

January 11, 1989

LB 341-372

LR 3, 5

able to assist other agencies, other investigating committees, other individuals who are involved. I have pledged my cooperation to some of them with whom I have visited. I know that Senator Chambers feels the same way. I know that other members of the committee feel the same way. I hope that we are all pursuing the same goals, same objectives and that we can work together. I want to say again that this committee will act with propriety, honesty and integrity. We intend to obtain the best counsel we possibly can and we intend to protect the rights of the innocent and to pursue those who might have been less than innocent. Mr. President and members, I ask for a positive vote on the resolution.

PRESIDENT: That was the closing. The question is the adoption of the resolution. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please. Record, Mr. Clerk, please.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of LR 5.

PRESIDENT: The resolution is adopted. You have some new bills, Mr. Clerk.

CLERK: Mr. President, I do. New bills. Mr. President, Senator Labedz would like to have a meeting of the Reference Committee now in the Senate Lounge. Referencing Committee in the Senate Lounge, Mr. President, right now. Senate Lounge for Referencing Committee. New bills. (Read by title for the first time LBs 341-355 as found on pages 183-87 of the Legislative Journal.)

PRESIDENT: We will be at ease for a few minutes for referencing and receiving a few more bills.

EASE

PRESIDENT: (Microphone not activated) and capable of transacting business. I propose to sign and do sign LR 3. Would you like to continue, Mr. Clerk, please.

CLERK: Yes, Mr. President, thank you. New bills. (Read by title for the first time LBs 356-372 as found on pages 187-91 of the Legislative Journal.)

Mr. President, I have a new resolution offered by Senator Hall.

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LB 54, 58, 223, 277, 361, 373
LR 6

(Read explanation of LR 6 as found on pages 191-93 of the Legislative Journal.) That will be referred to the Reference Committee.

In addition to those items, Mr. President, I have notice of hearing from the Health and Human Services Committee for Wednesday, January 18; notice of hearing from Senator Hall as Chair of Revenue for January 19; notice of hearing from Revenue for Wednesday, January 18; from Government for January 18; and from Natural Resources for January 18, all signed by the respective Chairs. (See pages 193-94 of the Legislative Journal.)

Mr. President, I have a motion from Senator Weihsing. Senator Weihsing would move to rerefer LB 54 from the Agriculture Committee to the Health and Human Services Committee. That will be laid over, Mr. President.

Mr. President, Reference Report referring LBs 280-323, as well as certain gubernatorial appointees. (See pages 195-96 of the Legislative Journal.)

Mr. President, a series of unanimous consent requests. Senator Rogers would like to add his name to LB 277; Senator Ashford to LB 58; Senator Coordsen to LB 223; Senator Lynch to LB 277.

Mr. President, Senator Nelson has been selected as Vice-Chairperson of the Building Maintenance Committee. That is offered by Senator Conway as Chair.

Senator Landis and Wehrbein have amendments to be printed to LB 361. (See pages 196-97 of the Legislative Journal.)

Mr. President, the final item I have is a new bill, LB 373, by Senator Withem. (Read by title for the first time. See page 191 of the Legislative Journal.)

Mr. President, a reminder from Senator Rod Johnson that the Food Industry Association will be meeting in Room 1113 today at noon. Food Industry Association at Room 1113 at noon today. That is offered by Senator Johnson. And that's all that I have, Mr. President.

PRESIDENT: Ladies and gentlemen, I would like to introduce a guest we have over under the north balcony. We have with us

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LB 30-34, 361, 410-460

CLERK: Mr. President, I do, thank you. I have a reference report referring LBs 374-409, signed by Senator Labedz as Chair of the Reference Committee.

In addition to that, Mr. President, I have received a communication from the Chair of the Reference Committee referring the communication received from the University Board of Regents regarding the University Health Care project. That has been referred to Appropriations Committee for public hearing.

Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 30 and recommend that same be placed on Select File; LB 31, LB 32, LB 33 and LB 34, all on Select File, Mr. President, all with E & R amendments attached. (See pages 223-26 of the Legislative Journal.)

Mr. President, new bills. (Read LBs 410-449 by title for the first time as found on pages 226-49 of the Legislative Journal.)

Mr. President, in addition to those items I have notice of hearings from the Agriculture Committee offered by Senator Rod Johnson as Chair; from the Business and Labor Committee offered by Senator Coordsen as Chair; from the General Affairs Committee. That is offered by Senator Smith as Chair. And, Mr. President, a notice of hearing from Senator Warner as Chair of the Appropriations Committee.

SENATOR HANNIBAL: Mr. Clerk.

CLERK: Mr. President, new bills. (Read LBs 450-459 by title for the first time. See pages 236-38 of the Legislative Journal.)

Mr. President, finally, I have an announcement the Urban Affairs Committee has selected Senator Korshoj as Vice-Chair of the committee.

Senator Rod Johnson would like to add his name to LB 361 as co-introducer. (See page 238 of the Legislative Journal.)

(Read LB 460 by title for the first time. See page 238 of the Legislative Journal.)

February 10, 1989

LB 48, 56, 127, 167, 184, 185, 208
231, 361, 366, 426, 643, 714, 760
LR 2

SENATOR LANDIS: We can regulate promotion. I think David raises the fair question, you're getting more than the evil that you have claimed for in the bill and I say, you're right, we are but that's the only way, realistically, in my mind, to stop free samples for kids. And, unfortunately, we're cutting out for the doves as well as the crows here but it's got to be done to have a workable system to ban free sampling.

SPEAKER BARRETT: Time has expired.

SENATOR LANDIS: I don't think this involved structure in the amendment is a workable system to stop free samples for kids. So I'm going to vote against the amendment and for the bill.

SPEAKER BARRETT: Thank you. Senator Moore, followed by Senators Dierks, Withem and Conway.

SENATOR MOORE: I move we adjourn until Monday morning, February 13th.

SPEAKER BARRETT: Anything for the record? Mr. Clerk.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 56 and find the same correctly engrossed; LB 127; LB 167; LB 184; LB 185; LB 231; LB 366, all correctly engrossed.

Revenue Committee reports LB 426 to General File with amendments; LB 643, General File with amendments and LB 361, General File with amendments. (See pages 700-03 of the Legislative Journal.)

Senator Wesely has amendments to LB 208 to be printed. (See page 704 of the Legislative Journal.)

Series of adds, Senator Haberman to LB 760; Senator Hefner to LB 714; and Senator Hefner to LR 2.

Mr. President, unanimous consent that Banking Committee will change their hearing room for next Monday's hearing to the East Chamber. That's all that I have.

SPEAKER BARRETT: Thank you. Before calling a vote on the motion to adjourn, ladies and gentlemen, the Chair wants to exercise the privilege of announcing the fact that Ed Howard of

February 22, 1989 LB 64, 339, 357, 361, 371, 416, 444
482, 502, 559, 730, 782
LR 34, 35

LB 416, LB 502, all correctly engrossed, all signed by Senator Lindsay as Chair. (See page 829 of the Legislative Journal.)

Senator Landis has amendments to LB 361; Senator Nelson to LB 357. (See pages 830-31 of the Legislative Journal.)

Mr. President, Senator Warner would like to announce the room changes for hearings scheduled for March 1 and March 3.

Mr. President, the Natural Resources Committee reports LB 339 to General File with amendments, LB 730 to General File with amendments; Urban Affairs Committee reports LB 444 to General File with amendments; Banking reports LB 482 to General File, LB 64 indefinitely postponed, LB 559 indefinitely postponed, LB 782 indefinitely postponed; and General Affairs reports LB 371 to General File with amendments; all signed by their respective Chairs. (See pages 831-34 of the Legislative Journal.)

Mr. President, new resolutions, LR 34 offered by Senator Weihing. (Read brief explanation.) LR 35 by Senator Rogers. (Read brief explanation. See pages 835-36 of the Legislative Journal) Both of those will be laid over, Mr. President.

Mr. President, Senator Schellpeper has amendments to LB 357 to be printed. (See pages 836-39 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Senator Robak, would you like to adjourn us until tomorrow at nine o'clock which is February 23rd.

SENATOR ROBAK: I move that we adjourn until tomorrow, February 23rd, at nine o'clock.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. You are adjourned until tomorrow at nine o'clock.

Proofed by:

Sandy Ryan
Sandy Ryan

February 23, 1989 LB 114, 221, 342, 361

in session and capable of transacting business, I propose to sign and I do sign LB 221, LB 114, and LB 342. The call is raised. (See page 847 of the Legislative Journal.) For the record, Mr. Clerk?

CLERK: I have nothing at this time, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to item 7. Senator Pirsch, for what purpose do you rise?

SENATOR PIRSCH: Point of personal privilege.

SPEAKER BARRETT: State your point.

SENATOR PIRSCH: Senators, since my birthday is two days after Christmas, we've never had a special session or regular session that I can celebrate with. I was prompted to do so today, so today I am celebrating my unbirthday and there are rolls, assorted rolls and doughnuts, for all of you to share today. Thank you.

SPEAKER BARRETT: Thank you. (applause.) Rolls, compliments of the senator from the 10th Legislative District, Senator Carol McBride Pirsch. Thank you. To General File, special order, Mr. Clerk.

CLERK: Mr. President, LB 361 was a bill that was introduced by Senator Landis, Warner, Wehrbein, Schellpeper, Hefner, Lowell Johnson, Coordsen, Lamb, Moore, Elmer, Hall and Rod Johnson. (Title read.) The bill was introduced on January 11, referred to Revenue, advanced to General File. I have committee amendments pending by the Revenue Committee, Mr. President.

SPEAKER BARRETT: The Chair recognizes Revenue Chairman, Senator Hall, on the committee amendments.

SENATOR HALL: Good morning, Mr. President.

SPEAKER BARRETT: (Gavel.)

SENATOR HALL: Mr. President and members, LB 361 is the bill that was brought to the committee by Senator Landis as the principal sponsor that deals with the issue of the ag land valuation problem that we have faced for a number of years here. It is actually the issue that brought me to the Legislature, I

guess, because I was appointed for a special session that dealt with the Kearney Holiday Inn lawsuit case. Out of that came Amendment 4 and the courts determined that that was not a valid way to address the problem. After that there was discussion by a number of groups of people and Senator Landis led the charge on that mainly. From that came LB 361 to the committee. I would urge the members, if you would, to open your bill books and take a look at the committee statement which gives you all the basic information that you've come to know and love, but in particular look at the proponents for the bill and then the summary as laid out by staff of the Revenue Committee and then flip back, if you would, after looking at that to the explanation of amendments to the committee...that the committee has brought to 361. The committee amendments are fairly simple. The bill is fairly simple, it's fairly short. Senator Landis will explain it as soon as we're done here with the amendments, but what the amendments do are about three different things. They allow for a one-year adjustment factor so that the Department of Revenue has the ability to put together a new manual. With the passage of LB 361 there will not be enough time for the department to determine or put together a manual so that it can be used in this tax year. So what we are providing for through the committee amendments is the ability for them to have some adjustment factors that they would get out to each of the counties to be used with the manual that is currently in place and allow for the move to market value on an orderly basis. For the 1990 tax year we would have the ability and the time to have the new manual in place. That is the principal change that the committee amendments offer. The other changes deal with striking some changes that were made in the original bill. Probably the other one that would be in there would, principal one, would be the reinstatement of two members that were originally stricken from the Agricultural Land Advisory Board so it would put the residential and the commercial property representatives back on that board. They would be reinstated. And it would also restore the duty of the board to make recommendations to the Legislature. That was an item that was brought. Representatives from the board testified in front of the committee and made those recommendations that those representatives be placed back on the board and that the ability to make recommendations to the Legislature be reinstated. With that, Mr. President, that's a summary of the committee amendments to the bill and I'd be happy to answer any questions that members may have. Otherwise, I would move the adoption.

SPEAKER BARRETT: Thank you, Senator Hall. An amendment on the desk.

CLERK: Mr. President, Senator Landis would move to amend the committee amendments. The Landis amendment is on page 830 of the Journal, Mr. President.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, the Department of Revenue came to me the other day and said, you know, we will not only be able to do an adjustment factor for each of the major four classifications of land, but each of those major classifications of land has subgroups in them. We'll be able to have an adjustment factor for each of the subgroups available and thereby make this one-year adjustment factor all the more precise. I've offered this language at their suggestion because it authorizes the Department of Revenue to send out adjustment factors not only clumped by each of the major four land classifications, but by the subgroups or subclassifications as well. All that means is that for a one-year adjustment period counties will be provided with even more specific, more precise adjustment factors by the Department of Revenue and I think we should take advantage of that ability to be done by our Department of Revenue by adopting this amendment. Upon the adoption of the amendment to the amendment and then the committee amendment, we'll be in a position I think to argue the merits or demerits of LB 361.

SPEAKER BARRETT: Thank you. Discussion on the Landis amendment to the committee amendments. Senator Lamb, would you care to discuss the amendment? Senator Haberman, on the amendment?

SENATOR HABERMAN: Mr. President, members of the body, Senator Landis, would you yield to a question, please?

SENATOR LANDIS: Sure.

SENATOR HABERMAN: Dave, would you...could you give us a little more detail on just exactly what the adjustment factor is or what it entails?

SENATOR LANDIS: Fine. The manual now has a number for subclassifications of land in various counties. The adjustment factor is based on a Department of Revenue hurry-up study if

you will, of comparable sales, sales assessment ratios, market values and the adjustment factor is meant to move up the manual number to the market number in counties. The adjustment factor would be a percentage increase from the manual to approximate then what would be market value for land in those counties and that adjustment factor will be sent out to the counties and applied to the manuals that will be sent to the county as well. That is what the adjustment factor is.

SENATOR HABERMAN: Would there be any possibility of this body seeing the...an itemized list or...of this adjustment factor that the Revenue Department plans to use before the bill is passed on Final Reading? I'm referring to also, I'll come to it when we get on the bill, but I wanted to know if it contains any of the language that is in Section 10 of the bill? I want to see if there is a correlation. But could we, by any possibility, get a...some...a handle on what the adjustment factor will entail?

SENATOR LANDIS: What I think we can do is this. We can probably get you some projections, but they are currently working on those adjustment factors each and every day based on analysis of sales. Can the Department of Revenue get you those adjustment factors prior to the passage of this bill, I can't guarantee that. My guess is that they can't get it for every county for every subclassification in that amount of time. If you're looking for a projection, I think that could probably be done. A sort of a ballpark figure, yes; the specific adjustment factors probably no.

SENATOR HABERMAN: Well I'm not looking for a specific...

SENATOR LANDIS: Some examples, I think certainly we could get, Rex.

SENATOR HABERMAN: Just some idea so we can have a feel for what we're giving them the authority to do.

SENATOR LANDIS: Yes, I think we can...that can be done. The exact specific subgroup for each county, probably not. Okay.

SENATOR HABERMAN: Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Hall, on the amendment. Thank you. Any other discussion on the Landis amendment to the

committee amendment? Seeing none, Senator Landis, would you care to close?

SENATOR LANDIS: I close on the amendment to the amendment and let's adopt it, then we can talk about the bill once the committee amendments are adopted.

SPEAKER BARRETT: Thank you. Those in favor of the adoption of the amendment please vote aye, opposed nay. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Back to the committee amendments as adopted, Senator Lamb, followed by Senator Hall.

SENATOR LAMB: Well, Mr. President, members, perhaps this should...it's really on the bill, but I'll take this opportunity to speak. I have a question of Senator Landis, if I may.

SPEAKER BARRETT: Senator Landis, would you respond.

SENATOR LANDIS: Yes.

SENATOR LAMB: I have noted in some articles that LB 361 is an interim bill that is supposed to be temporary, a temporary solution to the...seemingly the crisis we have at this point. Do you agree with that assessment?

SENATOR LANDIS: The "interimness" of this bill is in the eye of the beholder. It depends on whether or not you think the Legislature should pass a constitutional amendment out to the people accomplishing what Amendment 4 intended to do several years ago. There is a division in this body. If you ask me my personal opinion, when that constitutional amendment is on the floor, I intend to vote for it. I can't guarantee that that will be successful. 361 at this point would be a permanent solution in the event a constitutional amendment was not forthcoming, passed out to the people and voted on by the public.

SENATOR LAMB: Okay, you answered my second question which I hadn't even asked as to your opinion of the constitutional amendment.

SENATOR LANDIS: I'm trying to be as forthright as possible here, Howard.

SENATOR LAMB: I appreciate that. Now, we would go beyond that a bit. What, in your opinion, would happen if we just wait? You know, the problem I see here is we have an interim solution which may take pressure off of the constitutional amendment. People say, hey, we're getting along all right, we don't need to go for Senator Rod Johnson's constitutional amendment because we do have LB 361 which can become a permanent solution. So what would you say about that line of reasoning, that should we not just not pass anything which would then put more pressure on the constitutional amendment route instead of the 361 route? Would that be a logical method of operation?

SENATOR LANDIS: I can understand that perspective. I don't share it, and I'll tell you why, although you're right, it does have to do with the bill, not the committee amendment. At this point we have values border to border that in many counties are unconstitutionally low. Because they are unconstitutionally low, any other taxpayer in the county can go to court, sue and have their valuations dropped to that level. It depends on how you see it. I see that as being potential chaos and I see it as our job to fix that situation. I guess I would turn the topic back this way. If we left things where they are with no 361 or no constitutional amendment, that I would say is an untenable position to be in and if I had a chance to ask you a question, I'd guess I'd ask you if you thought that was an acceptable condition for the State of Nebraska to be in ad infinitum into the future.

SENATOR LAMB: I would ask one more question then. Let's just assume that this bill did not pass...

SENATOR LANDIS: Right.

SENATOR LAMB: ...and that we did have a constitutional amendment which would be voted on at the next election.

SPEAKER BARRETT: One minute.

SENATOR LAMB: Between now and that point, would you care to guess how many lawsuits would be filed and what kind of chaos and how terrible would the chaos be between now and that point?

SENATOR LANDIS: In the last year, from one successful lawsuit that is now only a handful of months old there have been 77 lawsuits filed. Those lawsuits have been by major, major landholders in commercial interests. Not a huge number, lots of valuations. I don't see thousands and thousands of lawsuits by individual homeowners, small businesses. What I do see is hundreds of lawsuits but by the Mutuals of Omaha, the Burlington Northerns, the ones who can go to court and when they get their reductions, those will be in terms of millions of dollars of valuation.

SPEAKER BARRETT: Senator Landis, excuse me, the time has expired but Senator Hall has waived off and yours is the next light. Would you like to continue on your time?

SENATOR LANDIS: I'll continue with the answer and then...

SPEAKER BARRETT: Thank you.

SENATOR LANDIS: We've got to work through this anyway and maybe I'll yield if Howard has got some more questions. You're probably not looking at thousands and thousands of lawsuits, but the county attorneys are now telling me they want to settle these lawsuits because it's such a laid-down hand when they go to court, they lose the case. Who can bring these lawsuits? The big guys can and they have a lot of property and when they drop their property, they can drop hundreds of thousands of dollars of valuation at a time. That will play havoc, I would suggest, with tax support for public institutions and the like. For that reason I see that as chaos, but it's a debatable issue. Since we're on my time, I guess I'll waive off, let Howard renew his light or perhaps we can renew this when we're back on the bill. I'd ask for the adoption of the committee amendments and I'll be happy to try to explain the bill.

SPEAKER BARRETT: Thank you. Senator Hall, anything on the committee amendments?

SENATOR HALL: Mr. President, I would just urge the adoption of the committee amendments as they have been amended by Senator Landis. The issue that he raised that was brought by the Department of Revenue and is questioned by Senator Haberman, I think clarifies the issue, allows for a better determination and, Senator Haberman, we've requested from the department the

ability to have some examples so that we will be able to have an idea what the factors will look like, hopefully for a single county, how they might apply but at least some idea as to what will be used in those measures. The ag land manual that the committee members are familiar with is something that is no small piece of work and it will take some time for them to go through and redevelop this, so what the committee amendments do basically is allow them time to, for 1989, to use those factors and apply that to the manual that is currently in place so that for the 1990 year we will have a new manual in place. With that, I would urge the adoption of the committee amendments.

SPEAKER BARRETT: Thank you. Additional discussion, Senator Lamb. On the bill, thank you. Any other discussion on the adoption of the committee amendments to LB 361? If not, those in favor of that motion vote aye, opposed nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill, Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, thank you for the special order because this requires a certain amount of explanation and time and we should go as slow as it takes to get the questions out on the floor. I'm not going to minimize this bill. This bill is a big dose of castor oil and it hurts. I'm not trying to let you think that this is some easy little shuffling of accounting methods. It's not. This one is going to raise values, it's going to raise taxes and it's going to hurt. My purpose today is to explain to you why, in my estimation, it's our duty to do this painful thing. To tell that story there is sort of a stair step situation to talk about. Part of it is the Constitution and legislative acts and the other part of it is Supreme Court decisions that respond to each of those provisions. Patrick has been wise enough to put in our rule book the Nebraska Constitution, and if you want to start at the beginning of this story, you open to page 35 of your Constitution of the State of Nebraska. It's called, Article VIII, the Revenue section, and in Section 1, the two major characters constitutionally appear. They are the second sentence of Section 1 that says, taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, except that the Legislature

may provide a different method of taxing motor vehicles. That is the uniform and proportionate clause of the Constitution. It has been there for a long time. Why? Because in the frontier days the railroads were capable of coercing very favorable railroad taxes and personal property taxes and real estate taxes and this was meant to be a bar to legislatures giving away the farm to railroads. It has been there since the frontier days and that is why it was put there. Now, that rule says you've got to value and tax uniformly real estate, and personal property by the way. That has been on the books for, as I say, scores and scores of years, but in the intervening time something occurred in Nebraska. We created a state that was rural but became partially urban. We created political subdivisions across county lines. We created schools that had city and rural people in them and when that happened, something became clear. That was that if you were a large rural taxpayer, supporting one of these political institutions, your assessed valuation was very high compared to an urban taxpayer so that your contribution then was much higher than the city contributor's was on a per capita basis. Today I can have a \$50,000 house in town, but if you have a farm of \$400,000 of valuation and we both sent two kids to school, I'll pay 600 bucks and you will pay \$3,500 for essentially the same service, educating our kids. Farmers say it's unfair. Over time, what has sprung up is sort of a rough justice idea that says, well, I'll tell you what we'll do, we won't value that farmland at its absolute market value, we'll keep the lid on the agricultural land. Yeah, it's a tough system but we'll see if we can't somehow keep those ag values low, at least lower. It's a painful situation but that's our kind of a rough justice answer and we started doing that twenties, thirties, forties and fifties. And we lived with this sort of rough justice notion for a long time until 1984. 1984 is the first response then to this uniform clause. The Kearney Convention Center went to court in Lincoln County and said, you know, we're assessed at about 90 percent of actual value, but the farmland in our county is assessed at 45 percent value and you know what, I look at the second sentence of Section 1, Article VIII of the Constitution and you can't do that. And the court said, you're right. We've been doing this rough justice system now for scores and scores of years, but it's been actually in contravention of what the people of Nebraska have said. County Convention Center, we're not going to raise the ag lands up to your level, we're going to drop your level down to theirs. So hundreds of thousand dollars of valuation came off the tax rolls in Lincoln County for this

one commercial owner and the handwriting was on the wall. And the Supreme Court spoke and everybody saw it, what had happened and The Emperor's Clothes were recognized for what they were, that for years and years we were in violation of the Nebraska Constitution. All right, what happens? Do we have a new system that raises ag land values? Well, we scratched our heads and said, huh uh, we want to hold onto this older system of the rough justice notion. To do that we've got to change the Constitution. Amendment 4 was born, a special session, sent to the people, voted in overwhelmingly. Amendment 4 appears in this same section, and you'll find it, it's about, oh, two-thirds of the way down the page. It's the sentence that says, the Legislature may provide that agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of taxation. That's Amendment 4, adopted following the Kearney case, before we ever created a system to carry out the rule in the Kearney County case, the Kearney Convention Center case, rather. Before we ever had to live with the fire, we passed Amendment 4, thinking, we'll be able with this language to return to the old system. Amendment 4 passed, the Legislature came back into session, we created something called the income stream or the earnings capacity approach, it was LB 271. It was pursuant to that authority we thought we had amended the Constitution appropriately. The system was passed, a manual was sent out, ag valuations actually declined somewhat under that manual. The Supreme Court met again in the next stair step which is the Supreme Court response. It was the Banner County case. Even though neither side argued the issue, the court said, wait a second, let's take a look at Amendment 4. Well there it is in Article VIII. It doesn't repeal any language. The uniformity clause is there in sentence number two, here it is halfway down the page, both of those are in the Constitution, both of them must be true. The second sentence didn't repeal the first sentence. The first sentence is still in the books and we still have to follow it. Amendment 4, you can have a separate class but that class has to be uniform and proportionate. That first sentence in the Constitution, 100 years old almost, is still there and you can't ignore it. Therefore, to the extent that LB 271 yields numbers that don't comport with market value, it's not effective. Counties, state, you have to have ag land value at market value. Came back to the Legislature, we thought the court had not given us a fair shot, allowed us to argue the issue, that the court had not understood Amendment 4, that there were some theories that were

left to be argued before the court. So we passed an interim measure, LB 1207 saying we're going to make some adjustments but we're going to have this stay until we get a good, fair shot before the Supreme Court. We passed that bill and, again, that was the zig, the zag, was the Supreme Court decision recently handed down which I have excised portions of and put on your desk. It's called the Equitable Life case and I have excised important sections for you. This is the last statement by the court and it's the one that 361 is premised on. Let's take a look at these provisions, if you will. Open to the first page of this little two-page memo. These are actual sentences from the court. Now I've cut out the rest of it but this is what happens. The first sentence tells you that Equitable Life went to court and dropped their values on their property from 100 percent of value to 45 percent of their value, like that...

SPEAKER BARRETT: One minute.

SENATOR LANDIS: ...hundreds of thousands of dollars off the tax rolls. The number two tells you what the standard is, that the Supreme Court holds this to the obligation of having our land valued at actual value and they then tell you what actual value means. It means market value or fair market value. Number three says, that where you've got a choice between these two land classifications, one is higher than the other one, you have to lower the higher of the two valuations. It becomes abundantly clear that where it becomes necessary to lower the value of a large commercial property to equalize it with agricultural land, what happened in Kearney, what happened here in Equitable Life, it is the homeowner and the owner of a small commercial property who bear a disproportionate tax. As will be seen later in this opinion, the cost of appealing a disproportionate assessment is prohibitive...

SPEAKER BARRETT: Time has expired.

SENATOR LANDIS: ...for the homeowner and the owner of small commercial property. They will continue to suffer until the inequity is addressed by county boards of equalization or the Legislature.

SPEAKER BARRETT: Time.

SENATOR LANDIS: Fine, I'll renew my light and I'll continue the story and explanation of 361 at the first available opportunity.

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SPEAKER BARRETT: Thank you, Senator Landis. Discussion on the bill itself, Senator Lamb, followed by Senator Rod Johnson and Senator Hall.

SENATOR LAMB: Thank you, Mr. President, members of the body, I have a question for Senator Hall if he would care to respond.

SPEAKER BARRETT: Senator Hall.

SENATOR LAMB: In my conversation with Senator Landis earlier, he indicated that he would be supportive of the constitutional amendment which is before the body, I think Senator Rod Johnson is the author of that. My question to you is, will you be supportive of that?

SENATOR HALL: Senator Lamb, do you intend to ask 47 other questions very similar to this?

SENATOR LAMB: Well, I thought I might.

SENATOR HALL: Or are you going to stop after me?

SENATOR LAMB: You're such a key person I thought that would be the...I might even stop after you.

SENATOR HALL: Senator Lamb, I voted to send LR 2CA to the floor.

SENATOR LAMB: Does that mean you will support it when it comes up for vote here on the floor?

SENATOR HALL: Senator Lamb, no, to be quite honest with you, I will not. As a matter of fact...

SENATOR LAMB: Would this bill, one more question at least, if LB 361 did not pass, and I think that probably will not happen, it probably will pass, but in the case it did not pass, then as I understand it there will be a certain amount of chaos in the state, at least some people think so. There will be a lot of lawsuits. Then would that...would that encourage you, would that be a further encouragement to you to vote for the constitutional amendment?

SENATOR HALL: Senator Lamb, I don't think it would be. I can

elaborate on that or I can follow up on my own time and answer that question if you'd rather.

SENATOR LAMB: Well, go ahead, I've got time to spare.

SENATOR HALL: All right. Senator Lamb, the issue of whether or not the...we've requested an Attorney General's Opinion on LR 2CA and I did vote it to the floor. It was voted unanimously to the floor by the Revenue Committee. We discussed the issue. There was very little, if any, debate or support or testimony with regard to the constitutional amendment. If you would care to open your bill book and look at that, you'll see that there were really no proponents, no opponents or no one in a neutral testimony outside of Senator Johnson who testified. We did not have an overflow crowd. We didn't have 10 people in the hearing room on LR 2CA. Now it was a little different on LB 361 that we're addressing here this morning. The issue of what will happen if we don't pass 361 and will that bring pressure to bear with regard to the constitutional amendment that Senator Johnson has presented? The committee has heard LB 332 which is another bill that Senator Kristensen brought to us and the reason for Senator Kristensen bringing that bill to us, or one of them, was that it changes the appeals process that an individual who wants to appeal their property tax valuation has to go through with regard to the county board of equalization and the change that Senator Kristensen makes in that bill, and that bill also was advanced unanimously to the floor and we'll hear that later on, allows for the county board of equalization to basically say, we're guilty, we made a mistake, we confess that it is a...the valuation is not fair and equitable and rather than go to court, we'll just sign off on it and let the valuation fall where it may. Okay? The reason for that is because of the lawsuits that are pending that Senator Landis alluded to and those that are waiting in the wings.

SPEAKER BARRETT: One minute.

SENATOR HALL: They are not going to be large in terms of numbers, but they are going to be very large in terms of the property value that is going to be lost, the reduction that is going to come. It is not going to affect the Douglas Counties of Nebraska. It probably won't even affect Lancaster County to any great extent, but it will affect those counties who do have large commercial property owners which have assessments that are much higher than what the ag land in those counties is currently

assessed at and they will follow through with these lawsuits. I mean, we need to pass LB 361 no matter what happens with LR 2CA.

SENATOR LAMB: Thank you, I appreciate that explanation.

SPEAKER BARRETT: Thank you. Before recognizing the Chair of the Ag Committee for further discussion, the Chair is pleased to announce that Senator Bernard-Stevens has a number of guests under the north balcony, Jerry and Pat Rothemeyer of North Platte and Colby Elliot, a student at Nebraska Wesleyan. Would you folks please stand and be recognized by the Legislature, please. Thank you. We're glad to have you visiting with us today. Senator Rod Johnson, followed by Senators Hall, Haberman and Landis.

SENATOR R. JOHNSON: Senator Rod Johnson, members, I have tried to follow this debate rather intently and to listen to the arguments being made and I think we have here a concern on one hand to address the problem this year. We've got a screwed-up system that has got to be fixed and rather than let the problem fester, we need to take means in LB 361 and deal with it. Senator Lamb, on the other hand, is possibly suggesting that maybe we let this issue lie this year, wait till next year and possibly debate the merits of LR 2CA which is the constitutional amendment to exempt ag land from the uniformity clause. I was not too excited when the farm groups approached me about adding my name to 361 and I will tell you why. The major concern I have is that we are moving, I think, toward market values driving the capitalization rates in this bill and moving away from the income earnings stream that we thought we passed in constitutional amendment number 4 back in 1984 and LB 271. It seems to me that we should have taken the advice that Senator Landis gave us last year and that some of us listened to and tried to convince this body to pass the constitutional amendment last year. We talked about it not only during the session, but we also talked about it in August when we renewed that pitch to come back in a special session and deal with this problem then. As it is now we're two years out from 1990 to deal with the problem and I see no other way to get out of this problem. Our head is in the noose now...without passing LB 361. I don't like it. As I've told some of you it's a painful situation that we're dealing with. Senator Landis is right, it's a dose of castor oil that we don't want to take but I don't see any other way that we can handle the problem. It's the only game in town at this time. I don't have any other suggestion. There are

some other suggestions. Senator Schmit, who is not here today, but he does have some other suggestions using rental values as a possible stream to develop tax values. I don't know if those bills have come out of the committee yet or not, but that is an alternative idea that is being exercised by Senator Schmit. As I said, I've added my name mostly, to this bill, mostly at the request of some of the farm organizations but I have some grave concerns with it because I think we're losing the integrity of the income earnings formula that we thought we had, that we've fought for, that we may have to fight for again if LR 2CA is passed and I plan on renewing my pitch probably next year when LR 2CA will be taken up and try to tell you the reasons and rationale why I think a constitutional amendment is the only long-term solution that I feel is acceptable to me. That's not to say, as Senator Landis has indicated, that 361 couldn't serve as a vehicle for a long-term solution because it can, and it might if this body chooses not to pass the constitutional amendment. But on the other hand, as I said, I'm gravely concerned that we're calling a cat a dog here by using market as the major force in running this whole valuation formula. Because of that and because of the fact that, as I said, I see no other alternatives at this particular time. I plan on supporting 361 even though I really don't like it. Unless there were some other alternatives, and I don't have any other than the constitutional amendment, I plan on assisting Senator Landis with advancement of the bill today.

SPEAKER BARRETT: Thank you. Additional discussion, Senator Hall.

SENATOR HALL: Thank you, Mr. President, members, just real briefly, the issues that Senator Lamb raises are legitimate issues as does Senator Johnson and as I stated, the committee did deal with both these issues and determined that LB 361 was the route that we, in essence, had no choice but to take. The constitutional amendment I'm sure will be debated. It has been already today through LB 361, but probably in its own right and it should be, but we have requested an Attorney General's Opinion and hopefully we'll get that back as to what effect LR 2CA will have and how that will play out. 361, as Senator Landis and the other sponsors have brought to the body, needs to be addressed, needs to be addressed in a timely fashion so that the assessors out there have the ability to do their job for 1989. I don't think that it's something we necessarily need to rush into though so that things are not debated fairly or

openly, and I would encourage that to happen. But I do think that, in essence, the handwriting is on the wall and the support for LB 361 from the number of farm groups that you can see listed as proponents of the bill, no opposition to it, shows that clearly they understand that this issue has to be resolved soon so that we do not find ourselves with an eroding tax base, property tax base out there that we have no control over. We need to take control back of that situation and LB 361 is a vehicle in which we do that. With that, Mr. President, I would give the balance of my time to Senator Landis.

SPEAKER BARRETT: Senator Landis, approximately three minutes.

SENATOR LANDIS: Thank you, Mr. Speaker. Well, I zipped through about 100 years of history of the revenue picture of the state in ten minutes. Got three minutes here and I got up to 1988 in the Equitable case. I want to see how far I can get in three minutes. I was working with you on this Equitable Life decision and I was up to point number 4. The court basically looks here and relies upon two sales assessment ratio studies to justify their decision. In other words, when analyzing what the fair value of Equitable Life's land was worth compared to the ag land, they used a comparable sales methodology to affix fair market value. In other words, that is the method that they liked, that is the one they placed their faith in. Number 5, the last point to be drawn from this case, reiterates the Kearney Convention Center and points out the position that we're in today. Number 5 tells you the state of the law in Nebraska. In so holding, Kearney Convention Center reiterated that while it is permissible to reasonably classify property for tax purposes and to use different methods to arrive at the assessed values for each class of property, the results obtained by such varying methods must correlate to each other in such a manner that taxation of all classes shall be uniform and proportionate and not exceed actual value. What does that mean? That means you can use a cash rental method, you can use an income stream method, you can use a straight marketive method, you can use comparable sales method, you can use any method you want, but the numbers that that system yields has to be equivalent to market value. Doesn't make a difference what method you use, but the number has to equal the market value and if it doesn't, it's not sufficient to meet the Constitution standard. That is what the court has made plain in Equitable Life. 361 says, all right...

SPEAKER BARRETT: One minute.

SENATOR LANDIS: ...we'll have to live by market value, let's go out and find market value. How does it do it? It does it by going out and doing comparable sales analysis and by using those comparable sales analysis basically to drive the formula and I'll explain the formula when my next chance to talk is up, but let me use by last 30 seconds to say this. Howard Lamb, in his questioning of Tim Hall, was tying together the question of 361 and the constitutional amendment. I distinguished them on this basis. It is our duty to have a revenue system that is constitutional. That is our duty. That is nonnegotiable as far as I am concerned. That we have to do. We have to obey the Constitution as it is written. If we wish to change the Constitution, that is a matter for our political judgment, whether we like the idea, whether we think it's wise, whether we think it is sound public policy and that is a matter of choice.

SPEAKER BARRETT: Time.

SENATOR LANDIS: It is unfair to tie the matter of choice to the matter of duty. We have to do 361 or something like it this year.

SPEAKER BARRETT: Thank you. Before recognizing Senator Haberman the Chair is pleased to announce that Senators Jacklyn Smith and Arlene Nelson have some very special guests in the north balcony. We have 42 Y.W.C.A. ladies from Hastings and eight Y.W.C.A. ladies from Grand Island. Would you people please stand and be recognized by your Legislature. Thank you. We're delighted to have you with us this morning. Additional discussion on 361, Senator Haberman with Senator Landis on deck.

SENATOR HABERMAN: Mr. President, members of the body, so far this morning we have been discussing the general impact and the general of why for LB 361, the why for the land valuation situation, and I would like to take this time to call the attention to the body of the pass-out that I had passed out that explained paragraph by paragraph Section 10. Now to me this is a very integral part of the bill so, Senator Landis, would you respond to some concerns I have, please?

SENATOR LANDIS: Sure.

SENATOR HABERMAN: Senator Landis, would there be a possibility,

as long as we're giving the Revenue Department this authority and power, to take these eight or ten guidelines and use them in the manner that they see fit, would it be possible to give a value to each one of these ten guidelines, maybe ten points for one, five points for another, two points for another one and come up with some sort of a guide so this body will know in what direction the Revenue Department is moving and what they intend to do? To me, as it is now, it's a blank sheet, or saying to the Revenue Department that as long as you follow these guidelines, you're okay. And I'm a little gun-shy sometimes about the Revenue Department and the way they look at things and the way this body would look at things, not casting any stones, but I'm just saying that sometimes I disagree with them. So what would be your response to asking them again to provide us with some kind of a criteria as to how they're going to put these guidelines into effect because to me, this is the guts of the bill.

SENATOR LANDIS: Thank you, Senator Haberman, fair question. These guidelines come from an existing informal list of guidelines sent out to county assessors now to give county assessors guidance in their analysis of sales to forward to the department. We wanted to put them into statute so that we would know that they were there and recognize them but not make them binding. If you ask me about criteria and putting a point assessment value, I would say while it is possible we would have that authority, it would not be helpful for the system because it is possible that something that qualifies on this list has one of these things, could in fact still be a sale at a current market value figure and, therefore, should be used. These are flags to say that a sale is suspect, but not necessarily. Let me go on to give what I think is a fair response to your question. What about oversight? What about how far of a leash have we given the Revenue Department here? The Revenue Department has to answer to this body but we also have an intermediary to do this kind of watchdog look for us. The Ag Land Valuation Advisory Board has the authority to examine the Department of Revenue's operation of this system and, secondly, it continues to have under 361 the authority to advise the Legislature, should the Department of Revenue implement ag land valuations in a manner inconsistent with good policy.

SENATOR HABERMAN: Senator Landis...

SPEAKER BARRETT: One minute.

SENATOR HABERMAN: ...who would oversee this if a county board, using these guidelines, were called to task or whatever, because they used some of them properly or improperly in the eyes of whom? Who is going to be the person to decide if a county board followed these in the proper manner?

SENATOR LANDIS: The final arbiter as to whether or not a sale is permissible to use as a comparable sale is the Department of Revenue. These standards, by the way, are relatively uniform and common around the country, Rex.

SENATOR HABERMAN: So your comment about the Board of Equalization necessarily then doesn't pertain to these guidelines because you just told me the Department of Revenue decides whether and which of these were violated or followed.

SENATOR LANDIS: I...can I have a chance to respond? I think I characterized this correctly. The Department of Revenue has the final say as to whether or not...how they interpret these guidelines...

SPEAKER BARRETT: Excuse me.

SENATOR LANDIS: ...or whether a sale is (inaudible) or not.

SPEAKER BARRETT: Senator Landis, excuse me, once again, time has expired. However, yours is the next light. If you'd like to continue your response on your time, proceed.

SENATOR LANDIS: Let me answer Senator Haberman's question and then go on with my discussion. It is true the Department of Revenue has the final say. The ag land valuation board that I referred to is not an authority, cannot force the department to do something, is not a voice above the department. That board is filled with people who are knowledgeable enough to oversee what the department is doing, ask them questions and turn around and advise us and tell us, wait a second, the Department of Revenue is cockeyed. Here is the method that they're using, here's what they're doing in their comparable sales, that's not good policy, Legislature, rein them in. It's not the final arbiter. It is a method for giving advice by well-informed people. And...

SENATOR HABERMAN: So in case of a dispute...(interruption)

SENATOR LANDIS: But, Rex, wait a second, we're on my time and I get to continue with my story and you put your light on.

SENATOR HABERMAN: I'll give you my time, I've got my light on.

SENATOR LANDIS: Okay, great. All right.

SENATOR HABERMAN: So in case of a dispute...

SENATOR LANDIS: Wait, no, no, no, Rex, no, no, no.

SPEAKER BARRETT: Senator Landis, proceed.

SENATOR LANDIS: Thank you.

SPEAKER BARRETT: Senator Haberman, you're out of order.

SENATOR LANDIS: Do I get the ball, or does he get the ball here? Is it a jump ball, whatever it is? Okay. Now let me go...I've tried to give you what I think is the history and the legal analysis of where we are on 361. I want to talk briefly about what is in the bill and then open myself up to more questions. God, I love those questions. On your desk today is a letter from Pat McDermott, County Attorney in your area, Rex, who, by the way says, having read the bill...

SENATOR HABERMAN: Do you want an answer to that?

SENATOR LANDIS: No, no, no, no, that's not a question, okay? Questions are where my voice raises on the end and they have a little question mark at the end of them. Pat McDermott, here, as a supporter of 361 and he has been a county attorney working in the area for a number of years, what 361 does is severalfold. It identifies the target for which ag land values must achieve and that is a fair market value as determined by ordinary trade. It also collapses pasture land and rangeland into one general heading beginning in 1999, 1990, rather, and that will be grassland. Additionally, it deletes our existing standardized capitalization rate and says basically that the capitalization rates will be determined by market forces. They will figure the income stream, they will go out and figure values from the marketplace and then they will determine their capitalization rate from those two numbers. We also, as Rex has pointed out, indicated the level of analysis that we will subject sales to in

determining whether they are comparable or not and, therefore, usable in a sales assessment ratio. We retain existing members of the land valuation advisory board and we continue with their authority to advise the Legislature. We also authorize counties to make parcel by parcel adjustments based on appeals by landholders should there for some reason be a justifiable number other than what the manual describes. And, lastly, we retain at the State Board of Equalization level the power to make intercounty equalizations and deny the county boards the power to adjust valuations on a class basis. Counties are not capable of moving every landholder in a class up or down. They are empowered, however, to serve as courts offering due process in hearing appeals and making parcel by parcel adjustments. It deletes some intent language in 271 and it basically is an acceptance of actual value through comparable sales and capitalization rates driven by the market. That is what 361 does. And...

SPEAKER BARRETT: One minute.

SENATOR LANDIS: ...I'll any more questions and I'll move for its advancement.

SPEAKER BARRETT: Thank you. Before recognizing Senator Nelson, the Chair announces that there are a number of students with us again this morning. In the north balcony as guests of Senator Rod Johnson we have 23 eighth grade students from Osceola with their teacher Michael Davis. Would you people please stand and be recognized. Thank you. We're glad to have you. Also, in the south balcony Senator Arlene Nelson has 12 Business Law class students from Grand Island Senior High with their teacher. Would you people please be recognized. Please stand. Thank you. We appreciate your being with us. Additional discussion, Senator Nelson, with Senator Wesely on deck.

SENATOR NELSON: Mr. Speaker, I'll give my time to Senator Landis.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Thank you. A couple of brief remarks and then we'll proceed on with the debate. First, the guidelines that Senator Haberman has passed out, and which appear in the bill, are very common practices in this state and others. County assessors have used them for years and they have been used not

only for agricultural land, but for residential sales. These are many of the same guidelines that we've been using and implementing. We're putting them in the statutes for all to see, but they are very standard practices. My last point before we go on to whatever questions I can answer is that I've passed out to you a memo that Bill Lock did for Senator Wehrbein that Senator Wehrbein passed around. It's not my desire to hide from you the impact of what we're doing. You'll want to take a look at this thing. I think the critical element is Bill's analysis as to what we're talking about. He suggests that as a state we're looking between 12 and 15 percent increases in valuations and taxes, 12 and 15 percent. It will vary from where you are around the state. It will vary what the mix of property is, what kind of agricultural property you have. We could be talking about as much as \$15 million of increase in agricultural taxes. I want it in the record so that you understand this is one big dose of castor oil. Okay.

SPEAKER BARRETT: Thank you, sir. Senator Wesely, with Senator Lamb on deck.

SENATOR WESELY: Thank you, Mr. Speaker, members, I would rise in support of the bill and hope that it would be advanced. I understand there is very many different opinions and I think the discussion is worthwhile. I know many are concerned about the implementation of this proposal to go to market value and I know we've fought and argued over this for some time, but it seems to me the decision was made last year when we decided not to place on the ballot in the 1988 election the question whether or not ag land values should be able to not have a uniform proportionate clause apply to them. So really at this point, that decision has already been passed and now we proceed to implement this issue. I think, again, for the 1990 ballot we can argue whether or not we proceed at that time with that legislation, but I'd ask Senator Hall or Senator Landis, with the passage of this bill is there a certain time line? Senator Hall, for instance, will this have to pass at a certain date and then will it, this year's valuation, take effect for next year and will we see... What I'm looking at is will we be able to see, for instance, next session exactly how this would impact on an ongoing basis, ag land values? I'm curious because I think it will be very illuminating.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Senator Landis, or excuse me, Senator Wesely, the committee amendments dealt with the issue of allowing for the adjustment factors and that allows for 1989 to move toward the market valuation. Because of the short time frame that the department would have to work in, they would not be able to develop a complete manual or a new manual to use this year.

SENATOR WESELY: Oh.

SENATOR HALL: So what the committee amendments did is allow for them, the assessors, to use the manuals that are there with adjustment factors that would be supplied by the Department of Revenue and that's when Senator Haberman stood up and asked, well, can we get an idea what those adjustment factors are. Can you show us...give us some examples prior to passage of this bill so we can have a ballpark or an idea with regard to what kind of impact it's going to have in 1989, and we will get some examples for that. For 1990 the new manuals will be in place and we will be able to see, I would think during session next year, what impact on a going forward basis LB 361 will have.

SENATOR WESELY: Okay, I appreciate that. Senator Landis, is that... Okay. Well my feeling is, again, going back to... I see that there is a memo from Mr. Lock, Research Office, and...to Senator Wehrbein about the impacts of this measure, but I think clearly if you look at the court case, how they've dropped valuations for certain litigants in this issue, has indicated the disparity that we have right now with valuation, that we have had as this issue has been pressed forward. Land dropped from 100 percent of value to 45 percent of market value just to make it even with other properties. It seems to me we're talking about not just this particular bill and this issue, but a very broad ranging mess in property tax valuation. It is there within different classifications of property as you know. We have had difficulty county to county in trying to deal within ag land, within residential, within commercial to have that fairly done, but then you have the problems between the ag land, the residential and the commercial, those different sets of property and I think you can clearly see from this issue how that has been a very wide disparity and that is why there is so much concern about this issue from all aspects and all walks of life in Nebraska. We are concerned whether we're in Lincoln, Omaha or on a farm somewhere in a rural county. It seems to me everybody is impacted by that. But then you also have the problem between counties and the equalization between them and I

think Senator Hall has a piece of legislation looking at central state assessment and I don't know if that has any chance of proceeding, but it certainly seems to me that this issue today sparks a further discussion that I think needs to be looked at by this Legislature on an ongoing problem that we've had with just property valuation in general. It's there, it's a serious problem. It's one that affects all of us and I hope we can understand that we need to do things in an even broader fashion in this area because...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...it's really very unfair in my estimation and look forward to seeing this bill advance and then further discussion about that broader issue at a later date.

SPEAKER BARRETT: Thank you. The gentleman from Anselmo, Senator Lamb. Senator Lamb, please. Senator Wehrbein, further discussion followed by Senators Hefner and Abboud.

SENATOR WEHRBEIN: Mr. President and members, am I on? Senator Lamb is out in the hall. I guess if he has questions he can come back. I just want to speak for 361. The handout that Senator Landis passed out does explain, I think, some of the rest. And I guess I really just want to call your attention to the fact that those of us especially in agriculture are understanding that we're taking a risk because, in supporting this bill, to the extent that it's really uncertain where land values are going to go, but we know with this bill that there is going to be an increase based on what the Supreme Court has told us. I would see this bill as perhaps a moderating effect on what...from an extreme rise in prices. We're seeing land values all over the board now. In my area we're seeing tremendous increases, so if we go by the sales or market value exclusively, we're going to know the land values are going up. I've been explaining this to many of my rural constituents that they are going up. Land values are going up and this bill, I would think, will at least put some moderacy, if there is such a word, into the degree that we're going to be doing this. As you can see in there, statewide taxes will go up and it's going to make a big difference as to where you're at. I'm going to say that I think it will impact eastern Nebraska farmland where there is a mix of rural-urban much more than it will western areas where the areas are primarily rural. Land values go up, you're going to see your mill levy go down. But in eastern Nebraska where we

have a mix of different values of land there is going to be a tendency to take that, use that mill levy probably more than we'd like to see. But my question is, what will be the alternative? We know we have to follow the Supreme Court decision. We know that land values are going up and some way those have to come together and still make some reasonable approach for county boards to use. And I think that's the other thing that we've got to consider, where will land values be if we leave it as it is? I've used the word chaos, I've used that word for probably a year and I really believe that that is what will happen. County attorneys are going to be uncertain as to what to do with their land values as they advise county boards of equalization unless they have a bill such as this. Otherwise, I think we're going to run the risk of having the land values all over the board in 93 counties, a degree of uncertainty that is going to make for more lawsuits and without any guidance that would be useable from the state because of the uncertainty based on Supreme Court decisions. So I guess I'm supporting this because I think it's the right thing to do and agriculture is going to pay some for this because land values are going up. We were unable, as many have mentioned, to get the legislative resolution through last spring. I will tell you that it makes me more determined than ever to work on this this spring to try, in this session, to try to get this constitutional amendment on. And I won't get into that case but I will try to make that case when we get there that it is still the right thing to do to let agriculture use the income approach, but that is another issue at this time. But I think for the interim, this LB 361 is something that we've got to look at. It's the right thing to do for all concerned for all Nebraskans and that we should proceed with that.

SPEAKER BARRETT: Thank you. Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I rise to support LB 361. I am a co-sponsor of it. I'm also a co-sponsor of the constitutional amendment that will be coming on, coming up later on this session or maybe early next year. But what this bill does, this would put agriculture land by market value or actual value. It was just several years ago that we passed a bill, I think it was LB 271, that would use earning capacity to value agriculture land, but this has been with us for many years and it's real hard to determine how we want to value different property that we have in our state. Sure, and we're certain that this is going to increase the value

of agriculture land that we have in Nebraska. Some of the estimates are that it will increase it by \$15 million and it may increase it more than that because we have agriculture land values going up especially here in eastern Nebraska. So we're going to hear some complaint for passing this bill and having the Department of Revenue implement it, but I think we need to explain to these people that complain that we are trying to follow the Supreme Court's decision. We're trying to follow our Constitution and if we don't want to do that, well then we need to change the Constitution and I feel that where we erred was last year when we did not pass that constitutional amendment because if we would have passed the constitutional amendment we would have allowed the people of Nebraska to say, yes, we believe that agriculture's land should be valued at a different way than other property in Nebraska. Remember, we did pass a constitutional amendment several years ago. The people voted it in, but the Supreme Court said it was not worded right and so they ruled in favor of some of the other property owners that brought their case with the Supreme Court. So I would urge you at this time to vote for LB 361 and later in the year or early next year vote for the constitutional amendment, LR 2.

SPEAKER BARRETT: Thank you. The Chair is pleased to announce that Senator Lowell C. Johnson has a special guest under the north balcony, Mr. Bill Young from North Bend, Nebraska. Mr. Young, would you please stand. Thank you. We're glad to have you with us. Senator Johnson, for what purpose do you rise?

SENATOR L. JOHNSON: May I rise as a matter of personal privilege?

SPEAKER BARRETT: State your point.

SENATOR L. JOHNSON: I would like to, Mr. President and members of the Legislature, I would like to suggest that you join me this morning in two things. Number one, to recognize the importance of the popcorn industry in the State of Nebraska. In North Bend there is a center of production and processing of that product and our National Oats Company which operates a vast production and processing facility in North Bend. You've already met Mr. Bill Young of that North Bend facility. Number two, I would like to ask me to join me in commemoration of the announcement by the American Popcorn Institute earlier this month that Nebraska moved ahead of Indiana as the nation's

leading producer of popcorn last year. It is a notable event that Nebraska produced a record of over 111 million pounds of popcorn to set that new record. And just to further commemorate this achievement I'm pleased to join with the National Oats Company in providing each of you with a sample of North Bend grown and processed popcorn and a special little lapel pin in the shape of popcorn. Please enjoy this all-American nutritious, healthy fun food and wear your lapel pin with a sense of pride in this production achievement for Nebraska. Thank you, Mr. President.

SPEAKER BARRETT: And with that commercial announcement, we thank you. Back to discussion on the bill, Senator Landis followed by Senator Rod Johnson. Senator Landis, on the bill. Senator Landis waives.

SENATOR LANDIS: I call the question. Why not? We've been at it for an hour.

SPEAKER BARRETT: The question has been called. Do I see five hands, please? I do. The question is, shall debate cease? Those in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: Debate ceases. Senator Landis, for closing.

SENATOR LANDIS: Thank you. Senator Johnson was a light on. I'm going to give him some of my time. If there are other senators who would like a brief moment, I would be happy to share my closing with you. All right. I think yesterday and today in the mornings, on the special orders, we have done what this body does well, or should strive to do more often and that is to debate in a slow and deliberative manner important, significant public issues. These last two mornings have been good days for the Legislature and I appreciate the discussion and the thoughtfulness that has gone into the discussion here today. I tell you that LB 361, whether or not you're a supporter of a constitutional amendment or not, needs to be done because it is the fastest, most efficient way to get to a constitutional standard for agricultural land valuation. The fact that we have done it so long the other way and have come to live with that system, and comfortable with it, makes this a painful thing to do but it has to be done. It is our duty and we need to do it today. For those of us who have a sense of the

equities involved as far as whether or not we should allow for a constitutional amendment will have another day. When that debate comes up, we change from what is our constitutional duty to our constitutional options. On that day I intend to argue for the constitutional amendment, but today is only the issue of whether or not we are going to yield to the clear handwriting on the wall by the Supreme Court in interpreting a uniform proportionate clause and this is a matter of gulping down some castor oil, but doing our duty. With that, I'll call for the advancement of the bill and give the remainder of my time to Senator Johnson.

SPEAKER BARRETT: Senator Johnson.

SENATOR R. JOHNSON: I'll be brief as well. I possibly misspoke when I was making my opening remarks on this issue. I made a statement that I said I did not think that LR 2CA would probably be considered this year and I'm glad that Senator Wehrbein made the comment that he'd like to pursue it this session. I would be happy to have the issue come up this year in either its natural order or if one of the co-sponsors with me on this issue chooses to make it a priority bill, then, of course, we will have an opportunity to discuss the merits of LR 2CA and how it ties in with LB 361. Secondly, Senator Hall brought up a question I think to each introducer of bills that dealt with ag land valuation in the hearing that I think is important to relate here again. He was asking the question if this is a temporary fix to a problem that where we have an overall problem of relying too heavily on property taxes for supportive, supportation...the supporting of our local governments. I guess I would agree with him, we do, and I think we have a number of proposals both from the Governor and in the Revenue Committee and probably on this floor by now that address the overall problem of property tax relief. LB 361 and LR 2CA are not property tax relief proposals in my mind, but they are tied to the property tax problem that we have in this state and I think we will have to begin the discussion of how we relieve those...the stress that we are putting on property taxes. Clearly, as indicated by Mr. Lock's memo, ag land or ag, or owners of ag land are going to see about a \$50 million increase in taxes to them and that is a significant burden to have added on to those who own ag property. So as I said, it's a bitter pill to swallow, but I guess I'm willing to do it today with the hope that maybe later this session we'll get to LR 2CA and argue its merits or demerits.

February 23, 1989 LB 272, 361, 361A, 544

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the advancement of LB 361 to Enrollment and Review Initial. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 28 ayes, 2 nays, Mr. President, on the advancement of LB 361.

SPEAKER BARRETT: LB 361 is advanced. For the record? Mr. Clerk, let's go to the A bill next.

CLERK: Mr. President, LB 361A by Senator Landis. (Read title.)

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, 361A is an appropriations of fund necessary to do this program. It constitutes \$97,000 from 1989 to 1990, and \$72,000 from 1990 to 1991 for the Department of Revenue. I move for the advancement of the A bill.

SPEAKER BARRETT: Thank you. Discussion. Seeing none, those in favor of the advancement of LB 361A please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 27 ayes, 1 nay, Mr. President, on the advancement of LB 361A.

SPEAKER BARRETT: LB 361A is advanced. The Chair is pleased to announce that Senator Warner has some special guests under the south balcony, Jennifer Schizas, the Chairman of Nebraska March of Dimes who is here to present to us Sara Parks, the March of Dimes Poster Girl, with her father, Randy. Would you please stand and be recognized. Thank you. Sara, we are glad to have you here. We understand that you are wearing the dress that you were wearing when you were introduced to President Bush, is that right? Thank you. It is beautiful. Come back again. Mr. Clerk, for the record.

CLERK: Mr. President, I have a proposed rules change offered by Senator Wesely. That will be referred to Rules Committee for their consideration. Your Committee on Banking, Commerce and Insurance reports LB 272 to General File with amendments, LB 544

the hundreds of thousands and millions of dollars, and they have to ask, why they can't feel the need to pay a little bit of tax on that, and don't feel that that is a particularly fair thing to do. I would like to ask your support for this measure, and I would like to ask your consideration of the issue. It is more than just this vote. I think this is the first of many other discussions on this floor about what...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...fair tax policy ought to be. We are going to be talking about property tax relief. We are going to be talking about income tax relief. We are going to be talking about general tax policy. And I hope you will understand that there are many of us that feel that our tax policy in this state have simply got to change and reverse direction back toward a more equitable, fair system, and I, for one, feel that this is but one step in that direction, a step that is unlikely to be taken but, nevertheless, one that needs to be discussed and considered as we look at overall tax policy, and I now ask for your support for the measure.

SPEAKER BARRETT: Thank you. You have heard the closing, and the question before the body is the placement of LB 433 on General File notwithstanding the action taken by the Revenue Committee. Those in favor of that motion vote aye, opposed nay. A record vote has been requested. Have you all voted? Have you all voted? Please record.

CLERK: (Read record vote. See page 882 of the Legislative Journal.) 11 ayes, 26 nays, Mr. President, on the motion to raise the bill.

SPEAKER BARRETT: Motion fails. Anything to read in, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Your Committee on Enrollment and Review reports LB 361 and LB 361A to Select File, those signed by Senator Lindsay as Chair. Natural Resource Committee reports LB 199 as indefinitely postponed, signed by Senator Schmit. General Affairs Committee reports LB 686 to General File with amendments, and LB 704 General File with amendments, those are signed by Senator Smith. (See pages 882-84 of the Legislative Journal.)

I have a hearing notice or cancellation of hearing notice by General Affairs. Senator Landis would like to print amendments to LB 361. (See page 884 of the Legislative Journal.)

Senator Rod Johnson would like to withdraw LB 748. That will be laid over. And two gubernatorial appointee confirmation hearing reports offered by Natural Resources. Those, as well, will be laid over, Mr. President. That is all that I have.

SPEAKER BARRETT: Thank you. Moving to General File, LB 744.

CLERK: Mr. President, LB 744 was a bill that was introduced by Senator Withem. (Read title.) The bill was introduced on January 19, referred to the Education Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: The Chair recognizes the Chair of the Education Committee, Senator Withem.

SENATOR WITHEM: Thank you, Mr. Speaker, members of the body. LB 744 is a bill concerning which I have passed out a couple of handouts, that you haven't been inundated with handouts yet this morning, so you probably ought to be able to find them. What the bill deals with is, in a general sense, it is one of several bills that have come from the Education Committee this year dealing with the rather fuzzy issue, difficult issue to grab a hold of, but incredibly important issue, that of quality education, and helping us as public policy makers both at the state level and at the local level get a handle on how well our schools are doing. Before I get into specifics of the bill, I would like to share just some general views on this question of quality of education in Nebraska. One of the problems I think we have as a Legislature, as a state, policy makers in the area of education, is we tend to have an overly smug view, I think, of the quality of education that we offer our young people in this state. We look at some very isolated, very, in many cases, misleading statistics, such as, college entrance examinations, graduation rates, things along that line, to prove to us that we have quality education. When you get deeper into what is quality education, what indicators do we have that point to quality, they really aren't there. If you will look at some of the quotes you have on your sheet, your sheet here, it will indicate that any number of people that have taken a look at quality education in Nebraska have drawn the conclusion that we just don't have enough data available about our schools to make

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LB 89, 222, 335, 340A, 361
LR 57

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber so that we may continue. Please look up to see if your light is on. Please check in. Senator Ashford, Senator Baack, Senator Chambers, Senator Goodrich, Senator Labedz, Senator Hannibal, Senator Schmit, Senator Peterson, Senator Rod Johnson. Please return to your seats so that we can see who is here. (Gavel.) Please return to your seats. We're still looking for Senator Goodrich, Senator Chambers, Senator Labedz, Senator Peterson. A request has been made for a roll call vote in reverse order, but we'll wait for a moment till some of the others get here. We're still looking for Senator Goodrich, Senator Labedz and Senator Chambers. Senator Chambers is the only one not here that is not excused. The question, ladies and gentlemen, for those who were not here, is the adoption of the first part of Senator Moore's amendment. All those in favor...we'll be voting and we're going to have a...in favor voting aye and nay, but we're having a roll call vote in reverse order. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1178-79 of the Legislative Journal.) 25 ayes, 18 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The first part of the amendment is adopted. We'll take up the second part. Senator Moore, did you wish to discuss that any further on the Section 10?

SENATOR MOORE: No, not right now. You go ahead and move it...move the adoption of the second part.

PRESIDENT: Mr. Clerk, did you wish to read something in? The call is raised.

CLERK: Mr. President, I do, thank you. I have a new A bill, LB 340A by Senator Chambers. (Read by title for the first time. See page 1179 of the Legislative Journal.) New resolution, LR 57 by Senator Wehrbein. (Read brief description of resolution. See pages 1179-80 of the Legislative Journal.)

Amendments to be printed by Senator Landis to LB 222, Senator Landis to LB 361, Senator Labedz to LB 335. (See pages 1180-81 of the Legislative Journal.)

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LB 46, 145, 157, 231A, 231, 237, 361
379, 418, 651A, 678
LR 72

ASSISTANT CLERK: (Record vote read. See pages 1515-16 of the Legislative Journal.) The vote is 35 ayes, 0 nays, 3 present and not voting, 11 excused and not voting, Mr. President.

PRESIDENT: LB 379 passes. LB 418, please.

ASSISTANT CLERK: (Read LB 418 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 418 pass? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1516-17 of the Legislative Journal.) The vote is 36 ayes, 0 nays, 3 present and not voting, 10 excused and not voting, Mr. President.

PRESIDENT: LB 418 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 418, LB 379, LB 237, LB 231A, LB 231, LB 145, LB 46, LB 157 and LB 418. We'll move on to Select File and going to jump over LB 279 and take up LB 361.

CLERK: Mr. President, if I might right before that, new resolution, LR 72 by Senator Haberman. (Read brief description of resolution. See pages 1517-18 of the Legislative Journal.) That will be referred to the Executive Board. Senator Haberman has amendments to LB 678. New A bill, LB 651A by Senator Hall. (Read by title for the first time. See page 1518 of the Legislative Journal.) Yes, sir.

PRESIDENT: Okay, we'll move on to LB 361, please. Mr. Clerk.

CLERK: Mr. President, 361 is on Select File. The first order of business...Mr. President, I have E & R amendments first of all.

PRESIDENT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Yes, I would move that the E & R amendments be adopted.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are adopted. Anything else on it, Mr. Clerk?

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CLERK: Senator, I had a motion. Senator Johnson, I had a motion from you, Senator, about bracketing the bill pending. Goes away?

SENATOR R. JOHNSON: Pull it.

PRESIDENT: It is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Landis. Senator, these are your amendments on page 884 of the Journal.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: 884?

CLERK: Yes, Sir.

SENATOR LANDIS: Can you tell me what other amendments we have before us, Mr. Clerk, following this one? There are these two that I know of, but I want to know the page numbers for them.

CLERK: Yes, Sir, I've got a note on the next one offered by yourself that is to be withdrawn.

SENATOR LANDIS: Okay.

CLERK: And I have an amendment by yourself, AM1208, that I believe we received yesterday. AM1200, Senator.

SENATOR LANDIS: Right. I should have another amendment.

CLERK: You do.

SENATOR LANDIS: And what is the page number of that?

CLERK: It's not printed. It is AM1217. Senator.

SENATOR LANDIS: Mr. Speaker, if I could, could I pass over 0578, the one that we're talking about here, and I may offer it at the end of our discussion. I want to take up, if we could, however, AM1208.

PRESIDENT: That would be okay. Senator Landis, may I introduce some guests while you're coordinating your efforts there? We

have some guests of Senator Moore in the north balcony, we have 15 students from York High of York, Nebraska, with their sponsor. Would you folks please stand and be recognized by the Legislature. Thank you for visiting us to day. Senator Landis, please, and thank you.

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature, if you take a look, I've passed out to you and I believe it appears in the Journal, an amendment to LB 361 that does two things. The amendment says that there is a declaration that the current system of valuing real property for purposes of taxation has caused inequities between residential, commercial, industrial and agricultural property owners. Secondly, it asks the tax commissioner to research, develop and to submit to the Legislature a proposal to create a system of property tax valuation based on rental earnings or income potential, not only for agricultural land, but for other kinds of property, residential and commercial, so that we use earnings capacity for all types of property to see if there isn't a reasonable method to use there. Now, that amendment has been suggested to me by the Cattlemen's Association and since it calls upon the tax commissioner to consider that idea, I have decided that that would be acceptable to me and I put it in this amendment. It says the proposal shall be completed and submitted to the Clerk of the Legislature by November 30, 1989. The amendment also does one other thing. It says that for assessment years 1989 and 1990, counties shall adjust agricultural land to correlate with other types of property. Now originally the Legislature said that they may make those adjustments. This one says they shall. What is the difference? Why the exchange? Well, the adjustment factors to be sent out by the Revenue Department should bring, hopefully, agricultural land to 100 percent of value and the 100 percent of value may, in fact, not be a number that correlates with other types of property. Imagine, if you will, a county in which residential property is at 85 percent of value, commercial property is at 85 percent of value and the Revenue Department's adjustment factor brings ag land to 100 percent of value. In that case agricultural land would not be in correlation, it would be above other types of property. In fact, there is a lag generally from the values that we can find and the values that are on the books. So it's not uncommon to find residential property at 85, 88 percent of value. If, in fact, we put all ag land on at 100 percent of value, you could be going beyond correlation. And this amendment says that for assessment years '89 and '90 counties have the authority to make

agricultural land adjustments different from the manual, different from the Revenue Department adjustment factors for one and one reason only, and that is to make an adjustment which would move agricultural values to correlate with other types of value. And these two ideas are in the same amendment, AM1208. They are the amendments that I have done basically in conjunction with the Nebraska Cattlemen's Association and I have accepted these amendments and for that reason I urge you to adopt them as well. Thank you.

PRESIDENT: Thank you. Senator Schmit...Mr. Clerk, do you have an amendment to the amendment you say?

CLERK: Mr. President, Senator Schmit would move to amend Senator Landis's amendment.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I've just now seen the amendment and I don't know if any of you have seen it or not. You heard the explanation by Senator Landis. The amendment that I am offering will strike the three words "or income potential" on line 8. I offer that amendment because I believe that embodied in LB 361 there are plenty of opportunities for adjustments, whatever you want to call it, I'm not going to use any other term, extrapolation, interpretation or whatever you want to call it, without adding one more which could be wide open and that would be income potential. Let me give you an example. In my legislative district, and we have busted our back here in the last few years to try to encourage the racing industry and the thoroughbred industry to expand in Nebraska. In my legislative district, we have a number of horse farms, thoroughbred breeding farms. I can easily envision where, if you have a horse farm where you raise the allowance type horses or the expensive horses, that a tax assessor or the tax commissioner could assume the income potential from that farm would far exceed that from a farm where you raise \$2,500 claimers. Now that is a very simple explanation but the idea of it is this. If we are going to use income potential as a means of determining the valuation of property and if I understand Senator Landis's explanation properly, it will also apply to nonagricultural land. Then are we going to place the tax assessor in the position, the county assessor in the position of trying to determine profitability when placing a value upon a piece of property? For example, a savings and loan which is

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losing money but may be a \$50 million building or a bank which is earning money, are they to be valued differently even though both structures cost substantially the same? I have strong concerns about the use of such a kind of language. I think that the rental earnings is all right and I think that's fine, but I do not think that the income potential should be a factor and I would like to ask Senator Landis if he shares my concern on that or if he has visited with the individuals from the Cattlemen's Association about that particular item? For example, a farm which raises purebred livestock could conceivably be valued higher than a farm which raises ordinary commercial cattle. Is that your explanation of it or your understanding, Senator Landis?

PRESIDENT: Senator Landis, would you like to respond to that please?

SENATOR LANDIS: Please restate the question.

PRESIDENT: Senator Schmit, would you repeat the question, please.

SENATOR SCHMIT: Is the...are the words "income potential", do they reflect an ability on the part of the assessor to base their value of the farm on the income producing capacity of a farm, of a structure or a business? I like the rental earnings but I do not like income potential.

SENATOR LANDIS: I think I can shortcut your question here, Senator Schmit. I will accept the amendment. Let's strike "or income potential" If that's going to bring a meeting of the minds, Senator Schmit, let's strike those three words.

SENATOR SCHMIT: Thank you, Senator Landis, and, therefore, I will speak no more on that amendment. I think it does relieve my concerns somewhat. Thank you very much. I offer the amendment.

PRESIDENT: Thank you. Senator Hall, please, then Senator Hartnett.

SENATOR HALL: Thank you, Mr. President and members. I rise in support of Senator Landis's amendment along with the Schmit amendment. The issue is one that I think is appropriately brought to the bill. Senator Landis talks about allowing the

counties to have the authority to basically bring ag land back to the average value of other properties within the state. Senator Landis, would you yield to a question, if you would, please?

SENATOR LANDIS: Yes.

SENATOR HALL: David, when we had discussion of your other bill that dealt with the prevailing rates, so to speak...

SENATOR LANDIS: Right.

SENATOR HALL: ...there were examples of counties where in some cases the commercial or industrial property was valued over 100 percent.

SENATOR LANDIS: That is absolutely correct.

SENATOR HALL: So there is the potential danger there, so to speak, for...if it is a mandatory measure, I guess, that counties may very likely have to raise the ag land over and above the, what would be considered market? Is that a possibility? That's my...it's only a question. If we've taken care of that, fine, but...

SENATOR LANDIS: Sure. I'll tell you what I think the most likely scenario that would create difficulty would be and that is this. Commercial at 90, residential at 85, we have a manual number plus an adjustment number that comes in at 100 percent for ag land. Now I've got assessors out there who've got ag land at 100 percent and they can't change that number so to get correlation what do they do? They have to bump up residential and they have to bump up commercial and we start that process. What you ask about is absolutely true. There are counties out there with commercial properties at over 100 percent and that could be problematical as well. What I think in that situation you're going to have, however, is residential at 85, ag land at 100 and commercial at 104 or 105. That's within the range you could live with, but if you have both of those other numbers below 100 percent, you don't want to have to force them up and have a whole series of reappraisals.

SENATOR HALL: Clearly, and I agree with that. I just want to raise that concern. It is not an issue that is very prevalent in many counties at all, but it is just...it is out there.

SENATOR LANDIS: It is possible.

SENATOR HALL: It's possible. Thank you very much.

PRESIDENT: Thank you. Senator Hartnett, please, followed by Senator Landis.

SENATOR HARTNETT: Mr. President, members of the body, I'd like to ask Senator Landis a question.

PRESIDENT: Senator Landis, would you respond.

SENATOR HARTNETT: I agree with your correlation between the numbers and I think Senator Hall thrust on it too. How close a correlation? You know, is it going to be, you know, like, say that you're...say that commercial is at 85 and...would you...how...is it a decimal point or about 5 percentage points difference or...(inaudible)

SENATOR LANDIS: Let me answer this way. We give the authority to the county with this amendment to make an adjustment to correlation. Can't go away from correlation, can go to correlation. The place where the county will act, well, they could act at any range that so long as the ag number is different, then correlation to make that adjustment. So they would be free to act with 5 percent or 8 percent or 10 percent and they might choose to do so if, in fact, they have a 10 percent difference between all the rest of the property and ag land. They might want to drop it. The place where you get action would be at a range of perhaps greater than 15 percent. There the State Board of Equalization, reading a past line of cases, would be likely to act. Certainly, you can't have exactly the same percentage number, but the danger sign, the red zone would be below 85 percent or above 115 percent. In other words, 15 percent away from 100 percent of value, those are your danger zones. That's when you're getting to the red line on the meter. Now that kind of action would be capable at the State of Board of Equalization level. A county could choose to act if the range of difference was less.

SENATOR HARTNETT: Let me ask you, because I have an example from 1988, Senator Landis. Dakota County, which I have some farmland in, the residential is at 83 percent, commercial is at 95 percent and ag land is 106 percent. Then would they, what

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you're saying with this correlation, they would probably bring the ag land down closer to some place around the 95 percent? Is that what...

SENATOR LANDIS: That's right, yes, that's exactly the situation, where ag land doesn't have its thumb stuck out, but it has to correlate, as is our Constitution obligation with the other levels of property in that area.

SENATOR HARTNETT: Thank you.

PRESIDENT: Thank you, Senator Landis, please.

SENATOR LANDIS: Since we're on the Schmit amendment, I'll waive, we'll be able to proceed with the Schmit amendment and then back to the amendment itself.

PRESIDENT: All right. Senator Schmit, would you like to close on your amendment to the amendment? No closing. The question is the adoption of the Schmit amendment to the amendment. All those in favor vote aye, opposed nay. This requires 25 votes since we're on Select. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of the Schmit amendment to the Landis amendment.

PRESIDENT: The Schmit amendment to the Landis amendment is adopted. Now we're back to the Landis amendment. Senator Landis.

SENATOR LANDIS: Actually I think we've discussed it quite well in the colloquy between Senator Schmit and myself. I'll just move for the adoption of the amendment.

PRESIDENT: Okay, the question is the adoption of the amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Landis's amendment.

PRESIDENT: The Landis amendment is adopted. Mr. Clerk, you have another amendment.

CLERK: Senator, I now have AM1217 in front of me. (Landis

amendment appears on page 1520 of the Legislative Journal.)

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: (Mike not activated immediately.) ...this has been delivered to your desk and it constitutes the body of LB 607. The amendment says this. In making any percentage adjustment for the purposes of equalization, rather of valuation, the County Board of Equalization shall make its adjustment so that the valuation of the protested property compares to the aggregate level of value of all taxable property in the county. All right, that went by pretty quick. Let me tell you what it means. Right now we have a bunch of challenges to valuations by commercial properties by taking the commercial property percentage and comparing it to the agricultural land in the county. And as you know, county judges are dropping...district judges are dropping those commercial values to match agricultural land. Now, the court's theory does not identify what the target of a court case would be, what the appropriate remedy of the court case would be and this amendment is trying to put into statute what the appropriate target is. Here is the scenario. Commercial property at 110 percent of value, agricultural...residential land at 95 percent of value, agricultural land at 90 percent of value and let's say unimproved residential property at 40 percent of value. There's very little of it, let's say 5 percent of the counties in this unimproved residential property. But right now the theory of the court says if you go out and find a piece of property that is undervalued, you can get your percentage dropped to the percentage of that piece of property no matter what it is. No matter whether 98 percent of the county is close to 100 percent of value, if you can find 2 percent of the land that is under value, you can drop your number to that lowest number of that small little 2 percent. Well, LB 507 says, no, that result is even more unfair. You take somebody who is above the average and you drop them to below the average. What does that do but to continue a distortion pattern. Better the target should be, if you have a piece of property that is above average for the valuation in that county and they prove that there is land in the county that has a lower valuation, they should drop to the average in the county, not to the cheapest piece of property in the entire county or the most undervalued piece of property in the county. One of the reasons that is important is you've got some very small clutches of property that may well be quite undervalued in this state and once this line of cases is

endorsed by the court too heavily, you'll be able to drop a whole lot of your property down to the single lowest valued piece of property in the county and all that will do is to exacerbate distortion. What this amendment does, and by the way, it is recommended to us by the Department of Revenue, is to tell the court, to tell the county and to tell the State Board of Equalization that the appropriate remedy, should you have a piece of overvalued property, is to move that property to the aggregate percentage of valuation for that county, the average number of the county, not the most undervalued piece of property in the county. In that way changes will move people to the center, not to the flip side of the extremes. You won't substitute a commercial piece of property at one extreme of overvaluation and drop it to another extreme at the other end of undervaluation. You'll drop it to the norm where most of the property in the county is. This is called the prevailing level of assessment. It was heard before the Revenue Committee and it was reported out unanimously by the committee. I offer it now as an amendment to LB 361.

PRESIDENT: Thank you. Senator Wehrbein, please, followed by Senator Schmit.

SENATOR WEHRBEIN: Yes, Mr. Speaker, members, Senator Landis, I'd like to ask you a little more about this and it would be a question, maybe you covered it and maybe I missed it. How would you define the aggregate level again, and if so, could you give a figure analysis?

SENATOR LANDIS: Sure. The easiest way would be to figure like this. Let's say you had two classes of property and your county had half of one and half of the other. Let's say you had 50 percent of your property commercial and 50 percent of your property residential, no ag land. Let's say that the half that was commercial was valued at 100 percent of value. Let's say all of the residential was at 50 percent of value. The aggregate prevailing level of assessment in that county would be 75 percent because that is the average. Now if you were up at 100 percent of valuation and you want to drop it down, the appropriate number to drop it to is 75, not to 50. Now that is simplified. What we really have is we have we have six or seven different types of land and you could have five of them all at 90 percent, but if that one little sliver of land, one of that unimproved residential happens to be at...all the rest are at 90 percent, but this one is at 50 percent, all of the land that

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is marked at 90 percent of valuation, according to our current Supreme Court theory, would be able to be reduced to that 50 percent number because even though it happened to be 1 percent of the land of the county, that was the lowest number and you'd have to value down. This one says go to the average treatment in the county, that's the right target and that is what the provision does.

SENATOR WEHRBEIN: Okay, would that be weighted or simple average?

SENATOR LANDIS: It would be a weighted average depending on how much of the property in the county was in that classification. If, for example, we change that little story we had before, let's say we have two-thirds of our property at commercial, and that's at 100 percent, and one-third of our property residential and that is at 50 percent, then the average is...

SENATOR WEHRBEIN: Let's see, it is two 100s and one 50 divided by three, right?

SENATOR LANDIS: Yes.

SENATOR WEHRBEIN: Okay.

SENATOR LANDIS: That's right, it's a weighted average.

SENATOR WEHRBEIN: Thank you.

PRESIDENT: Thank you. Senator Schmitz, please.

SENATOR SCHMITZ: Senator Landis, you used the example of a particular piece of property that was substantially under the norm, so to speak. Under this mechanism, if your land was above the norm and mine was below the norm, this mechanism would only allow for yours to be brought down to the normal average valuation, it would not provide any mechanism, would it, in this amendment to raise the property which is below the actual value? Or is that mechanism built into the State Board of Equalization, would they then do that automatically upon discovery of the situation?

SENATOR LANDIS: This says that the target for adjustment is the midpoint of all the property in the county. Appeals go one way and one way only and appeals only go down because what happens

is the county sets the value and then affected taxpayers ask to have their property values lowered. And the situation that you could have is you could have a county in which you had one very valuable piece of commercial property that was 100 percent of value, everything else in the county being, let's say agricultural land at 85 percent, but then let's say you have 2 percent of your property in unimproved residential land, a tiny little amount of your total land, but that happens to be at 50 percent of its value. That commercial piece of property, when it goes in and challenges, what is it going to look for its data base, that little 2 percent that's down at 50 percent, and what are they going to ask for? They are going to ask to drop their 100 percent number down to 50 percent and bypass all of the huge amount of land that happens to be at but 90 percent of value. So better to have the target be the midpoint, the average treatment for how land is getting treated in that county rather than picking the exception and pegging everything down, taking an exception and making an exception on the other side. It's called the prevailing assessment, prevailing assessment theory and I wish I had the right name for it, but that's... This, by the way, has been quite commonly followed in other states. It was suggested to me by the Department of Revenue from their analysis of other states and how they act in this situation.

SENATOR SCHMIT: Then it is a responsibility of the County Board of Equalization and the State Board of Equalization to be certain that the land is valued high enough. Is that right? If they undervalue the property...

SENATOR LANDIS: Oh, certainly they have a constitutional obligation to see to it that they are at correlation, that classes of land are correlated at actual value, no doubt.

SENATOR SCHMIT: Is there any responsibility with the taxpayer?

SENATOR LANDIS: Is there any responsibility on the taxpayer's part?

SENATOR SCHMIT: Yes.

SENATOR LANDIS: No. The...what...it will affect the taxpayer in this way. If the taxpayer makes a complaint and requests to have their values dropped, the target that the court would use to drop their values to if, for some reason, they could make

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their case that they were overvalued, would be the prevailing level of assessment for all property in the county, not the most exceptional piece of property in that county that happens to be undervalued.

SENATOR SCHMIT: You make the reference to the undervalued piece of property which is exceptional. It is the responsibility of the County Board of Equalization and the state board to be certain that that does not occur. If it does occur, is it on the taxpayer...does he have any responsibility on his own?

SENATOR LANDIS: No, if I'm a taxpayer and my county has undervalued my property, I sit on it, smile, go to the bank, look at my savings account and say, boy, do I have a great county board.

SENATOR SCHMIT: Thank you, Senator.

PRESIDENT: Thank you. Senator Landis, would you like to close on your motion?

SENATOR LANDIS: I wish that I had done a little better job in explaining it. I'm sure there is a simple mathematical way to make this idea clear to you. The prevailing level of assessment basically says the target in appeals, the target in adjustment is how the greatest clump of land and valuations in that county is being treated. Treat exceptions like the norm, treat exceptions like the median, like the average, not like the most extreme case on the other side of the scale. It's a very level-headed idea. I'm glad the Department of Revenue supports the measure. I'm glad that they let us know about the prevailing level of assessment theory and I'm pleased to carry this amendment.

PRESIDENT: He was closing, Senator Schmit. The question is the adoption of the Landis amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: The Landis amendment is adopted. Anything else on it, Mr. Clerk?

CLERK: Senator, I'm back to the original amendment on page 884.

SENATOR LANDIS: Thank you very much. There is a minor technical amendment suggested to us by the E & R people in their review of the bill. They thought that this amendment was a little more than an E & R amendment because it had to do with the adding of a few words. One of the things the bill does is to label a list of guidelines for assessors and for the Department of Revenue to review in analyzing which sales should be part of a comparable sales analysis, which sales should be taken into account in identifying the value of agricultural land. In one of those guidelines we lifted some language from the State of Wisconsin. Our bill drafter said, ah, you ought to write it slightly differently. Instead of saying whether a premium was paid to acquire nearby property, it should say for sales of agricultural and horticultural land a premium was paid to acquire nearby property, just adding that phrase. Technical in nature, suggested by our own bill drafting people to make clear what this provision is. I offer the amendment.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: Senator Landis, I hope that I...that the amendment does what you say it does because I sort of like it, but I am concerned. What about the part of the personal property? Is that included in the...all the property ratio, and if so, how do they determine that ratio?

SENATOR LANDIS: The answer is no personal property is not part of the ratio. On the other hand, you're addressing an amendment that we just adopted and we're now on the one in the Journal on page 884. But in answer to your question, we're talking about real property with respect to the assessed level of valuation.

SENATOR SCHMIT: Mmm, hmm. Well, I'm sorry to be behind the power curve, but it's not unusual for me I guess, because I don't think as fast as most of us in here, but I have another little problem and that is, it seems to me that there is a case right now which is pending in which there is dispute, is there not, between the State Board of Equalization and another, I don't know whether it is a pipeline case or what it is, relative to whether or not we can go to that midpoint or do we have to go to the lowest possible figure? Is there a problem there as you see it, or do you think we can do what we are doing? And, again, this refers to the earlier amendment.

SENATOR LANDIS: Well, I can tell you this, that the prevailing level of assessment theory was passed in Massachusetts. The courts had not followed it up to that time. Once it was passed by the Legislature and created as the target, a hostile court at that point reversed its logic and said, the Legislature is clear, the target is logical, we accept what the Legislature says and it became the target in or remedy for real property appeals. Now, whether the court opines, when we're silent on this in the pipeline case or not, would be one setting. They may or may not, I don't know. On the other hand, we do have a course of conduct in other states that tells us once the Legislature identifies the target for the courts, other courts have changed their tune and heeded by what was a clear declaration of policy by the Legislature. And that is not present in the pipeline case. It would be present upon the adoption of this amendment.

SENATOR SCHMIT: Thank you, Senator. I am sympathetic to the amendment. I hope that the expression by the Legislature does have an impact upon the court. My concern has been that the court has not really been too tolerant of legislative action in the past several years and so I am a little bit concerned about what their recourse will be when this decision finally comes down. But if we can influence the court by this action, then I am entirely in favor of it, Senator. Thank you.

PRESIDENT: Thank you. Senator Landis, yours is the last light on. Would this be your closing?

SENATOR LANDIS: The closing.

PRESIDENT: All right.

SENATOR LANDIS: Okay, Roger Wehrbein suggests, and I think it's wise, that I review which amendment we're talking about and what we're doing here. This is a technical amendment found on the Journal on page 884. It's not the prevailing level of assessment theory. This is an E & R clarification and gives a clearer title to one of the guidelines that is to be followed by assessors in choosing those sales that should be used for comparable sales analysis and it simply reiterates a phrase for sales of agricultural land and horticultural land and puts it into a subsection so we'll know exactly what we're talking about. As, again, I said before, it was suggested by our E & R bill drafting review, although it is slightly more than an E & R

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LB 361, 361A, 640

amendment and I would urge its adoption.

PRESIDENT: Thank you. The question is the adoption of the Landis amendment. All in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the amendment as offered by Senator Landis.

PRESIDENT: The Landis amendment is adopted. Do you have anything further on it, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: Okay, we're back to the bill. Senator Landis.

SENATOR LANDIS: Move to advance LB 361.

PRESIDENT: No other lights on. The question is the advancement of the bill. You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 361A. Senator Landis.

CLERK: Mr. President, 361A, I have no amendments to the bill.

PRESIDENT: Senator Rod Johnson, would you make the motion, please?

SENATOR R. JOHNSON: Is this to advance or E & R?

CLERK: Advance, Senator.

PRESIDENT: Advance it.

SENATOR R. JOHNSON: Mr. President, I would move that we would advance the bill, LB 361A.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. We'll move on to General File, LB 640. Do you have anything for the record, Mr. Clerk, at this time?

CLERK: Not at this time, Mr. President.

PRESIDENT: All right, LB 360 (sic).

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LB 44, 44A, 47, 66, 285, 285A, 361
361A, 372, 401, 429, 506, 546, 548
582, 582A, 608, 637, 739, 777, 790

your light is on.

SENATOR MORRISSEY: Yes, Mr. Speaker, I would move that we adjourn until 9:00 a.m., Wednesday, April 12.

SPEAKER BARRETT: Thank you. Before we take a vote, Mr. Clerk, have you anything for the record?

CLERK: Mr. President, I have amendments to be printed to LB 739 by Senator Wesely and to LB 429. Enrollment and Review reports LB 44, LB 44A, LB 47, LB 66, LB 285, LB 285A, LB 361, LB 361A, LB 372, LB 401, LB 506, LB 546, LB 548, LB 582, LB 582A, LB 608, LB 637, LB 777, and LB 790 as correctly engrossed. (See pages 1648-52 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The question is adjournment until tomorrow morning at nine o'clock. Those in favor say aye, opposed no. Carried. We are adjourned. (Gavel.)

Proofed by:

Sandy Ryan
Sandy Ryan

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LB 361
LR 2

gaining any assistance under that program. In any event, I am trying to raise for you that here are a couple of ideas that at least for me are ideas worth considering, and without the time to pursue them, it seems like a wise course to at least raise these ideas and suggest that there may be others out there. For instance, I remember Senator Schmit had the concept of using rental figures to uniformly assess property, that that would better recognize the concerns and needs of our farmers and our ag owners, ag land owners. And I don't remember much discussion about where that issue is as another concept. What I am trying to get at is this issue can't be voted on until the fall of 1990. If we delay this issue until early next session, we will have the benefit of a couple of things; first off, the interim to further consider some of these other concepts. Secondly, we will also have the chance to see how LB 361 is working, what impact it has had, and what the situation is, and there may be other information that becomes available in the course of the following months. If we find that other alternatives not exist, if we find that other information that may come forth doesn't change our minds, acting in early January to place this on the ballot changes nothing. It will be on the ballot at the very same time, but it would help us to know better what we are attempting to do. It is a very important issue. We want to make sure we do the right thing. We want to make sure our options are clear, and we choose the best course of action. And I just simply also want to state for the record that if we do not bracket, and if we do proceed today to advance this resolution, and if it is adopted by the people of this state, I also think it is important to understand what we hope to accomplish by it. For instance, do we plan to go back to the system that we now have in place, which LB 361 would change? Do we have an open mind and will we consider our other ideas? Will we consider the chance to reevaluate our options under this issue? And it seems to me clear that we ought not to bind ourselves that we have to go back to whatever system is now in place and consider again the idea that there are other ideas out there that may be fairer and better, and I want to at least, for the record, indicate that that is my desire. I haven't voted against this bill and I don't plan to vote against it. I think, in fact, it is offering the chance to act on a very important issue, but there are other concepts and other ideas yet to be explored or discussed, although here we sit on Final Reading, and to take the time to do that, I think it is time well-spent. So I am offering this motion to give us that time to consider our alternatives, and to give us a chance to be sure we are

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LR 2

committee, because of the same reason that was mentioned on this floor. Who runs this show? Does this committee, or Schmit? Well, the bill got to the floor and the same members, the same rural members who sent the bill to the floor got up on this floor and said, I plead with you, don't pass the bill; I beg you, it's not fair to agriculture. I went to those senators and I said, listen, senator, you turned the skunk loose in the chicken house and you can't win. If you catch it, you lose; if you don't catch it, you lose. That's exactly what you're doing here, ladies and gentlemen, unless you define the parameters, unless you put the rules out there. You have said, and remember, Nebraska today is no longer....We've been told by our university, some of our university people and other people, Nebraska is not an agricultural state anymore, it's no longer important. I still believe it is. But we are no longer in a dominant position, we're not dominant on this Legislature and we certainly are not dominant with the voters. To the extent that we want equity, we can ask for equity. To the extent that we want favoritism, we cannot ask for favoritism. I regret that someone said the gravy train for agriculture is over. I suggest that maybe someone ought to talk about the gravy train of the \$200 billion plus which goes to homeowners because of the bail out of the S & L's. I might add most of it is not going to low income homeowners either, it's going to the large income homeowners. But the point I want to make is this, we don't need to drag other issues into this. Vote against the amendment, if you will, but let the record show that when the time comes that in some taxing district some county assessor and some county treasurer and the Tax Commissioner of this state say we think, as Senator Chambers has pointed out to you, he warned you, he will bring the bill to this floor, and there aren't a handful of you here who can out debate him, most of you will scatter for the doors like chickens in a hail storm rather than to take Senator Chambers on on this issue, or most others, and he'll whip you, he will whip you. And we, as farmers, will pay at the basis of 150 percent, and Senator Chambers will smile all the way to the bank. Let me tell you, he'll have some support and some....You know I'm not so sure I can't tell about Senator Hall, but I would guess Senator Hall would be right there, pushing the wheelbarrow along and taking the money back to the bank. LB 361, the press said, will raise the taxes on agricultural land by \$50 million. Don't like it, they said, don't like it, but we have to do it. We don't have to, ladies and gentlemen. The paragraph in the Farm Bureau Newsletter, ahead of the one I quoted before, said state senators should not

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primarily referring to LB 361, not LR 2, and that if you read the paragraph in its entirety, it does refer strictly to LB 361, and that should not cloud this issue of LR 2. I would urge you to return this LR 2 to Select File, adopt Senator Johnson's amendment and advance it as it is so we can move on with it.

PRESIDENT: Thank you. Senator Rod Johnson, would you like to close on your amendment?

SENATOR R. JOHNSON: Mr. President, I'd just ask the body to return the bill for specific amendment 1413.

PRESIDENT: Thank you. The question is, shall the bill be returned to Select File? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: The bill is returned to Select File. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President, I'd ask for the amendment to be adopted.

PRESIDENT: Any further discussion? If not, the question is the adoption of the Rod Johnson amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: The Rod Johnson amendment is adopted. Okay, now we're on the advancement of the bill. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President, I'd move to readvance LR 2.

PRESIDENT: Senator Chambers, please, followed by Senator Schmit.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the first time Senator Schmit spoke on this bill he mentioned the key words, and that relates to the power of the Legislature to define what constitutes horticultural land, what constitutes agricultural land. You can say anything in this amendment that

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LR 2

you want to, but I think it should be made clear to the public that this amendment by itself doesn't do anything. It certainly doesn't guarantee that agricultural land will not be valued or taxed higher than any other type of property. This language makes that possible. When you tax this kind of land, however the Legislature defines it, that method allows a type of taxation which is disproportionate to every other kind of land. That is what this language in the Constitution is saying. The additional language that was added doesn't really get to the heart of the matter. So I'd like to ask Senator Johnson a question so that maybe something can be gotten into the record from the introducer of the bill. Oh, I didn't...that's all right, I didn't realize he wasn't here. I'll just make some assertions. We have a situation here now where people have grown weary of discussing what has been called the most important piece of legislation related to agriculture this session. It's going to be submitted to the public because it probably will be passed by the Legislature, but without my vote. Then when it comes back and bites the Legislature, we can come and look at the discussion that we've had on it, and we'll see where various issues were raised, various warning signs were placed out there. But because people had grown weary, those signs were ignored and the hard work necessary to try to achieve the purpose is not to be done. Now that Senator Johnson is here, I'll ask him this question. Senator Johnson, what is the purpose of this piece of legislation, if not to allow agricultural land to be given a break as far as valuation and taxation?

PRESIDENT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Well, Senator Chambers, as I understand what the bill will do is to provide an exception to the uniformity clause to allow the values determined through our income earning stream to be...to not come under the uniformity law. Those valuations could be higher, could be lower, as Senator Schmit has indicated here today. More than likely I'm hoping that we as a reasonable body would determine those values where they're at today, or make the adjustments that are being offered in LB 361, which will raise those values.

SENATOR CHAMBERS: Thank you, that....Okay, Senator Johnson has stated in general terms what the bill does, what the amendment would do, create an exception to the uniformity clause. And he hopes that we, as a reasonable body, Senator Landis likes to use

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LB 99, 240, 279, 361, 361A, 546, 548
582, 582A, 608, 637, 761, 777, 790

Record, Mr. Clerk. Senator Chambers.

SENATOR CHAMBERS: I want a call of the house and a roll call vote.

PRESIDENT: Okay, the question is, shall the house go under...okay, we are under call, Senator Chambers, but we will check in. Yes, all right. Please record your presence. Senator Lynch, would you record your presence, please. Senator Hefner, would you push...pardon me. Record your presence, please. Yes, we are, but we're checking in. Please. Senator Wesely, we're looking for and Senator Schmit. Did you ask for a roll call vote, Senator Chambers? All right. Okay, the question is the adoption of the Chambers amendment. Roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote read. See page 1749 of the Legislative Journal.) 21 ayes, 24 nays, Mr. President.

PRESIDENT: The amendment fails. Do you have anything else on the bill?

CLERK: Nothing.

PRESIDENT: Do you have anything for the record, Mr. Clerk:

CLERK: I do, Mr. President. Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning. (Re: LB 546, LB 548, LB 582, LB 582A, LB 608, LB 637, LB 777, LB 790 and LB 99.)

I have a motion to be printed by Senator Landis. (See page 1750 of the Legislative Journal. Re. LB 361 and LB 361A.)

PRESIDENT: The call is raised.

CLERK: Transportation Committee gives notice of confirmation hearing.

Amendments to be printed to LB 279 by Senator Chizek, and Senator Hall to LB 240. (See pages 1750-53 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: May I introduce some guests, please. In the north balcony Senator Byars has 80 fourth graders from Anderson Grove

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LB 361, 361A
LR 2

CLERK: (Read record vote. See pages 1860-61 of the Legislative Journal.) 35 ayes, 4 nays, 3 present and not voting, 7 excused and not voting, Mr. President.

PRESIDENT: LR 2 passes. May I introduce some special guests we have this morning. They are here under the mayor's committee for international friendship and with the domestic influences on U.S. foreign policy. They are with an African regional project, and I'd like to introduce them. They are under the north balcony. If you gentlemen would please stand, from Kenya we have Jerusha Wanjiku Maghugia, and from Malawi we have Andrew John Kangulu; and we have from Nigeria, Alphonsus George Alang; and from South Africa, Charles Andrew Wessels; and from Tunisia, Sihem Chaouch. I don't know how I'm doing on these names, gentlemen, but we appreciate your being with us and would you please welcome our visitors here today. Okay. May I also introduce some guests of Senator Pirsch in the north balcony. We have 45 members of the Benson Women's Republican Club of Benson with their president. Would you folks please stand and be recognized by the Legislature. I'm also reminded that two of the people from Africa are ladies, so I apologize for calling you all gentlemen. Move on to number 7, the motion please.

CLERK: Mr. President, Senator Landis would move to suspend Rule 8, Section 5 so as to permit consideration of LB 361 and LB 361A on Final Reading today.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, normally under our rules a bill that has an A bill, like 361, is held until we've had a chance to examine the budget issues. And for that reason, 361 had rested here on Final Reading but had not been summoned. I realized just last week that the May 1 deadline in the bill was approaching and the May 1 deadline is the date for the Revenue Department to put into the hands of county boards adjustments factors to allow ag land to be valued at market rates. Now the Department of Revenue has been working on the body of knowledge and examination of sales necessary to do their work and they are done. They can meet this deadline, if we authorize it. And so it is possible, by suspending the rules and taking up the bill with the A bill now, that we can meet the May 1 deadline. It is important because counties are just about to begin that cycle of budgeting and planning for the coming year. And, if we move this too far back, counties won't

be able to take advantage of nor meet the requirements of 361. If they don't, it means the vulnerability as we all know to a great many lawsuits and perhaps the serious erosion of the tax valuation base of a number of county governments and political subdivisions. So, for that reason, I offer the motion to suspend the rules, to take up consideration of 361, and the A bill today, and in that way allow the Department of Revenue to do the function outlined for it in the bill by the deadline that appears on the face of the green copy and now the Final Reading copy. Thank you.

PRESIDENT: Thank you. Any further discussion? If not, the question is the suspension of the rules. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 36 ayes, 0 nays, Mr. President, on suspension of Rule 8, Section 5.

PRESIDENT: The rules are suspended. Okay, Mr. Clerk, LB 361 with the emergency clause attached.

CLERK: Mr. President, before that, Senator Landis, you had amendments printed, Senator. Senator Landis,...

PRESIDENT: Senator Landis.

CLERK: You want to withdraw that amendment that was printed? Thank you. (Read LB 361 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 361 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1862 of the Legislative Journal.) 41 ayes, 1 nay, 1 present and not voting, 6 excused and not voting, Mr. President.

PRESIDENT: LB 361 passes with the emergency clause attached. LB 361A with the emergency clause attached. Ladies and gentlemen, we're out of our seats and we're on Final Reading. (Gavel.) We have another bill to read, ladies and gentlemen. Will you please return to your seats. Little A bill to read. Mr. Clerk.

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LB 361, 361A, 739A, 739
LR 2

simple matter of trying to take the tax rates down, to cut the tax rates back to a level that I think is revenue neutral, which was our commitment, which was my commitment, and I think many of you on this floor, with the passage of LB 773. Obviously, there could be some concerns as to whether it does exactly that in the right proportions. Honestly, I don't know that any of us could know for sure, however, I don't think that is a reason to be voting against the bill. I think it's a good measure, it's a way of saying to the people of the State of Nebraska that we did not intend to make 773 a tax increase bill, it was intended to be a revenue neutral bill. LB 739, right before you, is the final step, in my estimation, of correcting that problem. LB 1234 of last year was the first step of correcting the problem. I think the two of them go a long ways to reestablish in the people the fact that that was not our intention in 1986 to raise taxes, here is our answer to say we really did not intend to do that. I would urge the advancement of 739.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor say aye. Oh, a machine vote has been requested. The question is the advancement of the bill. All those in favor vote aye, opposed nay. A request has been made for a record vote also. Have you all voted that care to? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 1864-65 of the Legislative Journal.) 27 ayes, 10 nays, Mr. President, on the advancement of 739.

PRESIDENT: The bill is advanced. May I introduce some guests, please. Under the north balcony we have some guests of Senator Moore from Pleasant Dale, Nebraska, Mrs. Tom Sieck and her daughter, Peggy Sieck, the daughter-in-law and granddaughter of the late Senator Sieck. Would you please rise and be welcomed by your Legislature. Thank you for visiting us this morning. While the Legislature is in session and capable of transacting business, I propose to sign and do sign reengrossed LR 2, Engrossed LB 361, LB 361A. We'll move on to LB 739A.

CLERK: Mr. President, on 739A, Senator, I have no amendments to the bill.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move the advancement of

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LB 330, 361, 361A

Hefner, Senator Rod Johnson, the house is under call. Senator Moore, please, report to the Chamber. While waiting, Senator Wehrbein has some guests under our south balcony from Weeping Water, Nebraska, Chuck and Marilyn Spohr. Would you folks please stand. Thank you. We're pleased that you could be with us. Senator Moore, please check in. Senators Haberman, Hefner and Rod Johnson, the house is under call. Senator Haberman, record your presence, please. Senator Hefner is on his way, may we proceed, Senator Pirsch? We've had a request for a roll call vote and the question again is the adoption of the Pirsch amendment. Mr. Clerk.

CLERK: (Roll call vote taken. (See page 1867 of the Legislative Journal.) 26 ayes, 15 nays, Mr. President.

SPEAKER BARRETT: The amendment is adopted. For the record.

CLERK: Mr. President, your Enrolling Clerk has presented to the Governor, bills read on Final Reading this morning. (Re: LB 361 and LB 361A. See page 1868 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Next item.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Chambers. Senator, this is the first amendment that you provided me. On page 9, starts out page 9, line 1. (Chambers amendment appears on page 1868 of the Legislative Journal.)

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature...

SPEAKER BARRETT: The call is raised.

SENATOR CHAMBERS: ...the amendment that I'm offering, if that last vote is an indication, will be rejected. There is language in this bill that says that "No peace officer or law enforcement agency shall be held criminally or civilly liable for his or her actions pursuant to this section taken in good faith". And the same language appears in lines 15 and 18 on page 9 of the bill. My amendment is to strike that language. Currently, law enforcement officers have no liability if they perform their

do something, then I'm willing to do something, but not yet. Let's move the bill as it is.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I've not supported LB 84 to this point. I believe with the passage of LB 361 yesterday that it places an entirely different perspective upon this situation. I cannot believe and I hope that the newspaper reports that LB 361 could raise taxes on rural real estate by \$50 million annually are not true. I want to commend Senator Robak, my neighbor to the north, for having had the courage to vote against that bill. I want to say, for the record, that had I been here I would have voted against the bill. I wish I could have been here to vote against it twice. But the point I want to make is that we came down here supposedly this year to provide some property tax relief. At this point in time, with the passage of 361, we have provided to the rural people of this state a \$50 million price increase...tax increase. Quite a surprise, isn't it? Quite a turnaround from what we had proposed. Now we've got all kinds of good reasons as to why we must do it. I'm not going to challenge the good intentions of those who supported the bill but I do believe that with the passage of 361, that unless some other meaningful steps are taken to pass a bill on property tax relief, that if we don't have a real uprising in the country, it will be because...not because we don't deserve some kind of a retribution. I happen to agree with the Governor, I do not think the caps are constitutional. But maybe we will get an opinion from the Attorney General on that. Without the caps, very frankly, I have some of the same trouble some of the rest of you have because we certainly are treating those individuals who have a very fine house differently than we are those who live in more modest kinds of a dwelling. I believe that the constitutional amendments that we have passed relative to homestead exemptions allow us to enact a straight \$6,800 exemption if we so choose, rather than the 10 percent of the value or the taxes on the house, whichever way it is, I'm not sure. Secondly, I would like to have someone take a look as to what happens to those houses which are owned by a corporation. I believe, under the present bill, they are allowed the 10 percent exemption. I think that we have a lot of work to do on the bill yet. It's a long ways from being what I would like to see it. Certainly is not my idea of what a property tax exemption bill ought to be. But in the waning days of this session, I think that we have a

will be. Hopefully, we'll be able to fund a property tax rebate in the area of \$94 million again next year. But I'm satisfied this year to take it one year at a time, give back \$94 million to the homestead...for the homestead exemption, next year come back, if there is additional revenue at that time, let's give that back to the homeowner once again. Thank you.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, I have a motion by Senator Chambers to reconsider a vote taken yesterday. That will be laid over, Mr. President. Health and Human Services Committee reports LB 462 to General File with amendments. I have amendments to be printed to LB 769 and LB 279. (See pages 1911-12 of the Legislative Journal.)

Mr. President, I have an amendment to LB 84. Senator Bernard-Stevens would move to amend the bill. (Senator Bernard-Stevens' amendment appears on page 1912 of the Journal.)

PRESIDENT: Senator Bernard-Stevens, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. In following up on the statements I made earlier, I'll at least put the membership on a vote, and I'll make sure, hopefully, it will be a record vote, and we'll put ourselves, at least, on the line. If we are truly going for significant property tax, which LB 84 or LB 809 are, it is significant property tax relief. And I understand Senator Schmit's argument, it may be deleted a great deal because of LB 361, and I understand that, and he's absolutely correct. But to just go for one year and then to put off any future funding mechanism for an entire year and say we'll look at it later is once again skipping a beat and saying we're going to dodge that bullet, we're going to be able to come up with some positive things here, say, look at what we did. But we again dodged the bullet, and that bullet is in order to get significant property tax, we've known it since the Syracuse Study, and I think members knew it way before then, you have to broaden your tax base to do it, you have to have enough money and enough ways to support that to do it. So my amendment is very simple. It would once again put it to a two-year program, LB 84, and we'd have a half cent sales tax increase in order to fund the second year. It's quite simple. I think I know what

increase in the sales tax right now, the surplus that is there was put there by those who pay sales tax, income tax and the landlord's property tax, and they get nothing out of this so-called relief. Instead of seeing now Senator Chizek, Senator Hall, Senator Moore and Senator Lamb, I see those four cowboy brothers whom the railroads and banks were very, very skeptical about. All we need are those two other fellows named James and we've got the whole panoply, that's what it boils down to. With all of the talk of property tax relief we're really dealing in political maneuvering to create the appearance of something that is really not there. And I'm opposed to that because in order to create the appearance there has to be an injustice done to those who will get no relief under this or any other property tax bill, but they will be called upon again to add additional money to pay for relief that they're not going to get. They continue to get stuck again, and again, and again. And probably the reason there is so much talk about property tax relief here is because a lot of the people on the floor are property owners. They keep saying that the public is crying for property tax relief and have indicated that that has been the case for years. But the reason they're offering it this term is because there is additional money in the treasury, and it was not all put there by those who pay property tax. Unfortunately, mine will be the only voice on this floor for those who do pay the money that helped create the surplus and will get no consideration. Senator Schmit surprised me. He talked about the passage of 361, LB 361, and said that some of the rural people thought that this term, this session was going to give them some relief. But instead they wind up with a bill being passed that is going to raise the rural tax, the rural property or the farmland by \$50 million. Well, now if there is going to be a \$50 million increase on them, what is it that they want from the Legislature? What more do you want, Senator Schmit, wherever you are? You want more than that? I'm shocked at you. Greed works, but it's not becoming in Senator Schmit. Now I'd like to ask Senator Jerry "Dalton" a question, if he'll answer it. (Laughter.)

PRESIDENT: One minute.

SENATOR CHAMBERS: Senator "Dalton", no I'm just kidding. Senator "James" (laughter)...

SENATOR CHIZEK: That's my middle name.

April 26, 1989

LB 84, 308, 361, 361A, 508, 509, 591A
605, 627, 669, 722, 793, 813

SPEAKER BARRETT: Thank you, Mr. Chairman, and thanks to members of the Appropriations Committee for the overview of LB 813. Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, Government Committee gives notice of cancellation of hearing, confirmation hearing. Amendments to be printed to LB 308 by Senator Warner; and Senator Conway and Haberman to LB 84. (See pages 1934-35 of the Legislative Journal.)

Natural Resources offers a confirmation hearing report. Communications from the Governor to the Clerk. (Read. Re: LB 361, LB 361A.) A second letter. (Read. Re: LB 508, LB 509, LB 605, LB 627, LB 669, LB 722, and LB 793. See pages 1935-36 of the Legislative Journal.)

Enrollment and Review reports LB 591A as correctly engrossed, Mr. President. That is all that I have. (See pages 1936-37 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. There are a number of motions on the desk. It occurs to the Chair...Senator Schmit.

SENATOR SCHMIT: I believe the comment from Senator Warner was that if there were comments relative or questions relative to the general explanation, that they would be in order before the motions, is that correct or not?

SPEAKER BARRETT: That is correct. You are in order, yes. Proceed.

SENATOR SCHMIT: Well, thank you, Mr. President and members. I appreciate this explanation of the budget this morning, and I know that although it was an overview it was detailed and there will be, no doubt, many other legislators who will have questions, and I want to ask the indulgence of the body this morning because of an issue which is of considerable importance to all of us, I believe, and to myself, in particular, and to all of those who are associated with agriculture, in particular also. Agency 60 on page 112, the Gasohol Committee, Senator Warner pointed out that the committee has appropriated for '89-90 only \$1,670,626 of that total 17 million plus money and I want to say at this time that there will probably be a lot of comment about that in the future, but I have discussed it just

May 4, 1989

LB 361, 813

SENATOR HANNIBAL: Senator Hall, the gang of four, I believe, and the Governor had a love fest yesterday afternoon...somebody termed it that, and you kind of agreed on a...on a property tax relief measure that you all support and before you got here we were wondering whether we were going to have a chance to vote on that or not.

SENATOR HALL: Well, I said that there were 45, at least 45 others who had a say in this.

SENATOR HANNIBAL: Okay, thank you.

SENATOR HALL: That wasn't in the paper but...

SENATOR HANNIBAL: A question though. The price tag on that bill as it was reported in the paper was what?

SENATOR HALL: I didn't read the papers today but I think it was 95 million.

SENATOR HANNIBAL: And what...is that the actual price tag or is there a change in that if it is actually enacted? I guess what I'm getting to, aren't those based on '88 evaluations?

SENATOR HALL: Sure. If you're asking is there a potential for increased valuations with regard to ag land, for example, in the case of LB 361, potential is there, yes.

SENATOR HANNIBAL: So is it reasonable to assume that we could have the traditional 5, 6 percent increase in valuations and that we might be looking at a \$100 million bill instead of 95?

SENATOR HALL: The potential is there, yes.

SENATOR HANNIBAL: Okay, thank you. Well, members, it's very frustrating for you, I know, to sit here and listen to the issues and hear the ogres of the Appropriations Committee say we ought not spend this money for these good programs. However, it is also frustrating for us, having spent the last four months and many, many long hours looking at the myriad of requests that we have had before us and coming out with a budget that, by most people's standards, is astronomical compared to last year; 12, 13 percent increase over last year's budget, \$70 million above the Governor's budget. And our biggest fear was to be told by

time. It would appear to me that we have accepted from the people a substantial amount of money and we do not know exactly how much money that is but we know that there are several hundred millions of dollars over the estimated receipts. Whether it came from the increase or whether it came from the economy we do not know but it is something we ought to know prior to the time that we embark upon proposals that will spend all that money. But then we passed LB 361. Unfortunately, I wasn't here that day. I would like to have voted against it. Senator Jennie Robak will go down, I think, in history when the benefits or the causes of that bill are felt out in the country because of her being the only person, I believe, who voted against it. But by, I would think, conservative estimates based upon recent news reports, it would appear that that will increase the property tax by...on rural people by about \$50 million on an annual basis. LB 84, as proposed, in this morning's newspaper will return to farmers about \$25 million. So we're going to give them about half back what they're going to get an increase of under LB 361. That, of course, does not account for the money that was already taken away from them by virtue of the passage of LB 773 in 1987. We have a...we have a tremendous number of programs and we have an awful lot of figures floating around here but we do not have...we do not have...and I appreciate seeing the green sheet now because it gives a little bit...a little bit better idea that we need to have as much as is possible complete numbers so we know within some parameters where we are and where we are going. Senator Scofield, again, commented upon the new prison system and I'm sorry I was not here this morning for the debate on Senator Richard Peterson's amendment. But it would seem to me again that we ought to try to make the most of all of our resources and maybe Senator Peterson's has got a good idea, maybe there is a way we can convert some of those excess structures at the present time...

PRESIDENT: One minute.

SENATOR SCHMIT: ...to use for some sort of housing for prisoners. I am inclined to believe that the more buildings we build and the more space we have the more inclined we are for government to grow. It's a secret of success for the government to grow and to grow at a modest pace so it's not too noticeable. But I can tell you, very frankly, that if you build another 400 beds, we're going to fill them at that prison and I think sometimes we ought to make use of the facilities we have and see

clause and hopefully maintain all of it. I hope 100 percent of it is maintained. But if any one provision, such as I say the centrally assessed or something of that nature would run into any form of difficulty, I would hate to see all the taxpayers in Nebraska view us in any kind of negative fashion and that we made a promise that we weren't able to deliver because of the mechanics of the bill. I don't think there is any value in having reverse severability, and so I offer this as a very good faith amendment for the purpose of making sure that we are doing everything in our power to make sure that this thing will provide the tax relief to as many citizens as we have committed to, publicly and privately and as we process this on the floor. So, with that, I offer the amendment.

PRESIDENT: Thank you. Senator Moore, please, followed by Senator Hall. And then Senator Lamb, and then Senator Chambers.

SENATOR MOORE: Yes, Mr. President and members. As earlier this afternoon, I rise to ardently object to Senator Conway's amendment. Though I understand where he's coming from, I really can't say anything more than I said about two o'clock on this matter. The fact of the matter is that the bill we've been working on, LB 84 in its present form, as a result of very tedious balance of rural/urban concerns, concerns that have plagued this whole issue for years, at least it appears, at least temporarily, we may address the property tax issue in some aspect for one year. And, like I said, I understand Senator Conway's concern about what if the \$4 million, in the centrally assessed category, became constitutionally suspect, you would not want to hold up the other \$94 million. In that case I guess I understand the point he's trying to make, but obviously on the other hand my concern is, as Senator Hall so eloquently stated last time we talked about this, his attitude was, well, if nothing else, you do this and you guarantee that at least the homestead exemption is what will be at least paid out. I guess, as I think Senator Lamb and myself and others, I mean, I obviously have a vast number of homeowners in my district and I want to help them. On the other hand, one of the major priorities for me is that I'm...it's my desire to do something for the ag land, particularly in result of LB 361 that we passed a couple of weeks ago, I think it's important that ag land is addressed. And I think we all agree we don't...this whole issue should be moot. The fact of the matter is that if something would happen I would prefer to remain LB 84 in its present form. And if something happened it would all be held together and no

property tax relief, we are at the same time imposing upon local governments some additional responsibilities. I am also concerned, very much concerned about the passage of LB 361 which I think we recognize is going to, without a doubt, absorb far more or probably increase the taxes on rural real estate far more than LB 84 will diminish those taxes. And so recognizing that the battle is a long way from being over, I think that Senator Landis has touched upon something which is very critical and that is that we all begin some additional efforts towards communication and we are all inclined to be a bit provincial and perhaps somewhat secretive when we discuss these issues, but it is only when they are all laid out on the table,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...as they have been here today, that we have a better understanding of what goes on, and so I would hope that as we proceed in the next few days, there is additional communication because certainly there will be trouble down the road if we don't address these issues as of today and in this session.

SPEAKER BARRETT: Senator Landis, followed by Senators Lamb and Wehrbein.

SENATOR LANDIS: I am just back up to say that I meant no criticism of either the committee or the floor. I just want to acknowledge what I think the state of things are. My admonishment is for all of us to just now turn to the issues of what are the chief priorities ahead of us, and at this point, we need to find some things that we are not going to do, rather than to continue to search for things that we are going to do. Thank you.

SPEAKER BARRETT: Senator Lamb.

SENATOR LAMB: Yes, Mr. President and members, I share the concern that has been expressed on this floor with regard to the spending levels that we seem to be aiming for, promoting sending on down the line this year, but I rise to object to calling attention to property tax relief as the culprit that is going to do all the bad things. When I look at LB 813, one billion plus bill, and LB 814, capital construction, a very large bill, and as you look at all of the bills on Final Reading on the back sheet, there are a number of big ticket items there, why don't

Senator Hall's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Hall would move to amend the bill. Senator, this is AM1765 that you had printed separately.

SENATOR HALL: Mr. President, I would ask to just roll over that amendment at this time. I think there is...Senator Kristensen has a following amendment, is that correct?

CLERK: Mr. President, Senator Kristensen would move to amend the bill.

SPEAKER BARRETT: Senator Kristensen.

SENATOR KRISTENSEN: Thank you Mr. Speaker and members. This bill is going to give us an opportunity to do something that we desperately are going to need in the advent of passing Senator Landis's LB 361 and down the line LR 2CA in dealing with values of real estate. The amendment that I have got printed in the Journal, on page 2264, is really LB 332 which we had a public hearing on and came out of committee with no objections. I was looking for the most appropriate bill that I believe this would work under and this is the one dealing with valuations and appeals. What this amendment does is it does four things. One of them is it is going to allow people when they appeal from the Board of Equalization, and since we are going to be tinkering with valuations on not only ag land but a variety of other valuations in real property, we are going to have perhaps some more appeals and we are going to need to have some ways to deal with those appeals. What this amendment will do is give us some extra added procedures and a method for counties to deal with those appeals. And, if I can, I would like to take you through step by step what this amendment does. The first thing it does is it allows for the taxpayer to have a transcript of the Board of Equalization, and so we can kind of put into perspective what we are doing. A taxpayer, let's say he doesn't like the value and disagrees with the value of his property that the county has placed through the assessor's office. He has a specific period of time in which he can go back to the assessor. If he doesn't get any satisfaction there, he is allowed a hearing before the Board of Equalization and in most of your counties that's the County Board of Supervisors. If he does not receive, to his satisfaction, and he thinks that there has been an error or he

the Kristensen amendment, the Chair is pleased to note that Senator Schmit has guests in the north balcony. We have Marilyn Young and 19 fifth graders from Mead Elementary. Would you folks please stand and be recognized. Thank you, we appreciate the fact that you were able to visit us this afternoon. Senator Rod Johnson, discussion on the amendment, followed by Senators Hall and Schmit.

SENATOR R. JOHNSON: Mr. President and members, I stand to lend my support to Senator Kristensen in offering this amendment, whether it be a question of germaneness or not, I don't know if that has been addressed, but there is no question with the passage that this body made with LB 361 that complaints are going to be filed and with the increases in valuations across the state with ag land valuations we are going to see a number of complaints filed, and I think this will help expedite the process and I am pleased that Senator Kristensen has decided to offer this at this time because I think it's going to be necessary until we are able to get to the point of discussing the constitutional amendment that will be on the ballot in November of 1990. In the meantime, LB 361 will be in place and we will be making appropriate adjustments to the state ag land valuations. I think this is a necessary tool that the state is going to have to have in order to address those complaints. So, as I said, I, personally, lend my support to Senator Kristensen's efforts to address what I consider to be a very serious problem. I would be happy to relinquish my time to Senator Landis, if he would like the remainder of my time.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I serve on the Revenue Committee where we heard this bill. I voted for it in committee. I think it is a wise piece of legislation. We should allow for negotiated settlements and to allow for this kind of expedited approach. I intend to support the amendment.

SPEAKER BARRETT: Thank you. Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. I rise in support of Senator Kristensen's amendment. Doug brought the bill to the Revenue Committee in the form of LB 332, it is a piece of legislation that does allow for the counties to basically say, we are guilty or we made a mistake and to

circumvent the court proceedings which now they have no choice but to go through even though they recognize that the valuation is incorrect and are willing to basically acquiesce to the landowner, property owner. So in this case I think the bill was a bill that just basically got caught up in the system. It was advanced out of the Revenue Committee, seven to nothing I think, and had no opposition at the hearing. It is a situation that is caused many times because the assessment, sale assessment ratios aren't even ready until after the board has met and there is no determination that the valuation or the assessment is wrong until that situation is already by the wayside, so it just allows for basically a technical change so that the county can say, look, we did make a mistake and we don't feel that either side, either the county should have to incur the cost with regard to preparing for court, nor should the landowner have to do that as well, the property owner, when the decision that is going to come out is one that is in favor of the property owner who is disputing the assessment or the valuation. It does provide for a very workable situation that needs to be amended into this bill and I would encourage the body to do so.

SPEAKER BARRETT: Thank you. Senator Schmit on the amendment, followed by Senator Kristensen.

SENATOR SCHMIT: A question of Senator Kristensen, please.

SPEAKER BARRETT: Senator Kristensen.

SENATOR KRISTENSEN: Yes.

SENATOR SCHMIT: Senator Kristensen, do you anticipate, because of the passage of LB 361, a higher percentage of appeals to those valuations or is there some other reason other than the existing ones that you have given for this amendment?

SENATOR KRISTENSEN: Well, Senator Schmit, I, obviously, had this bill introduced long before LB 361 appeared headed for passage. I think that it's been a continuing problem with particularly ag land values and the appeals with commercial property in relation to those values and so this was a piece of legislation that I guess we have been looking at or I have been looking at for some period of time since I have done some of those cases. It was not generated by the passage of LB 361. I think 361 may well add to some uncertainty in those areas though.

disagree on some priorities there and that's the way it goes. And as he's been here a lot longer than I have been he may well be right, but for the time people I am committed to do something on the short-term for property taxes after we've debated this a long time and 98 million dollars seems like a level that we can all agree it. It was my goal to get the most I could for property taxes this year. I think it's important that if I thought LB 84 was a permanent solution to this problem I sure wouldn't be voting for it. It's the temporary solution and, light of LB 361, I think it's a very important solution that we do something across the state to try and decrease property taxes, and obviously it's my goal to work with LB 611 and make it work and then eventually some time in the nineties come up with a permanent bill that solves our property tax dilemma for the long term. The first step is LB 84 and the first step to the passage of LB 84 is defeating Senator Warner and Senator Wehrbein's amendment.

SPEAKER BARRETT: Thank you. Senator Hall, followed by Senator Rod Johnson. Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. I'll make it four for four and I will join the rest of the co-sponsors in opposing Senator Warner's amendment. It is, I think, brought in good faith as an option, as a choice that we have the ability to make here. LB 84, I have the motion filed that would, after the amendments are done, would suspend the rules so that it could be read tonight, and I think...I hope the body does that because I think we have all, at one time or another, made LB 84 or whatever bill that contained a property tax relief measure our highest priority, our first and foremost issue that we felt needed to be dealt with this year on the floor of the Legislature. We've talked about it, talked about it, and for one reason or another, good, bad or indifferent, have not been able to come to terms on how we were going to address that. LB 84 allows us to take that first step toward the issue of restructuring how we pay for education at the local level. Call it property tax relief. Call it state aid. Call it what you like, but it sends us down the road of reducing the reliance on property tax. And the impact and the implications and the ramifications that it has with regard to what happens down the road I think are many, are great, and are good for the State of Nebraska because until we address the issue of the over-reliance on property taxes for the funding of the local government, we will continue to have property tax relief problems. LB 84 does

with Jerry Chizek, the homestead exemption is too low; ought to be higher. And, frankly, I've got to agree with Senator Lamb that, in fact, property taxes operate very harshly against our farms. They do. This is an industry that does not control its own pricing, we know is an economic downturn, different from all of the rest of the economy. They do not share in the rise of the economy. They only rise with the federal budget. The farm economy does well when the federal government allows it to do well but not according to the pricing or market mechanisms that govern the rest of the economy. And, frankly, we have done some things that have made that situation more difficult for farmers. We gulped down bitter medicine last year in LB 361 and that has implications for farmers. Frankly, as we move LB 249 across the board, there will, over time, perhaps be more difficult tax burdens for farmers in LB 249. We have done that in a couple of different places. I would not want to throw out that key to agreement that we found last year which is that you can't do property tax relief for one and only one sector of Nebraska at a time. This is not an area in which we can have winners and losers. This is an area in which we must have winners and winners. And, in that sense, we made progress on property tax relief last year because, after butting our heads against each other for years, we agreed to hold hands and move forward by making sure that the pot was divided with some equity. I can sure understand why Jerry would want to come to the well right now and say, it's too little, let's improve ourselves, let's do more, and I agree with that notion. But let us not throw away the key to action in this area. And, frankly, Senator Wesely raised a good point. Our initiative last year failed to bring real property tax relief because of the unexpected rise in local spending. I agree with Senator Wesely on that point. On the other hand, there is nothing in 747 that ensures that that will happen across the state again, and, in fact, there won't be additional increases in local spending. In other words, the failure that Senator Wesely identified, which I think is absolutely accurate, and laid at our feet from last year's LB 84, remains at our feet no matter what we do with 747. The key to that failure and solving that problem doesn't lie in this bill, it lies elsewhere in the lid proposals contained in other measures. If I had to choose for myself a course of action today, it would be this, it would be to send 747 to E & R and to bracket 747 on E & R for a period of time certain, sufficient to have the public hearing and the committee disposal of the issue of a more across-the-board kind of real property tax relief and let the issues be joined at that point. Yes, I suppose a