands. We're not talking about doing that. We're not talking about raising 188 to sell the school lands. What we're saying is we have become aware there is a constitutional problem. We're calling the attention of the Legislature to the fact that we do have a constitutional problem. We're saying we can use 188 as a vehicle by adopting the amendment that Senator Schmit talked about in the committee. And, you know, frankly, I guess what we're doing, Senator Schmit and I are doing, is we are telling the members of the body we have discovered a constitutional problem. Senator Lamb says, you know, he can't quite figure out here in reading these two AG Opinions whether the AG thinks that doing anything different than distributing the money to the common schools is unconstitutional. Well, my gosh, he spells it out and uses that language just incredibly clearly. I think Senator Lamb knows that you can't ask the AG in opinion whether the current statute is constitutional or not. They only act on whether you want to change the statute. We phrased the language...the request, both of these requests so that the situation would be parallel, both Senator Schmit's case, my case, are parallel to the existing statute and it's incredibly clear. All you've got to do is read this and it is an unconstitutional. Now if you choose to act on this now and correct the 16-year-old problem, the courts may be somewhat lenient on us and say, well, you only discovered the problem this last year and you moved to correct it so we'll be kind of gentle on a settlement.

SPEAKER BARRETT: One minute.

SENATOR WITHEM: If now that it's in the record that we have this problem and you continue to ignore the problem, then the type of scenario Senator Schmit is talking about may, in fact, come through. Senator Lamb says this is highway robbery and we should call the police. I guess I would agree simply by saying that the police are about 16 years late getting here, that the highway robbery that took place was when the bill...when Senator Dierks' predecessor passed legislation setting up an in lieu of taxes, blatantly unconstitutional. I invite you to visit with the sponsor of that bill privately now to ask what his views are on the whole situation. It's blatantly unconstitutional. We're merely asking that the police do come and we're not...at this point, I'm not asking that you pay all of that money back. I'm just saying that you correct the situation from here on out into the future. It's a blatantly unconstitutional situation. We, as a Legislature, need to act when situations are pointed out to us that are unconstitutional.

SPEAKER BARRETT: Thank you, sir. Senator Wesely, further discussion. Senator Wesely. Senator Schmit, further discussion.

SENATOR SCHMIT: Well, Mr. President and members, as I said, this isn't near as exciting as some of that more...that heavier stuff we deal with on this floor and it's not nearly as easily understood. But I just want to say this that those individuals in whose districts the school lands still are located ought to be thanking Senator Withem and myself for giving them this opportunity, because let me tell you what is going to happen if you do not address the issue responsibly during this session of the Legislature. The issue, as we know, has been in court for several years. They had some problems with the way the suit was filed. Those have been corrected. There is no way, absolutely no way that Millard will not prevail. And Senator Withem has laid it out very excellently for you and very eloquently for you. If we address the problem here today, the court may be somewhat lenient with us and say, okay, so you made a blunder back there and you transferred 80 million bucks improperly, we may not even force you to return the 80 million, although that wouldn't be a very likely decision, I wouldn't think. But we're at least not going to charge you 14 percent which we charge every other taxpayer if he doesn't pay his taxes on time. We might let you off the hook on that. If, however, this

Legislature chooses to be arrogant and say, nuts, we're not going to do anything, then there is no reason why the courts should be lenient and we may well find ourselves with trying to find some way to find 350 million bucks to pay back the school children of the State of Nebraska their principal and interest which was diverted. Senator Dierks refers to highway robbery. Senator Dierks, the robbery took place 16 years ago and it has...it has been covered up rather effectively a number of times. And there are those of us who were here at the time and probably should have been wise enough to have known what was going on but, frankly, I wasn't. And, frankly, today I think the situation is totally different. I want to say this also for the record, we already have enough problems in the area of ag land valuations and a number of other issues. This one will overshadow the ag land valuation situation because I have already written a letter to the Attorney General and have asked him to proceed to stop the distribution of the lands, based upon his own opinion. If you think the schools that are not participating here are going to just sit back and do nothing, think again. They're not going to do it. Number two, during the course of the testimony against both of my bills, Mr. Gildersleeve testified that if the land were returned to the tax rolls that it would only bring back to all of the subdivisions of government somewhere between 2.3 and 2.4 millions of dollars. There are \$5.4 million being distributed to schools alone in the lieu of tax funds. I think you ought to take a look at that. I'm not going to get into the overall administration of the Board of Lands and Funds at this time. That will come at a different time. But I wanted you to understand that today, as Senator Withem has pointed out, this Legislature has knowledge, we are aware, we are aware of the problem and we have the responsibility to address it. I am sympathetic, and Senator Dierks and Senator Haberman and the rest of you, with the people in your area. I have always supported the sale of the school lands because I think it is totally inequitable the way it is being handled, as Senator Lamb pointed out today. It's like the western half of the state...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...has got their land out there, they don't benefit from the cities, NRDs cannot tax that land but all of the state benefits from the income, not as much as they would be if they sold it. But I want to say this that this is your opportunity. Now, it's not a popular thing to do but we were

not hired here to do that which is popular, we were hired to do that which is right and which the law in the Constitution clearly states we have a responsibility to perform. Check your Constitution. Check those constitutional...those two opinions of the Attorney General and if you don't vote to bring this bill to the floor, ladies and gentlemen, I am going to suggest to you that you will be back here in special session and you will be covered with sack cloth and ashes and you will be brought in kicking and screaming and protesting about the injustice of it all. Justice, equity, reason, common sense frequently have nothing to do on this floor. In this instance...

SPEAKER BARRETT: Time has expired.

SENATOR SCHMIT: ...it happens that it does and you ought to bring this bill to the floor.

SPEAKER BARRETT: Thank you. Senator Elmer, followed by Senator Hartnett.

SENATOR ELMER: Thank you, Mr. President. I would like to ask several questions of Senator Schmit if he would yield.

SPEAKER BARRETT: Senator Schmit, would you respond?

SENATOR SCHMIT: Yes, Senator Elmer.

SENATOR ELMER: Senator Schmit, if, in fact, the school lands are sold, would the taxes that those school lands would render to the counties wherein they lie be less, about the same or more than the in lieu of tax?

SENATOR SCHMIT: Well, Senator, I only have the word of Mr. Gildersleeve in testimony before the Revenue Committee where I heard him state that the total taxes paid to all the subdivisions, as I recall, would be somewhere in the neighborhood of \$2.4 million, whereas, today there is an in lieu of tax of approximately \$5.4 million being paid.

SENATOR ELMER: Thank you. When the school lands were sold earlier in the past in the eastern part of the state where was the money placed that was the result of those sales?

SENATOR SCHMIT: School lands were...the money from the sale of those school lands was placed in the permanent school fund,

Senator. And, as I recall, speaking to an old-time legislator, the reason they sold the school lands was that it was...it had become a source of graft and the politicians were the ones that were renting the school lands and that was why there was an uprising and some of the school lands were sold.

SENATOR ELMER: That fund still exists and the interest is being paid to the schools?

SENATOR SCHMIT: Yes, that is correct, Senator.

SENATOR ELMER: And if the school lands were sold that still are out there for the support of the schools, that money would be added to that principal interest in that permanent fund. Is that correct?

SENATOR SCHMIT: You are correct again, Senator.

SENATOR ELMER: Would the interest on that fund after the course of the sales were made be somewhat similar to the income that is being received to be distributed?

SENATOR SCHMIT: The interest would be substantially greater at the present time, Senator, in my opinion, because the...Mr. Mathis is earning about 12 percent on the other funds that he is investing and we are presently receiving a return of somewhere around 4 percent on the appraised value of the school lands.

SENATOR ELMER: Thank you very much. It sounds like to me, ladies and gentlemen of the body, that in the end if this were accomplished that we would have substantially more income for our school districts. And along with the constitutional problem that we have, I feel that it probably is wise if we would raise this bill. Thank you.

SPEAKER BARRETT: Thank you. Senator Hartnett, with Senator Schellpeper on deck.

SENATOR HARTNETT: Mr. Speaker and members of the body, I am amazed at how with issues like this with the constitutional amendment and so forth that people, this is it, people kind of ignore it, people from greater Nebraska ignore the chief lawmaker of the state, the person that's supposed to set the...what the constitutional...Constitution says and they're



simply ignoring that, Senator Lamb and Senator Dierks, and I think the highway robbery was the other way, because they have been robbing the money from the eastern part of the state. Senator Lamb raised a point about the law, the Millard case. It's in...it's supposed to be heard the 20th of this...of this month in District Court and will probably go to the Supreme Court. So we're really looking at a period of probably 18 months of getting a final decision by the Supreme Court. But I guess I rise just simply to support this. I did support the 807 that was in the Revenue Committee. I support the efforts of what Senator Schmit and Senator Withem are trying to do because I think we really have a serious problem that we need to address at the immediate time. Thank you.

SPEAKER BARRETT: Thank you. Senator Schellpeper, with Senator Haberman on deck.

SENATOR SCHELLPEPER: I will call the question.

SPEAKER BARRETT: Senator Schellpeper moves the previous question. Do I see five hands? I do. The question is, shall debate cease? Those in favor vote aye, opposed nay. Shall the debate now close? Have you all voted? Record, Mr. Clerk.

CLERK: 20 ayes, 11 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate does not cease. Senator Haberman, further discussion, followed by Senators Warner, Withem, Dierks, Scofield, Lamb and Schmit.

SENATOR HABERMAN: Mr. President and members of the body, I would like to call to your attention one more time that LB 807 does exactly the same thing as LB 188. The proponents of LB 188 have not addressed that, but if you will look in your bill book, you will see that the committee amendment strikes the entire bill and says and leaves the selling of the school land. So we're going to stand here this morning and go through all of the reasons as to why or why not sell the school land when we're going to do it on 807, we're going to do it again on LB 188, if it's pulled from the committee, and we've got 32 days left. Now I just don't understand the rationale of spending this time of trying to pull a bill from the committee when we have a bill on the floor that does the same thing. The issue is not whether to sell the school land or not to sell the school land, the issue is to bring a bill to the floor when we have one that does the

same thing. Now I just can't understand that rationale and I would like to have the people who want to do this explain it to me. Well, you haven't done so so far, Senator Schmit. Oh, I've been listening to what you're saying and you're saying about robbery, thievery, it's a crime, we did this and we did that and we're going to make you pay the money back. Oh, it's terrible, all these things. But that isn't the issue this morning. The issue is to pull a bill back, put it on the floor, take it away from the committee when we have a bill that does the same thing. That hasn't been addressed. And I defy you to show me and if you can show me where I'm wrong, that 807 doesn't do the same thing, then I will get up here and I will admit it and then we'll debate what you want to debate. But I'm willing to wait and debate selling the school land when the proper issue is before us. We're not discussing that issue. We have a bill where we can discuss that issue. So I ask this body that if you do not believe what I say, look in your bill book, look at the committee amendments and read what it says. That's all I ask you to do. One senator did not do that and he looked in his bill book and he says, well, gosh, you're right, it does do the same thing. So I just don't understand why we're taking this time, why we're debating this issue when we don't have to do it. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Warner, Senator Withem next.

SENATOR WARNER: Well, Mr. President and members of the Legislature, as I am reading these two opinions and perhaps I'm not reading them correctly, but the one indicates that we could not have in lieu of tax going to a noneducational entity, as I understand it, county government which I don't think there is any question about that. I'm sure that's true. But I don't see where that has anything to do with the in lieu of tax issue that's being discussed here. The second opinion, as I read the last sentence, it says, as noted in your inquiry some school districts do not receive funds pursuant to equalization portion and, therefore, would be...that bill or that amendment would be unconstitutional. What that says, to me, is that you cannot have a distribution formula that excludes some school districts from even qualifying. That's all it says, as I read it. Maybe it says something more. But if we do not have an opinion specifically to in lieu, it's doubtful in my mind, at least, whether or not that is the problem. Perhaps it is. The other thing that keeps coming across my mind, if the rule is...or if

the Constitution provides that you must have uniform distribution for every school district, that is each common school, the question would come into my mind, does that raise the question of using census for distribution as opposed to average daily membership? Is that...does that create a problem? I'm not suggesting it does. It's uniformly applied but it certainly does result in different amounts of per student aid to individual school districts by virtue of the formula and it's historically been the formula for many years. But it seems to me that there could be a number of other issues here that are not answered and I'm not uncomfortable to allow this to proceed this through the court system for a final analysis in the event that some change is necessary. But I find it very hard put to suggest that either of these two opinions in themselves would rule that in lieu of tax going only for school purposes is in violation of the Constitution. Most certainly, the one that was handed out this morning just clearly states that you could not exclude a school district in its entirety from some portion of those funds.

SPEAKER BARRETT: Thank you. Senator Withem, followed by Senator Dierks.

SENATOR WITHEM: Yeah, Mr. President, one more time for Senator Haberman's benefit, what it is we're doing here so that he, hopefully, will understand, because I thought I explained this before what our rationale was. We're not this morning debating the sale of educational lands and funds. That is not the issue. The issue is the in lieu of taxes. LB 807 doesn't deal with in lieu of taxes. LB 188, as introduced, did not deal with in lieu of taxes. Senator Schmit suggested to the Education Committee using that bill as a vehicle to deal with in lieu of taxes. What we are suggesting, what Senator Schmit and I are suggesting is that you bring 188 to the floor to deal with the in lieu of taxes issue so it does not cloud the discussion on 807. LB 807 is to sell the school lands. Frankly, I don't know where I stand on that issue. I am yet to be decided. I'm a blank slate on what Senator Schmit and others can work their will on that particular issue of selling the school lands. What we're talking about is the distribution of the dollars. That's why we need to bring 188 to the floor. We are not debating the sale of educational lands and funds. I think Senator Schmit may have mentioned a couple of arguments in one of his arguments but that is not the thrust of what we're doing here. Senator Warner, just to respond to what Senator Warner had to say, that he does

not read this opinion addressed to me as stating that the in lieu of taxation would be unconstitutional. What I think I heard him say was this opinion deals with equalization. True, it deals with equalization. And he said he can understand why if you ask about equalization, and some districts don't qualify for equalization, that that may be unconstitutional. Well, the in lieu of taxes, if you look at the distribution that I handed out here, Colfax County, no school district in Colfax County gets any in lieu of taxes. No school district in Cuming County gets in lieu of taxes. No school district in Dodge County gets in lieu of taxes. No school district in Fillmore County gets in lieu of taxes. No school district in Hamilton County gets in lieu of taxes. No school district in Nance County gets in lieu of taxes. No school district in Thurston County gets in lieu of taxes. No school district in Wayne County gets in lieu of taxes. In addition to that, there are countless school districts, individual school districts, that do not get in lieu of taxes. I...you know, I can understand why you want to have some arguments, you know, counter on the record here in case this does get into court and the transcript of this debate is brought into a court proceeding where you can point out that the legislators were pointed out that this was unconstitutional and they took no action. I can understand why you want to get some arguments in the record defending the constitutionality of the current in lieu of taxes. But, you know, if the argument is you can't give it out in equalization because some school districts don't qualify, then you can't give it out in lieu of taxes and we have been doing that for 16 years. There are some school districts in the state that do not qualify for in lieu of taxes and they've been...and those that...and those that do don't benefit proportionately. Now, whether you also want to argue that you do it versus school census, population, head count, weighted head count based on level of students in school, you can argue all of those other things regarding a distribution formula. But, for the life of me, putting out an equalization is the same way as we're putting it out in lieu of taxes. We're saying we're taking some money off the top and benefiting particular school districts before we send it out to the common schools. That's what we do now.

SPEAKER BARRETT: One minute.

SENATOR WITHEM: That's what the equalization formula would have done. If one of them is unconstitutional, the other one really has to be. Again, I am not all as concerned anymore what you do

with LB 188. I am concerned what we do to resolve the issue as this session rolls along. I think the best vehicle to do that would be to bring 188 to the floor. And I would urge you to do that.

SPEAKER BARRETT: Thank you. Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, I guess I have problems with the fact that the Attorney General even makes a ruling on existing law. I felt that maybe it was his position to make rulings on proposed changes to the law. The other thing that I have to agree with Senator Warner, of course, this...this...I think that anybody can have a narrowly drawn amendment...or opinion from the Attorney General that would have some affect on any of our laws and I think that's what this is, a rather narrowly drawn opinion that it bothers me that we can use this as a method of trying to change existing state law. If...I would like to ask Senator Schmit a question.

SPEAKER BARRETT: Senator Schmit, would you respond?

SENATOR SCHMIT: Yes, of course.

SENATOR DIERKS: Senator Schmit, the land that has been sold or otherwise disposed of that had belonged to the school lands in Nebraska, and this happened around the first part of the century, I understand, would you say that the return we get from the investment made by those lands is adequate?

SENATOR SCHMIT: The return that we receive in interest on that money is consistent and commensurate with the interest and the return we receive on all the funds that are invested by the State Investment Officer.

SENATOR DIERKS: Okay, then would you say that had we not sold that land when we did and had gone ahead and administered that land like we do the rest of the land in the state and we were in a position today that we still had that land on our rolls drawing the same kind of fees that we do from the current property we still have in school lands, would you say that there is a possibility we might be better off had we done that than sold the land?

SENATOR SCHMIT: Well, Senator Dierks, if you will...I have a statute here that we passed back in '74, I believe, if we hadn't

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changed the formula whereby we determine the fair rental value, we would not be receiving any kind of return relative to the actual value of that land because when DeCamp and I changed that formula in '74 we upped the income by eight or 10 times.

SENATOR DIERKS: I understand that, but would the...would the land, if we had kept it, be bringing us a better return than it does now having sold it?

SENATOR SCHMIT: As you well know, of course, land was very cheap back in the 1900s and so it did not bring much money. But the fact that the land has escalated in value today and we should not be debating the sale of the lands at this time, we should be debating the school...the in lieu of tax provision, but the amount of money receive today from the land is about 4 percent, which is consistent with all return on agricultural land. The return we receive from the Investment Officer is about 12 percent. To sell the lands today is a different, a totally different situation than the sale of the lands in the 1900s.

SENATOR DIERKS: Well, I understand, but I think that the point I'm trying to make is that the land returns money to school districts across the state, the land that was sold, the money that we receive from the fund that's held returns money to the school districts across the state. Is that right?

SENATOR SCHMIT: That's right.

SENATOR DIERKS: And the land that is currently owned by the school board...School Lands and Funds, that money is returned only to the school district with which the land is located. Right?

SENATOR SCHMIT: No, Senator, the land...the income from the land, there is a total of about \$17 million, I believe, this last year. There is about a million eight that went out for administration of the fund...

SENATOR DIERKS: Uh-huh.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: And there was 5.4 that was distributed to the schools alone and then there was about \$12 million, or 11 or

\$12 million that remained from the rental income of the land that was distributed on an annual basis to all the schools in the State of Nebraska.

SENATOR DIERKS: Okay, so there are then, in fact, monies coming from the School Lands and Funds that are currently being administered and this money is going to all school districts in the State of Nebraska?

SENATOR SCHMIT: A portion of it is, yes.

SENATOR DIERKS: Okay, more than the in lieu of taxes which goes to the school district in which...

SENATOR SCHMIT: About twice as much, really, Senator.

SENATOR DIERKS: Okay, this is the point I was trying to make that there is funds from both that land that was sold and that land that was not going to all school districts across the state?

SENATOR SCHMIT: That is correct.

SENATOR DIERKS: The thing we're talking about here is the in lieu of taxes which goes directly to the school district in which the land is situated. Thank you.

SPEAKER BARRETT: Senator Scofield, with Senator Lamb on deck.

SENATOR SCOFIELD: Thank you, Mr. Speaker. Now that it appears that practically everybody has either been bored into another conversation or completely lost on this, I guess I rise to say that I think this...if you want to divert this session from matters that I thought we all came here to want to resolve this session, particularly property tax relief, that this is certainly a great way to do it. I think this whole discussion at this point is a waste of time. It's been a lot of emotional jabbering by a lot of nonlawyers about what's constitutional and what isn't and I think, frankly, it's designed to create kind of a knee-jerk reaction to what is really quite a complex issue. We've got everybody in here calling each other robbers and horse thieves and that ought to really do us wonders at this stage of the game if we ever hope to come up with some kind of solution for property tax relief. And that's a disappointment to me when I just read in the paper yesterday that none other than Howard

Lamb had sat down with the likes of Jerry Chizek and others and decided maybe we're going to work out a property tax deal and then here we all are in here today screaming at each other with a rural...what would appear to me to be a rural/urban battle and I really think that's unfortunate. I think this is an issue that very few people in here understand. I seriously question whether you can really say that what we're doing now is unconstitutional. The decision that's been laid out in front of you is one that you could...that you...I suppose sometimes we tend to all do this, we select information that supports our point of view, but there was another decision which Senator Withem alluded to on 188 and the way I read that, the conclusion says, consequently legislation which would divert income earned from the lease of school lands to the counties at the expense of the common schools would violate Section 7 of our enabling act and Section 9 of Article VII of the Constitution of the State of Nebraska. I'm going to get into a little lawyering here too, even though I'm not one but I might as well join in. I don't think it says anything about in lieu of tax payments are unconstitutional. I suppose you could discuss the formula or whatever but it certainly...I don't think what we're doing is unconstitutional and this may, in fact, be some kind of tactic to stampede us into making a decision about a fairly complex issue that, frankly, wouldn't serve the best interests of rural or urban communities, rural or urban schools. It's...it really cannot be...even though we are talking, as Senator Withem once again clarified about repealing the in lieu of tax law, you can't really talk about that, I don't think, without eventually getting into the discussion of the sale of school lands...

SPEAKER BARRETT: Excuse me, Senator Scofield. (Cavel.)

SENATOR SCOFIELD: Thank you, Mr. Speaker. And the point that Senator Dierks is raising about...and that also Senator Elmer was raising about the wisdom of selling those lands certainly is bound to come close on the heels of any discussion like this if we decide to get into it. And I think if you examine some of the material that the Board of Educational Lands and Funds put out, I would have to seriously question whether that's even a wise thing to do in terms of managing the assets of the State of Nebraska. Again, in these decisions, it's clear that we act as trustees in a fiduciary capacity with these funds and which seems to me we have an obligation to invest in the best way possible. So I think you cannot necessarily divorce those two issues. And what we've really done this morning is done a great



job of getting ourselves once again off the track in this session of where I think most of us started out saying we wanted to go and that was to look at property taxes. I recognize the relationships here of some of the issues are all going to want to talk about. But I think this kind of takes us into a piecemeal approach to what is a much larger picture and I can't see anything that would be served necessarily by pulling LB 188. It isn't going to go away from the committee and Senator Withem, himself, has said we're not going to probably deal with that until next year. And I think we simply ought to just let that bill lay there. We will want to go think about this, let the court do its work, and if you want to take it up later next year, fine, but let's not waste anymore time with stunts like this because I don't think it's serving any purpose. I think it's guaranteed to rile up people and if, as Senator Schmit predicts, we'll be in special session, well, so be it, Senator Schmit, I always get to kind of miss you about that time of year, I'm happy to come back and talk about those things.

SPEAKER BARRETT: Senator Lamb.

SENATOR LAMB: Question.

SPEAKER BARRETT: Senator Lamb moves the previous question. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Have you all voted? Record.

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

SPEAKER BARRETT: Debate ceases. For purposes of closing, Senator Schmit.

SENATOR SCHMIT: Mr. President and members, Senator Haberman asked me for some time and then he said he just wants to explain that if you take away in lieu of tax, you've got to sell the land. I think that may be a valid conclusion by some people. I just want to say this, it's always of interest to me on this floor that if you don't like an issue or if you don't understand it, then you say you're clouding the issue and it's not important and we shouldn't divert ourselves from important issues like property tax relief. This Legislature has got about as much chance of passing a significant property tax relief bill as I have of going to the United States Senate, and I think we all know what those chances are. I think that we haven't got the courage, ladies and gentlemen, to pass a bill like that, and

you know it. We haven't got the courage. We talk about it. Oh, yeah, we talk about it. We put a lot of bills out here but there's no money in the bills. Enough for that. Let me read you, ladies and gentlemen, from the opinion of Mr. Spire dated March 15th. It says, "(b). The law is well settled. A grant by Congress of land to a state for the benefit of common schools is an absolute grant", etcetera. "Hence, Section 7 of the enabling act and Section 9, Article VII of the Constitution of Nebraska mandate that income from unsold school lands be exclusively used for the support and maintenance of the common schools in each school district in the state. As noted in your inquiry, some school districts do not receive funds pursuant to the equalization portion of the School Foundation and Equalization Act and, therefore, your above described amendment to 807, would, in our opinion, be unconstitutional." Very simple. Some schools do not receive money from the in lieu of tax payments. I consider that to be unconstitutional. We can continue to hide our heads in the sand, as someone said yesterday. It's not going to go away. It is here and Senator Warner says he is not uncomfortable with letting the court make the decision. Ladies and gentlemen, that's a very profound statement, of course, but it does not address the fact that we know, we know, and I think Senator Warner knows, as do most of you, that the in lieu of tax funds will not held to be constitutional. I can be sympathetic with those of you who don't get the funds today. I am sympathetic. That's why I voted for the bill in the first place. I think it's unfair that you have all the land out there and you do not receive anything to compensate you for that loss of income. We tried to do that. The counties don't receive anything from it now. The cities don't receive anything from it now. The NRDs don't receive anything from it now. And there is a point which Senator Warner makes which says the money still goes to schools. Fine, but it does not go equitably. He raised another good point as to whether or not money is being distributed equitably now under the Constitution. Maybe we ought to take a look at some of that. It would not be a bad idea, in my opinion. That's not the issue here. I want to emphasize once again what we discussed earlier and I have, I believe, cleared up the problem with Senator Haberman. LB 807 does address the issue of the sale of school lands. LB 188 did the same thing but the reason I want to bring the bill to the floor, along with Senator Wittem, is because then we can use it as that bill which would then be the vehicle which would carry the amendment to sell the school lands. That's why we do need 188 on the floor if you are

going to address that issue at this session of the Legislature. I believe the issue ought to be addressed. Senator Withem, do you want to make a few comments, please.

SPEAKER BARRETT: Senator Withem, approximately one minute.

SENATOR WITHEM: Yeah, very briefly. Thank you, Senator Schmit, for giving me the moment or two. I think this has been an instructive debate. Senator Scofield had indicated it was a waste of time and I don't think it was a waste of time. I think it's a very important issue and there are a lot of people that came up to me today and said, we want to learn more about this issue, do you have information in the office? Do you have some stuff that will explain these different facts? What's the history of it? So I think it's a good...it was a good discussion. What we're asking you to do now is bring the bill to the floor. We're not saying put it on the Governor's desk in the form that Senator Schmit wants to have it in. I think it's a piece of the whole puzzle. I think the fact that there are some counties in the state that are benefiting unfairly, in my opinion unfairly, from this in lieu of taxes is a part of the puzzle that means that there isn't a statewide consensus on getting something done on property taxes. I think this is part of what was talked about yesterday and what will be talked about at the rest of the session. All we're asking now is bring the bill to the floor. We'll work on it. We'll work on it. Maybe outright repeal isn't the only solution. Maybe you'll repeal this and do something else someplace else along the line to account for what's going on. Maybe selling the lands is part of the puzzle.

SPEAKER BARRETT: Time has expired.

SENATOR WITHEM: The point that Senator Schmit and I are making is that it's an important issue and needs to be brought to the floor of the Legislature and we urge you to do so.

SPEAKER BARRETT: Thank you. The question is placing LB 188 on General File notwithstanding the action previously taken by the Education Committee. Those in favor of that motion please vote aye, opposed nay. Pursuant to Rule 3, Section 17, a three-fifths majority of the elected members necessary. Senator Schmit.

SENATOR SCHMIT: (Microphone not on) ...for a roll call vote,

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please, and a call of the house also.

SPEAKER BARRETT: Call of the house has been requested. Those in favor of the house going under call please vote aye, opposed nay. Record, please.

CLERK: 21 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Authorized personnel, please leave the floor. Those outside the Legislative Chambers, please return. Record your presence, please. Senator Schmit, would you please check in. Senator Moore. Senator Byars, please check in. Senator Chambers, the house is under call. While waiting for Senator Chambers, the Chair is pleased to advise that Senator Dierks has some guests in the south balcony. We have 20 eighth graders from Clearwater, Nebraska with their teacher. Would you people please stand and be recognized. Thank you, people, for being with us. Senator Chambers has arrived. Roll call vote has been requested on the question of pulling the bill from committee notwithstanding committee action. Mr. Clerk, proceed.

CLERK: (Roll call vote read. See page 1475 of the Legislative Journal.) 22 ayes, 22 nays, Mr. President.

SPEAKER BARRETT: The motion fails and the call is raised. Anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Mr. President, Senator Weihing would like to add his name to LB 247 as co-introducer.

Mr. President, new resolution by Senators Ashford and Moore. (Read brief description of LR 70. See page 1476 of the Legislative Journal.) That will be laid over, Mr. President.

That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. And Senator Abboud has advised that he has 33 fourth graders from Wildwood Elementary in Ralston, in the south balcony, with their teacher. Would you people please stand and take a bow. Thank you. We're pleased that you could visit us this morning. Mr. Clerk, moving to item 6 on the agenda, Select File, senator priority bills, LR 2CA.