

November 8, 1989

LB 1-9  
LR 1-3

escort the Honorable Kay A. Orr from the Chamber.

Ready for the introduction of bills.

CLERK: Mr. President, new bills: (Read LBs 1-7 by title for the first time. See pages 59-60 of the Legislative Journal.)

Mr. President, in addition to those new bills I have new resolutions. (Read brief explanation of LRs 1-3. See pages 60-62 of the Legislative Journal.) That, too, will be laid over, Mr. President. That is all that I have at this time, Mr. President.

PRESIDENT: If you will stand at ease for just a few moments, we have a couple more bills coming.

EASE

CLERK: Mr. President, further introductions: (Read LBs 8-9 by title for the first time. See page 63 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Senator Labedz, did you have any words of wisdom for the body, please?

SENATOR LABEDZ: Thank you, Mr. President. Yes, I would like to request that the...

PRESIDENT: (Gavel.) Please have your attention to listen to Senator Labedz a moment, please.

SENATOR LABEDZ: Since it is almost noon I would suggest that the Exec Board meet at one-thirty as part of the Referencing Committee to reference the bills that were introduced today, one-thirty in Room 1517.

PRESIDENT: Thank you, Senator Labedz. Senator Barrett, do you wish to adjourn us until tomorrow and tell us at what time, please?

SPEAKER BARRETT: Thank you. Mr. President and members, I move that the body adjourn until nine o'clock tomorrow morning. Thank you.

PRESIDENT: You have heard the motion to adjourn until tomorrow

CLERK: Mr. President, I have received from the Reference Committee reference reports referring LBs 1-9 as introduced yesterday. I have also received a reference report regarding certain gubernatorial appointees to the appropriate standing committee for confirmation hearing. (See pages 66-68 of the Legislative Journal.) Mr. President, pursuant to receipt of the reference report, I have a motion on the desk. Senator Schmit would move to rerefer LB 1, LB 2, LB 4, LB 5, LB 6, LB 7, LB 8 and LB 9 to General File, pursuant to Rule 6, Section 2.

SPEAKER BARRETT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I will not speak at great length at this time because there will no doubt be others who will wish to address the issue. I just would like to offer this motion because I want to point out that the reason for a public hearing, of course, is to provide the public an opportunity to come before the committee, present their point of view on a proposed piece of legislation. At this time, I doubt that hardly any members of the public do have before them any copies of the bill. Most certainly, they do not have before them the rewritten copies of LB 1, which I have seen, which I understand is still undergoing some change. Number two, I want to point out that I believe that, depending upon whether or not Senator McFarland receives sufficient signatures to extend the session or to expand the session, that the bills ought to be discussed and debated by the entire body. I have read many comments by the members who have indicated that the bills, LB 1, LB 2 and LB 3, at least, were going to be passed and, in fact, one of our colleagues said that he didn't know what was in them, didn't know if they were good or bad but that they would probably be passed. I don't think that reflects probably the total consensus but I think, it all honesty, it's an honest consensus and I certainly do not criticize the member for having been so frank. More than anything else, I believe that we ought to have all members involved in the process. I have introduced before the Revenue Committee many bills, in the past years that I have been there, very few, I might add, that have seen the legislative floor. I would like to suggest that it might have been a little less burdensome in this regard today had some of those bills made it to the floor. I would suggest that some of the bills that have been introduced, not...by the Governor, and not to pick on those bills or on Senator Warner's bills, some of the bills that I have introduced, some of the bills that Senator

Haberman has introduced, do merit debate on the floor. I believe that it ought to be up to the entire body to determine whether those bills have merit or whether they do not. I don't believe we should place the entire emphasis and give all of the responsibility to eight members of the Revenue Committee. I think it's important at this time that we recognize that there is no purpose to be served by going before a public hearing unless the public from Scottsbluff to Bellevue, from Falls City to Chadron, have a chance to come in and be heard. I have had numerous calls from individuals who have contacted me wanting to know how they can have input on these bills. My response has been very simple, call your senator. That individual is the best access you have to these bills. To attempt to come before the committee...and I respect Senator Hall and his committee very much, I have always said it's the hardest working committee on the floor and the most difficult committee to work as a member of, but I do not believe that we can get input from the entire cross section of the State of Nebraska. To the extent that we cannot, the thinking of the committee is not going to reflect a statewide opinion. It will, in fact, reflect the opinion of eastern Nebraska and I suggest that that is not fair and that is not equitable and that might be why the bills, as we see today, particularly LB 1 and LB 2, are in such a state of disarray. Certainly, had there been more input from outstate Nebraska, from rural, urban business groups, the bills would not be undergoing the rewriting that they are undergoing today. I suggest and I ask the question how can those individuals who will come before the committee tomorrow have any inkling of what is going to be in those bills when the amendments are being drafted as of now? They will be coming before the committee prepared to testify on the green copy if prepared to testify on anything, and I would suggest that the green copy that we have before us today will in no way reflect the content of LB 1 and LB 2 when they come before the committee. I would hope that the body will discuss the merits of having the bills on the floor where all 49 members can have input because we represent, as has been said today here several times, each a constituency. The only manner in which that constituency can be represented in the drafting of these bills at this time is if the bills come to the floor. If we get a microcosm of bills before this body, we are going to only address a very narrow part of the problem and I suggest that that will not be a solution. We should not be dodging the issue. We should not be dodging the tough questions. We should be addressing the tough questions, as difficult as they are, as unpopular as they are, as unpopular,

yes, as they might make us back in our home districts. But we do not have the luxury, we do not have the ability, I do not think, at this time to delay those decisions until another time. If you will go back and read the news accounts, and Senator Lynch had some here, I believe, yesterday, each time for the last 10 years that we have met in a session or a special session we talked about a temporary solution, a part-time application of a solution to a very difficult problem. We never did address the entire problem. Way back in 1979, I said you cannot patch a totally bad roof one shingle at a time, you must apply a new roof. Ladies and gentlemen, it's time for a new roof. It's time that all 49 of us were working on it and I think we ought to address it in that manner and, Senator Hall, again, I want to emphasize it is not in any way an indication of lack of competence in your committee, it is just an expression of mine that I think we ought to all be involved in the legislative and drafting process. Thank you very much.

SPEAKER BARRETT: Thank you. Discussion on the Schmit motion. Senator Chambers, Senator Hall on deck.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, as a member of the Executive Board, I opposed the Executive Board referring the bills directly to the floor and felt that the motion should be handled in the way Senator Schmit is handling it now by presenting it to the entire body and I'm going to support his motion. The better course would be to delay the public hearing so that there would be adequate time to publish this legislation and make it available for the public who will be affected very profoundly by it, but that is not to be done. And it's clear that it's not the administration's desire that the public know because the administration deliberately withheld even the green versions of the bill from the Legislature. That was done to manipulate the system and maneuver the Legislature into becoming a rubber stamp. But to show that certain news outlets understand the insignificance of what we're doing because it's a done deal, I can't help noticing things and I shouldn't read newspapers like I do, other than the funny papers but I do read something other than the funny paper and the sport section. But here are things that were more important to the Lincoln Star. Doctor. Kitty Dukakis drank rubbing alcohol. Here's another thing that's very important. Eating fish twice a week shown to prolong life. Then the new 84th and "O" project proposed. And here is an international issue that should merit front page coverage. German crisis



monitored by worried super powers. Another article. After mid-terms, 'tis the season to skip classes. Then winter is a murderous time as crows visit Nebraska towns. There is nothing about the Legislature in any of these articles and I think it just shows a decision made by those who publish the paper that this is nonsense that we're engaged in, this is a circus, this is a carnival. When has a carnival merited front page coverage? Now the World-Herald will give front page coverage because the World-Herald supports Governor Orr and the World-Herald has tried to make everything she do seem as though it makes sense when, in fact, it doesn't. When there is one large newspaper and it, instead of trying to inform the public, tends to becloud the issue and argue that there is no necessity that the public know what the Legislature is doing, it's clear that that paper has made itself an arm of the administration. It can do that. It can do that, because the Constitution grants them the freedom to do it, but it is not ethical and it is not professional. But when have the terms "ethical" and "professional" ever appropriately been attached to the World-Herald in anything that it does? I noticed the other day, after Nebraska had gotten its pants pressed in a football game with Colorado, that the World-Herald editors all got together in secret conclave and wrote one of the most vitriolic editorials against a university because the players took inspiration from the fact that one of their teammates had died from inoperable stomach cancer. Now if old Harold kicks the bucket and they write all these glowing terms about him and I stand up on the floor and talk about some of the terrible things I think he did, they would say I'm terrible. This young quarterback did not hurt the Omaha World-Herald. They did not...he did not do anything to try to improperly influence public opinion or defame anybody as the World-herald regularly does. But when you have a cheap, yellow journalistic sheet, like the World-Herald, supporting the Governor in what she does, it's difficult to make a jump but sometimes you say you judge persons by the company they keep. Now it's clear that there is no intent that the public be aware of what this legislation should consist of. It's clear that the legislators are not to be made aware of it. A public hearing would be a charade under these circumstances.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: The whole session, as I said, is simply pro forma just to go through the motions, but we don't have to participate in creating a sham that we foist on the public. As

Chairman of the committee, I can see where Senator Hall would want to discharge his duty and make a forum available to the public even though the time frame is so short that members of the public who may want to participate realistically will not have an opportunity to do so. I would rather that instead of getting into such a breakneck hurry to carry out the Governor's will...and I'm surprised some of my colleagues who pretend to love the legislative process so much and are praised by Dick Herman for loving that are not joining me in saying we should delay the public hearing until such time as the public can hear. But the purpose is not to give the public a hearing but to make the Governor's first step toward reelection a success. I'm going to support Senator Schmit's motion.

SPEAKER BARRETT: Thank you. Senator Hall, followed by Senator Warner.

SENATOR HALL: Thank you, Mr. President, and members, I rise in opposition to Senator Schmit's motion to reference the bills to General File and it's not because I am looking forward to the public hearings that we're going to hold tomorrow. The public hearings were scheduled, basically, for tomorrow because it did allow for additional time for the general public to get a look at the bills, at least, if nothing else, read the press reports, listen to the press reports on the bills that have been introduced. There had been some indication as to what was going to come in prior to yesterday. They, in their papers either last night or this morning, have I think gotten information that details what is in those eight bills. We were...I thought if we held the hearings this afternoon would be jumping the gun in terms of allowing folks from across the state the opportunity to testify on the various measures before us. Holding the hearings tomorrow, although it is Veterans' Day as recognized by the state, was I think the most opportune time to allow for complete discussion of the issues. Now that we have eight bills before us, we will spend the vast majority of the day from nine o'clock on dealing with all eight of those issues, in their entirety, in front of the committee. I understand Senator Schmit's concern. I would argue that the Revenue Committee would not look at these issues strictly from the viewpoint of eastern Nebraska but look at them from the viewpoint of the entire state. Our revenue system runs across the state. It is not limited to a certain geographic area of the state. I would also argue that I would appreciate Senator Schmit's testimony tomorrow before the Revenue Committee on these issues, and I would be very

interested in seeing a copy of the rewrite of LB 1. Senator Schmit, I have not been privileged to get that as of yet, and I will be very interested to hear the reasons for the amendments to the bills as they are presented tomorrow morning. It will make it easier for me to get up at six o'clock knowing that that is going to be presented the first thing in the morning. With that, I would argue that it is important, our whole system here, the Unicameral system is based on the public hearing. As you all know, we are the only state in the nation that allow for a public hearing on every bill. To deny that, I think, although many of the issues have been heard before, at least one of the bills is the bill that Senator Schmit...virtually the same bill that Senator Schmit introduced a year ago, was heard before the committee. They deserve the opportunity to be heard. They deserve to be debated. They deserve the opportunity to have amendments offered. I think there will be more amendments offered than the ones that Senator Schmit talks about. Those all need full public debate. We will allow for that tomorrow. After that, the committee will deliberate and make a determination as to how they will deal with the bills as they have been presented. We won't do anything any different than we have in the past, and I hope that the body will defeat Senator Schmit's motion to refer, although I completely understand his reason for offering it. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Warner, please.

SENATOR WARNER: Mr. President, members of the Legislature, I would rise to support Senator Hall's position to go ahead and have the hearings. I don't know if this...actually when I pushed my button, I wrote an amendment out to exclude from Senator Schmit's motion LB 7 which I introduced because, in fact, I would appreciate a public hearing and the input that can be attained from that and have the Revenue Committee of the Legislature reviewing that proposal. As Senator Hall has pointed out, it has in part, at least, been considered before, and not knowing how things are going to go this morning, rather than offer an amendment, I'd assume that this is not going to pass, but if it does, then I will still come back and ask to have LB 7 excluded because I would very much appreciate a hearing on that bill by the Revenue Committee.

SPEAKER BARRETT: Thank you. Any other discussion on the motion? Senator Schmit, would you care to close?

SENATOR SCHMIT: Well, Mr. President and members, the idea of a public hearing is, of course, a very laudable one and a very desirable one. I always support that idea. My concern is, as I have expressed earlier, that this will not, in fact, be a true public hearing. We will hear again from, number one, the cities, number two, the counties, number three, the school boards; number four, we are going to hear from Mr. John Boehm. I, myself, will be most interested, Senator Warner, listening to Mr. Boehm come in and testify in support of LB 7 this time because he testified against LB 497 when I introduced the bill during the regular session. And I recognize that conditions change, and I recognize that situations change, and, therefore, of course, we have to sometimes change our position, but I would want to just remind you that Senator Hall doesn't even have the proposed rewrite of LB 1. I would suggest how can the public possibly be prepared to testify on such a bill when they do not have it in their possession even a few hours prior to their coming to the legislative arena. In addition to that, I want to suggest to you that the entire public hearing process ought to be once in awhile for the benefit of the public, so that the citizen, the taxpayer, the individual who has to pay the bill can come in and sit down and tell the Revenue Committee why they want a bill, do not want it. We have many reasons why, of course, the cities and the counties and the schools need to maintain their cash flow. I do not in any way condemn those entities for their interest. They have an obligation and a responsibility to the entities they represent to do so in a manner which maintains to the best of their ability the cash flow necessary to sustain those subdivisions of government. At this point in time, we ought to be listening to the taxpayer to determine if the taxpayer believes that all of the expenditures we have been making and intend to make and will commit to make are necessary and, in fact, ought to be a part of the obligation of the taxpayer. I think we would find it to be substantially different. I would like to ask just in conclusion, how do you propose, how do you propose that western Nebraska, even central Nebraska, can possibly get here to testify on these bills, present their point of view, when they will not have that information before them tomorrow morning. It is not going to work. We are going to listen, we are going to all get together, the same little groups, the same little group of lobbyists, the same narrow point of views will get together in the hearing room, exchange ideas and conversation and quips and jokes, and we will recess. I would just want to suggest, I don't want anyone to take any offense by it, but it will be very, very

strange, Senator Hall, if those bills introduced by Schmit and Haberman reach the floor tomorrow. If they don't reach the floor, it is very difficult for this body, as a group, to have any input on those. That is the only way that the additional 41 members, and therein the people they represent, can express their point of view on something other than the bills which have been proposed, which today almost everyone wants to distance themselves from. Governor Orr has worked very diligently, very sincerely, and very dedicatedly to try to resolve the problem from her point of view. We have an obligation to give to her our point of view, another point of view, another solution,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...because as she has said, we should work together. The very groups whom she mentioned who have supported her, worked with her on the drafting of the two bills, have in two instances told me they did not even see the bills before they were presented to the body, and certainly were attempting to distance themselves from them. I would suggest, ladies and gentlemen, that the best possible hearing for these bills is a full and open debate before the legislative floor. However, I am a realist. I know it is not going to happen. Mr. Chairman, with your permission, I ask that the resolution be withdrawn.

SPEAKER BARRETT: Thank you. The motion is withdrawn. For the record, Mr. Clerk.

CLERK: Mr. President, I have a series of hearing notices from various Standing Committees regarding scheduling of confirmation hearings. Pursuant to the filing of those hearing notices, Mr. president, I have a motion to suspend Rule 9, Section 3 to permit the committees to conduct confirmation hearings on gubernatorial appointments more than five calendar days following the referral of such appointments by the Reference Committee.

SPEAKER BARRETT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I move to suspend the rules, Rule 9, Section 3, to permit committees to conduct confirmation hearings on gubernatorial appointments more than five calendar days following the referral of such appointments by the Reference Committee. Thank you.

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Revenue Committee either. So I appreciate the Speaker's willingness to delay things until one o'clock, so I can explain these amendments to you, as well, tomorrow when we come onto the floor. So, with that, I appreciate his offer to extend the start back to one o'clock tomorrow afternoon.

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

CLERK: Mr. President, your Committee on Revenue, whose Chair is Senator Hall, to whom was referred LB 1, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with committee amendments attached; LB 2 to General File with committee amendments attached; and LB 7 to General File with committee amendments attached. Those are signed by Senator Hall. (See pages 91-92 of the Journal.)

Mr. President, I further have a motion from Senator Warner to place LB 6 on General File. That will be laid over. That's all that I have, Mr. President.

PRESIDENT: Thank you. Senator Withem, please.

SENATOR WITHEM: Yes, I would move that we adjourn until 1:00 p.m., November 14th, Tuesday, November 14th.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. We are adjourned until one o'clock tomorrow afternoon. Thank you.

Proofed by: Arleen McCrory  
Arleen McCrory

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PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. Would you please rise for the invocation by Senator Hefner, please.

SENATOR HEFNER: (Prayer offered.)

PRESIDENT: Thank you, Senator Hefner. May we have the roll call, please.

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

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 2 and LR 3. Do you have some things to read in, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Revenue, whose Chair is Senator Hall, to whom was referred LB 4, instructs me to report the same back to the Legislature with the recommendation it be indefinitely postponed; LB 5 indefinitely postponed; LB 6 indefinitely postponed; LB 8 indefinitely postponed and LB 9 indefinitely postponed, all signed by Senator Hall as chair of the committee.

Mr. President, I have a reference report referring a certain gubernatorial appointee to the Agriculture Committee for a confirmation hearing. I have a report of registered lobbyists for May, 1989 through November 14, '89. (See pages 94-96 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Warner regarding LB 7. (See pages 96-97 of the Legislative Journal.)

Mr. President, I have a communication from the Secretary of State. Mr. President, I have a hearing notice from the Retirement Committee, confirmation hearing notice, signed by Senator Haberman as Chair.

And, Mr. President, two new resolutions, LR 4 by Senator

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LR 6

need to be clarified, and I guess they would be the ones that would have to clarify it, because, in my opinion, the way it is currently drafted, it goes to the intent of the amendment that was offered, and it exempts the irrigation systems from being called real property, which means they are classified as personal property. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Ashford, you are next but I understand we have an amendment to the committee amendments. Mr. Clerk.

CLERK: Mr. President, if I may read some items for the record.

PRESIDENT: Please.

CLERK: Mr. President, I have a confirmation hearing report offered by the General Affairs Committee, signed by Senator Smith as Chair. A new resolution offered by Senator Abboud, Mr. President. That will be laid over. (Re: LR 6. See pages 100-102 of the Legislative Journal.)

A motion by Senator Warner with respect to raising LB 6. Enrollment and Review reports LB 3 to Select File, Mr. President.

Mr. President, Senator Schmit would move to amend the committee amendments. Senator, I have AMO28S in front of me. (On file in Clerk's Office.)

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President, and members, I have just been handed letters from two county assessors in which they say that LB 1 clearly defines real and/or personal property and outlines why they support LB 1. That only leaves 91 more county assessors to get their letters into Mr. Larry D. Worth, Administrator of the Property Tax Division. I would suggest they also send copies of these letters to the Supreme Court because that is where we are going to be again, and I am sure they will be most impressed with these two letters. Anyway,...and I mean they mean well, they mean well. Senator Hefner said that the pump, the irrigation pump is real property. Senator Hall said the irrigation pump is personal property. Ladies and gentlemen, you don't need to point the finger at me for raising the issue. You have got two members of the Revenue



the statute in court. And I think the other thing it does is that it prevents us from having to attempt to try to pull that exemption off the books should we find out that it is not something that will be even a temporary solution to our problem. So we won't have to, in 1991 or '92, fight the lobby to try and take the exemption off the books if it's something that we need not provide if it doesn't work. Section 3 provides for the exclusion of the value of the railroad rolling stock from unit value. This is the issue that I mentioned earlier that talks about the book value. The original draft of the bill provided that the 75/25 split be calculated as an exemption but it did not take it off of the value side of the railroad rolling stock. We would allow for this to show up on the valuation side. Senator Warner, I know, has an amendment to this. I think Section 2, the sunset, and Section 3, the provision with regard to how you determine value are probably the two substantive issues in the bill that remain from the original draft. Section 4 through 6 removes the current sales tax exemptions for the purchases of railroad rolling stock, repair parts, special fuels for trains. This is the amendment that Senator Haberman presented to the committee, was adopted in Executive Session. It is projected to raise approximately \$11 million. If you would remember LB 6 that Senator Haberman introduced in the special session, it reflects that bill. The effective date would be January 1 of 1990. The committee statement has a mistake in it. It's a typographical error and it has July 1. Section 7 would impose a 16 percent corporate income tax rate increase. This would also be effective January 1 of 1990. This was brought to the committee by Senator Landis, was adopted as part of the committee amendments to the bill. It would raise approximately \$12 million in revenue. The purpose for both sections...both amendments, the sales tax exemption removal as well as the increase in the corporate income tax were to offset the cost of the exemption that Sections 1 through 3 provide for. Section 8 is the retroactive provision to January 1 of 1989. It provides for that retroactive date throughout the sections that pertain to rolling stock exemptions. And then it's followed by sections that deal with the severability and then the emergency clause. With that, Mr. President, I know that Senator Warner has a motion up to ask for a division of the question and I would deal with that at this moment.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Yes, Mr. President, I did ask for a division of

structure itself and it is going to...this particular area is one that will bring the bill down. I would urge the adoption for that reason.

PRESIDENT: The question is the adoption of the Lindsay amendment to the committee amendments. All those in favor vote aye, opposed nay. A simple majority. Record, Mr. Clerk, please.

CLERK: 3 ayes, 23 nays, Mr. President, on adoption of that amendment to the committee amendments.

PRESIDENT: The amendment fails. We are back on the section that we were on, which is Section 1. Anything further, are there any other amendments?

CLERK: I have no further amendments to that portion of the committee amendments, Mr. President.

PRESIDENT: Okay, Senator Warner, there are no other lights on at the moment. Okay, Senator Hall's committee amendments, excuse me.

SENATOR HALL: Mr. President, that is quite all right. I would move the adoption of this portion of the committee amendments.

PRESIDENT: Any further discussion? If not, the question is the adoption of Section 1 as outlined before. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 4 nays, Mr. President, on adoption of that portion of the committee amendments.

PRESIDENT: That portion of the committee amendments are adopted. Now we will go to Section 3 which consists of Sections 4, 5, 6, and 11. Senator Hall.

SENATOR HALL: Thank you, Mr. President, and members. These sections of the committee amendments deal with the removal of the sales tax exemption for the purchases of railroad rolling stock repair parts and special fuels for trains. It was and is the bill that Senator Haberman brought to the Revenue Committee, LB 6. It would, by removing the exemptions, raise approximately \$11 million to offset the exemption that was found...that would be given in LB 7. That was the reason during the Executive

Session of the Revenue Committee to adopt the amendment to the committee amendments.

PRESIDENT: Mr. Clerk, you have an amendment to the amendment.

CLERK: Mr. President, Senator Haberman would move to amend that portion of the committee amendments.

PRESIDENT: Senator Haberman, please.

SENATOR HABERMAN: Mr. President, members of the body, two days ago I filed amendments to reinstate the special fuels tax exemption as this was omitted due to poor communications. I also filed an amendment to reinstate the sales tax exemption for railroads as the information I received, the input I received, this was unwise, would be very dangerous, would endanger some other entities, and I did not feel comfortable with pursuing that. So that left repair parts sales tax, the rolling stock sales tax exemption. I noticed on the green sheet early this morning that Senator Warner had asked that LB 6 be returned to the legislative floor notwithstanding the actions of the committee, as the committee on my recommendation killed my bill as I had amended my bill into LB 7. I went over to Senator Warner's office this morning about eight-thirty and I sat down and I said, Senator Warner, would you please explain to me why you are attempting to return LB 6 to the floor, and he graciously did. His points were that LB 7 is of very, very great importance. LB 7 should be a clean bill. It should not give anyone an opportunity to challenge LB 7 other than what is in the bill. I told him at that time that listening to his explanation I thought I would consider withdrawing the third motion, which was the exempting of the rolling stock. Senator Warner said that is your decision, I have explained my reasons to you. So I went back to the office, I chewed on it for awhile, and I do not want to be a part of endangering a piece of legislation that was introduced under the special session, that is within the call, and so at this time, Mr. President, I have a motion up there that strikes the sections 4 to 6 and 11, and 5, that does in effect reinstate the exemptions for railroad's rolling stock sales tax, special fuel tax exemption and the repair parts exemption, and I ask for the adoption of this amendment, Mr. President.

PRESIDENT: Thank you. Senator Hall, please, followed by Senator Warner.

wringing arguments here, oh, gosh, they'll all be off into the wild blue yonder, to go from the state that has the 44th lowest corporate rate to maybe the 43rd lowest or the 42nd, off to greener pastures. Well, if it's going to happen, it's going to happen. The point is, everybody else out here is carrying more than their share to make up for it. It's a reasonable and fair increase. My favorite, my favorite, I have to learn to love this, I have to have a sense of humor about hearing sending the wrong message this many times, otherwise it will be the Chinese water torture, wouldn't it? How many more times do we have to hear, sending the wrong message, before we all go nuts? Hearing this cliched shiboleth being passed around here as an excuse for tax policy. It isn't. Let's do business. Now, fair argument, let's deal with Senator Warner's straight up. Don't screw up LB 7, all right? Fair enough. I understand that argument. A couple of things that are available, number one, you could put a severability clause in and solve the problem if you were serious. Number two, if you wanted to, you'd take that motion about raising Section...LB 6 and would put it ahead of these bills so that this issue would have gotten the fair treatment compared to all the other issues. What happens is, if you take it out of here, I've got to get 25 votes two different times, not just once, if we follow that suggestion. Third, I have not asked the body, nor will I ask the body to pass a piece of legislation that has in it something that conceptually agrees, that we all agree as beyond the call, and this is beyond the call. I haven't said anything to the contrary. What I ask you to do is this. I ask you to tell me and the lobby and the Governor whether or not it should be the real property taxpayers of this state who makes up the Union Pacific's taxes or whether it should be the corporate community, that's all. If you will give me that vote, you can send me a message. You can say, Dave, sit down, go home, quit it, we want the real estate property taxpayers to pay it. That's one message. The other one is, now you know what, it's fair to look for a contribution to our least used tax base. If you'll give me that piece of information, I'll go to the Governor. I'll say, listen, Governor, you've got a call and you've got a way of handling the problem. If I have to come back in LB 6, I've got LB 6. If I've got a severability clause and we can use it on LB 7, we can use it on LB 7. If she says, no, I'm sorry we're not going to expand the call, I'll stand up here and withdraw the amendment myself on Select File. I will not ask you to pass a bill beyond the call, but I do not permit is the notion that procedurally on General File we will not allow ourselves to talk about or decide

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and fund future spending, which this appears to do, by justifying those future programs and funding them on their own merits with tax increases. I say we should defeat this amendment. Thank you.

PRESIDENT: Senator Warner, please, followed by Senator Crosby.

SENATOR WARNER: Mr. President, members of the Legislature, I voted no on the amendment. I will vote no on this proposal as well. My reason, I want to certainly acknowledge that I appreciate Senator Landis' attitude that he would not want to see this amendment stay on the bill. There are a couple of things I think should be repeated or corrected, rather, that have been repeated on the floor. The passage of LB 7 does not cause a \$12 million loss, that is gone, based on the court decision. As a matter of fact, if the agreement that apparently is being resolved between the litigants, the loss is 8.7 million, I believe, rather than 12. And, if you assume that that will carry on the next two years, that is the number. What really is at stake in LB 7 is whether you want to make that maybe 42 million, or if the class action, 120 million of lost funds. That's what it's designed to try and prevent from happening. The letter from the Attorney General indicated, and I planned to introduce this bill in the regular session, but the letter indicated concurrence with the concept, at least he could defend it. But, secondly, to have any impact upon the 243 cases it needed to be enacted this calendar year, and that is why it's there. Yes, I am concerned that maybe the amendment wouldn't get off, or something could happen. Now in good faith I did file a motion, last Monday, to place LB 6 on General File notwithstanding committee action. And that also was in good faith, and it was good faith the concept that if, in fact, the majority of the Legislature wanted to move in this area that that was a vehicle that could be used without jeopardizing the contents of LB 7. And that option is still there. I have not attempted to have that not come up. Senator Haberman's bill. He withdrew the amendments this morning on the committee amendments to LB 7 that were the same as LB 6. I don't know what his attitude is about using it for something else. But it seems to me that that would be the proper route if you wish to have a... "test" the vote, I guess, use that bill, because in the event that it would some how be enacted it doesn't jeopardize anything. I would hope that LB 7 does not become the vehicle. I think it is too much at stake and too significant to chance that kind of reaction by the Supreme Court or some bright

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And with that I'd urge you all to defeat Senator Landis' amendment.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Mr. President, members, Senator Landis just ruined my speech.

SENATOR LANDIS: It wasn't that good to begin with, Howard, it's okay. (Laughter.)

SENATOR LAMB: I understand that he's recommending that his amendment be...is this correct, Senator Landis? You're recommending that your amendment, or the committee am...this be stripped out of the committee amendment. Is that correct, and put on LB 6?

SENATOR LANDIS: That's right.

SENATOR LAMB: That's good, that's good, that's good. I think....What I was going to say, and I will not say it since he's already said it, (laughter) is that the issue is not the corporate income tax rate. The issue....Because I may very well agree with Senator Landis on what the rate is. But it should not be in this bill because it jeopardizes the bill under the call. And to try to put it into LB 6 is much better as far as I'm concerned. And I would ask also that that be stripped out.

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

SENATOR WEHRBEIN: Question.

PRESIDENT: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: Debate has ceased. Senator Hall, do you wish to close on the portion of the committee amendments.

SENATOR HALL: Mr. President, I would move that the final portion of the committee amendments be adopted.

PRESIDENT: That's right, that's closing. The question is, shall that portion of the committee amendments be adopted? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 2 ayes, 30 nays, Mr. President, on adoption of that portion of the committee amendments.

PRESIDENT: That portion of the committee amendments is not adopted.

CLERK: Mr. President, I have nothing further pending on LB 7.

PRESIDENT: The question is the advancement of the bill to E & R. Senator Warner, please, on the advancement of the bill.

SENATOR WARNER: Mr. President, I would move that the bill be advanced. As it now stands it does serve as the vehicle to address the issue, at least in one fashion, that was raised by the Supreme Court decision. I think what the body has done leaves it a very clean bill. I appreciate Senator Landis' approach. So it's clear, I understand the agenda will be adjusted to take up LB 6 and have it placed on General File, which motion I will make, or I guess I have it filed. I will support putting it there. And it's Senator Haberman's bill, obviously I will defer to him from that point as far as how it's used. But I understand he has no objection to that process. Then each of you can vote on the corporate tax as you see fit without any jeopardy to LB 7.

PRESIDENT: Thank you. Senator Hefner, please, on the advancement of the bill. Senator Wehrbein, advancement of the bill. You had your light on. Senator Haberman, on the advancement of the bill. Senator Withem.

SENATOR WITHEM: Yeah, Mr. President, I would like to, and I'm not as prepared to speak as I should be maybe, but I think we've spent most of the day today debating the corporate income tax, and we tend to forget what LB 7 is attempting to do. And I guess I just...I'm not sure, at this point I don't know whether I'm going to vote to advance LB 7 or not vote to advance LB 7. But I think we need to stop and think, if we are assuming that this is the final answer, that if we merely classify railroad property as a separate classification and exempt it, if that's

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are. I would hope that the body would advance the bill, then these other arguments can take place on subsequent legislation.

PRESIDENT: Thank you. Senator Haberman, please, followed by Senator Ashford. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, I would like to clarify possibly what might happen a little later on. There is a consensus of some of the members that we should pass LB 7 without any amendments, that way it will be a clean bill, and all of the talk of somebody attacking it, taking it to court due to an amendment being attached, goes away. It's been suggested that the Speaker change the order and take Senator Warner's motion up and place it immediately after we vote on LB 7. The intent of doing that is then it will take 25 votes, or 30 votes, I believe, to take the bill from the committee and place it on the floor. The bill, as it stands now, takes away the sales tax exemption on rolling stock, special fuel tax, and repair parts. It is fine with me if we remove those provisions and, in essence, gut LB 6. So we have LB 6 on the floor. The present LB 6, all of the guts of the bill is taken away, and then we insert in there Senator Dierks' amendment on the income tax, and we pass it. I intend to support it. Whether it passes or not, I don't know. That way LB 7 passes clean, we get another shot at raising the corporate tax, it won't hurt LB 7, and we can go on about our business. I would like to tell this body I fully agree to doing that, and I would like to ask if this body does that, if it's not changed by the Speaker changing the agenda, we can file a motion to override the agenda and change the agenda and do it that way. However, I feel we'll do it the easy way. So, with those remarks, I would urge you to advance LB 7 to E & R. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Ashford, please, followed by Senator Moore and Senator Hartnett.

SENATOR ASHFORD: Mr. President, members, I assume someone will call the question quite soon, and I'm only going to make a few statements. I agree with Senator Withem. We really haven't discussed LB 7.

PRESIDENT: (Gavel.) Could we hold it down so we can hear the speakers, please. Thank you, Senator.

SENATOR ASHFORD: We really haven't discussed LB 7. I think



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the Uniformity Clause was a protection to the taxpayers, which I believe because I voted against the amendment to classify farm property, which probably is not in my interest, but it is my interest as a state senator to believe or to pursue the policy that I believe is correct, which is try to retain uniformity. I have strong reservations about expanding it. But we do have a constitutional amendment on the books now that does permit the classification of personal property, at least in one case it was held up, in the Stahmer case. Unless the court reverses itself on that one, this provides an opportunity whether or not to test, very clearly, if this is a distinct and separate classification that is within the Constitution as permitted by the amendment that was enacted in 1970. I would hope that the body would approve it and look upon it as exactly what...that's what it does. I don't know how else to explain it. I don't know that anybody holds it out to be the solution to all problems for all time. But I do believe it is the solution that has potential to the current problem and the 243 cases that are pending.

PRESIDENT: Thank you. The question is the advancement of LB 7 to E & R initial. All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 26 ayes, 8 nays, Mr. President, on the motion to advance LB 7.

PRESIDENT: The bill is advanced. Do you have anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. Senator Rod Johnson would like to announce that the Agriculture Committee will meet in Room 1520 at four o'clock for a confirmation hearing that he promises shouldn't take too long. Agriculture Committee in Room 1520 at four o'clock.

Mr. President, I have a new resolution by Senator Hefner, that will be laid over. (LR 9. See page 126 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: May I have your attention a moment, please. Speaker Barrett has advised me that he wishes to take up motion seven which is Senator Warner's LB 6 at this time, then we'll follow with Select File after that is handled. Mr. Clerk.

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CLERK:      Mr. President, Senator Warner would move that LB 6 be placed on General File notwithstanding the action of the Revenue Committee. Motion is filed pursuant to Rule 9, Section 5.

PRESIDENT:      Senator Warner, please.

SENATOR WARNER:      Mr. President, I filed that motion last Monday in order that LB 6 could serve as a vehicle to discuss some of the items contained in the original committee amendment, specifically now we're dealing with the corporate income tax that Senator Landis was speaking on. And as I indicated earlier the motion was in good faith, for that to be the vehicle if the majority of the body wished to deal with it. And I renew the motion to in fact do that, to place the bill on General File and hope that the body would provide that opportunity for those that wish to address the corporate tax issue during this special session.

PRESIDENT:      Thank you. Senator Landis, please, followed by....Okay. Senator Labedz, please.

SENATOR LABEDZ:      Thank you, Mr. President. Many senators came up to me after the vote on the corporate tax and asked me why I voted the way I did, and I said I'd have the opportunity on LB 6. I voted for advancement out of committee on LB 6 because it did have a public hearing. I told the committee in Exec Session that I would not vote for the corporate tax amendment because of the fact it did not have a public hearing. I believe any time you increase a tax, or bring in a new tax it deserves a public hearing. And the corporate tax did not have that, and I did vote for LB 6. I will vote for advancement of LB 6 only if that is all it contains. But, if the corporate tax is included in LB 6, I will have to vote against that. There was no public hearing and there was, on LB 6, there was railroad people present to voice their objections. There was no opponents. The railroad people were there, but they spoke only, I believe, on LB 7 and that subject was brought up and they did object to repealing the sales tax exemption that they had. As I said before, there was no public hearing on the corporate tax, and what's to prevent any senator on this floor to decide that maybe it would be better if we had sales tax on services, or to increase the sales tax without a public hearing. I believe that next year is the time to bring in any increase in tax, and it's a big, big step whenever we increase the tax, and without a public hearing I will never vote on any bill that increases the

tax. Senator Landis mentioned the property tax on people from south Omaha. And, believe me, I'm most concerned about the people in south Omaha and their property tax. If anything we can do next year, I will be supporting to reduce the property tax for the homeowners, not only in south Omaha, because I know it's hard on them as it is on anybody in this state to pay a high property tax, and that has always been a problem. So I will place LB 6 on General File, depending on what is in it. Thank you.

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

SENATOR HABERMAN: Mr. President, members of the body, I would like to support bringing LB 6 to the floor so that we can have more discussion on any and all issues due to the fact that we have now passed LB 7. And I ask your indulgence in advancing LB 6 to the floor. Thank you, Mr. President.

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

SENATOR SCHMIT: Mr. President and members, I oppose bringing LB 6 to the floor. I think we all know that you cannot do what is proposed to be done under LB 6. There isn't any way you can remove that exemption. I talked about it many times. I do think Senator Haberman is to be commended. I'm sure that in the interest of equity he will be able to bring a bill to this Legislature during the regular session which will provide equity in taxation. He can do that by removing the tax, the sales tax, from farm machinery and parts, because today without paying any personal taxes on railroad rolling stock, no personal tax on farm machinery, but paying a sales tax on farm machinery, we still have an inequity. So Senator Haberman is several years ahead of you, and I'm sure you're going to line up about four abreast and ten deep and support him on that. But you're not going to do it under LB 6. Now, another thing you might want to do, of course, if you're going to proceed in this manner and I can expect that you will not do so, but that would really broaden it and address the entire issue. But, no, you're not going to do that because you really only want to pick on one area at a time. This seems now to have shifted from the anti-Enron session to the anti-corporate session. Of course I really don't care if you double the taxes on corporations, providing I am exempted under 775, because by the time the

15 years rolls around most of us will not be here, and of course during the intervening period of time we will adjust the corporate tax rate many, many times. I really cannot understand the deep and abiding concern that all of a sudden has surfaced for the real estate owner because of this \$12 million that the railroads have...we have been forced to grant, we have been forced to accede to by court order for the railroads, because next month, ladies and gentlemen, the farm owner is going to get a \$50 million increase in his real estate taxes, and that's divided up among 50 or 60 thousand farmers. The 12 million is divided up among 1,600,000 people. I spoke to the county treasurer from Saunders County during the lunch hour. He told me of one farmer and 140 acres of farm which will have a \$700 tax increase. You want to cry for someone, ladies and gentlemen, if you want to bleed, if you want to beat your chest and wear sack cloth and ashes, start doing it on the basis of LB 361. And that bill passed this Legislature with only dissenting vote, and she's sitting right over there, Senator Robak. I'd have to take some of the blame because I wasn't here at the time. I don't know if she's that much smarter than the rest of you or rest of us, or whether it was just an accident, Jenny, but at least you're in the clear, and the rest of you are going to have to go back home and take the blame for that. I don't blame the nonfarmers in here. Any time you can lay the wood to us, that's your responsibility, I guess, as long as we don't mind. But I do blame the farmers. Now you're going to come in here and say, we've got to save this \$12 million. Well, how hypocritical can you be. You know until about two weeks ago we were continually told by everyone from the Tax Commissioner's office to the Attorney General that there was \$228 million in jeopardy. Had to stand up here and almost get people under oath before they agreed that it was 118 million, with the possibility of maybe 40. Now we zapped...

PRESIDENT: One minute.

SENATOR SCHMIT: ...most of those taxpayers, so now we've got it down to about 40 million. If you want to bleed for someone, bleed for those taxpayers who are paying an unconstitutional tax and not going to get their money back or even have a chance to request it back. Ladies and gentlemen, if you want to expand the session, and you want to address the entire issue, and you want to stay here until January 1st, fine with me, I'll be here. But if you want to just pick on the weakest chicken in the barnyard, or the one who happens to be most visible, the one

which gets us the most political hay, then count me out, and that's exactly what we are doing. Senator Landis says the corporations lack a low stable tax. Sure they do. As I said earlier you can increase the tax 100 percent, if you provide the loophole for me to crawl through, or to walk through with my head high,...

PRESIDENT: Time.

SENATOR SCHMIT: ...saying I'm going to hire some new people, create new jobs, and therefore I don't owe any taxes. Ladies and gentlemen, we ought to be consistent, we ought to be honest with each other and we ought to address the issue in total, or we ought to confine it. I make one prediction, ladies and gentlemen, with the amendments on LB 1 and LB 2 and the way LB 7 is moving, the Governor will veto LB 1 and LB 2, sign LB 7 and we're going to go home....I think the Governor is going to learn from Governor Exon and we're going to be made the goats of the whole thing.

PRESIDENT: Thank you. Senator Hefner, please.

SENATOR HEFNER: Mr. President, members of the body, I voted to kill LB 6 and I'm not going to support bringing it to the floor now, because as Senator Haberman and, Senator Haberman, are you listening? I think I heard Senator Haberman say that if we advance the bill he's going to gut the bill and put the corporate tax in there. I'm opposed to that because I think, like Senator Labeledz said, we should have a hearing. Whenever we increase the tax rate I think we should let those people that are affected come before us and say why they don't want us to increase it. Besides, we're looking for a long-term solution here. And when we're looking for a long-term solution I know that it's going to take some adjustments in tax rates, because if we're going to relieve property taxes it's going to take an increase and a combination of sales and income tax. Are we going to bash the corporations now, increase their tax rates now, and then when we do the long-term deal we'll increase them again? I don't hardly think that is fair. Senator Haberman, is that right? Are you going to gut this bill when we raise it out of committee? I thought I heard you say that a little earlier.

SENATOR HABERMAN: Senator Hefner, I will support a motion to gut the bill and replace it with some other issue, yes.

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SENATOR HEFNER:    Okay.

SENATOR HABERMAN:    However, Senator, I would like to remind you there has been a public hearing on every issue that is in LB 6, because I have proposed these before and have been tramped down. So there has been public hearings on these issues.

SENATOR HEFNER:    Okay.    Public hearing on LB 6?

SENATOR HABERMAN:    Public hearings on the issues contained in number six.

SENATOR HEFNER:    Okay.

SENATOR HABERMAN:    The subject of LB 6 has had public hearings.

SENATOR HEFNER:    Okay.

SENATOR HABERMAN:    So we're not doing something behind anybody's back.

SENATOR HEFNER:    Okay.    But, if we take those issues out of LB 6 and put the increase in corporate income tax, there has not been a public hearing held on that.

SENATOR HABERMAN:    Senator Hefner, you said you voted to put LB 6 into LB 7, is that correct?    Did you vote to put LB 6 amendments into LB 7?

SENATOR HEFNER:    I don't follow you.

SENATOR HABERMAN:    In LB 7, contained all of the language in LB 6...

SENATOR HEFNER:    Okay, then I...

SENATOR HABERMAN:    ...and you voted to take LB 6 and put it in LB 7.    I think you did, sir.    You were the fifth vote.    Now all we're asking to do is to bring LB 6 to the floor, which is the same difference as putting LB 6 into LB 7, because it came to the floor, same thing.

SENATOR HEFNER:    I'll talk to you about that later.

SENATOR HABERMAN:    Oh, I'm not...I want to talk about it now.

You did vote to take the issues in LB 6 and put them in LB 7.

SENATOR HEFNER: Senator Haberman, this....Senator Haberman, this is my time. But I'm still opposed to bringing LB 6 to the floor to gut it and to put the increase of corporate income tax in. Thank you.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: The evening is getting late and we are wearing away at our ability to deliberate thoughtfully and respectfully, I guess I just....I was going to let my light pass this time. But when Loran Schmit accused me of picking on the weakest chicken in the barnyard (laughter), I don't know, I thought to myself, wait a second, for a chicken the corporate community has been pretty darn tough over the course of the eleven sessions I've been here. I don't think of it as picking on the weakest chicken in the barnyard. It's a strange logic that says the property taxpayers have had it rough. The farmers have had it rough. The personal property...the real estate property taxpayers have been pushed around right and left, and by God, now it's okay to throw \$12 million more in, as a matter of fact if you don't stick...if you don't put the \$12 million on their head, and if you try to pass it off to the corporate sector, from whence the \$12 million problem came, why then that accounts for picking on the weakest chicken in the barnyard. The logic that leads to that conclusion escapes me. Maybe it's just apparent and self-evident, and I should be able to see it, and I'm just not looking at it well enough there. But I don't get it. I don't get how the real estate property taxpayer in this state is the person that we should first turn to to absorb this loss, and why the least taxed element of our state is somehow deserving of our...apparently our pity here because they are such a weak chicken. And for that reason we should let this cup pass from us so as not to burden and unduly bully this weak chicken. I don't see it that way, but if there are a lot of you that do, and who think that it's the big, bad, tough property taxpayers who ought to get this hit, and the weak corporate section of the state that ought to let this one by, that will be the outcome. I support the motion to place LB 6 on General File. I understood that was the objection that Senator Warner had identified to consideration of that form. And I hope the body will give me the fair shot for this issue that we were proceeding on, at which time we dropped it out of consideration of LB 7. Thank you.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Senator Haberman, please. Senator Haberman, further discussion?

SENATOR HABERMAN: I call the question.

SPEAKER BARRETT: Question has been called. Five hands, I do see. Shall debate now cease? Those in favor vote aye, opposed nay. Shall debate now close? Record, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Thank you. Debate ceases. Senator Warner, to close.

SENATOR WARNER: Mr. President, members of the Legislature, as I indicated earlier this is a good faith motion to provide a vehicle to consider an issue that some members wish to do. I do not consider placing LB 6 on General File as a commitment to the amendment, or any amendment that may be proposed. But I do support placing the bill on General File to permit those members who wish to discuss the issue to do so. And, if there are 25 of you who concur in it, then it comes before the body. It didn't seem unreasonable. I don't see any hazard. It's far better that the issue be discussed here on a bill on the corporate tax, because that's what eventually will be done. It's far better to do it here than run a chance, in my opinion, to jeopardize the passage or subsequent amendments to LB 7. And I would hope that in the spirit of fair play, if I have to use that argument, that we provide that fair play for those who wish to pursue this course. I would humbly request that a third of you vote to do that.

SPEAKER BARRETT: Thank you. The question before the body is placing LB 6 on General File pursuant to Rule 9, Section 5. All in favor of that motion please vote aye, opposed nay. Senator Warner, please.

SENATOR WARNER: Mr. President, I'd request a call of the house and a roll call vote.

SPEAKER BARRETT: Shall the house go under call? All in favor vote aye, opposed nay. Record, please.



CLERK: 17 ayes, 0 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Members, please report to your desks and check in. Members, please return to your seats, the house is under call. Senator Korshoj, Senator Hefner, Senator Lindsay, please. Senators Pirsch and Schimek, the house is under call. Members, please return to your seats. Those outside the Chamber, please report. Senators Pirsch, Hefner, Lindsay, Kristensen, Rod Johnson, the house is under call. A member...a reminder that we are under call. Members are asked to be in their seats while the house is under call, please. Senator Warner, all are present with the exception of Senator Pirsch who apparently is on her way. May we proceed? Thank you. Under our special session rules, when considering this motion to place LB 6 on General File, the magic number is 25, and not 30, 25 votes necessary. With that in mind, Mr. Clerk, would you like to proceed with the roll call.

CLERK: (Read roll call vote. See page 127 of the Legislative Journal.) 25 ayes, 17 nays, Mr. President, on the motion to raise the bill.

SPEAKER BARRETT: Motion prevails, the bill is placed on General File, the call is raised. Mr. Clerk, let's proceed directly to a discussion of LB 6.

CLERK: Mr. President, LB 6 was introduced by Senator Haberman. (Read title.) The bill was introduced on January, or excuse me, on November 8, 1989, referred to Revenue. The bill was indefinitely postponed. Pursuant to action of the Legislature, the bill was placed on General File. I do have amendments, Mr. President. Senator Landis would move to amend LB 6. Senator, I have AM056S in front of me and I believe copies have been distributed to the members. (Landis amendment appears on pages 127-28 of the Legislative Journal.)

SENATOR LANDIS: Thank you, Mr....

SPEAKER BARRETT: Senator Landis is recognized for the purpose of an amendment.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, this is the corporate income tax language carrying

with it the "Cap" Dierks graduation of the responsibility for tax paying. I do not think of this as being the one and only way to write that. Perhaps there are different graduations, perhaps there are different figures that can be used. What I look at this amendment and see is a concept of assessment of costs, assessment of tax responsibility. This is designed to raise \$12 million. It is designed to serve as a way of getting back to square one which is the amount of money that has been lost through the successful railroads' lawsuit and I think it's the flip side, it's the other part of what LB 7 is all about. Frankly, there are some pieces missing. Number one, there has not been a discussion of what exactly the graduation should be and, number two, the distribution method for once having collected the money, how it should be sent back to local political subdivisions. On the other hand, what is critical is for the Legislature to decide if real property taxpayers or the corporate sector will pick up the \$12 million hit. Currently, remember that in our history seven and a half, or about \$8 million are paid for in the first year of the hit out of the General Fund. In the second year it was absorbed in the middle of a \$98 million generalized property tax relief package that this Legislature sent out to local political subdivisions and to corporations themselves to the tune of 35 million bucks in that particular bill. The question before you now is, do you, without disturbing LB 7, wrestling with the problem of the recognition and the legitimization of this \$12 million hole, what do you do about filling it back up? Do you let sleeping dogs lie and let it fall to local political subdivisions and their limited resources of the already overburdened real estate taxes or do you strike out and look for the least taxed section of Nebraska which happens to be the corporate income tax beyond a doubt? I urge the adoption of the amendment. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the amendment, Senator Moore, followed by Senators Schmit, Rod Johnson and Landis.

SENATOR MOORE: Mr. Speaker and members, it's one of those occasions where it is time to say you can run but you can't hide. The simple fact of the matter is that everybody in here this summer has had many constituents come to them and say, what's going to happen if the railroads don't pay the tax, who is going to pay for it? It's as simple as that, and they are going to continue coming to ask you that question. Now you can, on the amendment to LB 7 you could say, well, they want to screw

up LB 7 and that was good bill. You could use that excuse. You can now on LB 6, Senator Labeledz makes a good point, has to have a committee hearing. That is true but it is far from an ambush and the Revenue Committee placed this amendment on the bill on Monday, was the top half of the fold of every paper in the state probably yesterday. The corporate people will want you to call and say that they are going to leave if we put this on, had plenty of time to call us. I mean, it's not an ambush. They are aware of what is going on, but it is true, there was not a committee hearing. But I think fair notification has been given, we are going to discuss it. Now, you know it saddens me that Senator Hefner says because you dare want to support this amendment, you're bashing corporations, and certainly don't intend to do that. As I've said before, we've given them some...treated them very well in this state. I voted for those things. Like Senator Schmit says, I was dumb enough to vote for LB 775, I did, I don't regret it. Unintended some benefits...not unintended, but we would have preferred not to give them some benefits under LB 84, didn't think it was very well. I mean I don't...you know, when they came in and were across the hall in July, who were they bashing then? The simple fact of the matter is we have to come up with \$12 million. You're going to have to answer to yourself and your constituent who is going to pay for that. And if you vote against LB 6 now, you can say whatever you like to say, but deep down, I don't know how you're justifying your own mind, if you vote against this you are saying real property picks it up, the "Little Joe Six-pack" picks it up. Now if you want to say that, that's fine, but be prepared to say it. But on this vote you can no longer run from the issue. It is time to say who is going to pick up the money and I urge you to vote for LB...Senator Landis's amendment to LB 6.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I will have an amendment for this bill later on as long as it is on the floor. We just as well try to improve it a little bit and I will give you that amendment after a bit, but I don't want to pass up this opportunity to speak a little bit. Senator Moore says you can run but you can't hide. I would suggest there is going to be a lot of people wanting to hide again in a week or so when the bills come out of 361, but I'm not going to belabor that point any further. The reason, Senator Moore, is that you have...there is several reasons you have not received those

phone calls that you referred to earlier. Now I received a whole series of phone calls from mayors in my district because the lobbyist for the league told the mayors Schmit was not protecting the municipal tax base. Unfortunately for the very fine lobbyist for the league, the mayors in my district know me better than they know the lobbyist and so they weren't too concerned. But the principal reason you didn't get those calls was this. First of all it was widely touted as being outside the call, so there is no real danger. So the major groups that are going to be hit thought there was no problem to be concerned, but the real reason is this also, that the smaller corporations don't have those lobbyists. They are home trying to run the business and trying to make the system work and they think we're down here tending to the original business of the Governor and the call would not be expanded, that we would be held to the Governor's direction and that they had nothing to be concerned about. This will, of course, reaffirm their worst fears about the Legislature, but that's all right because people ought to be knowledgeable enough to keep on their toes when we're in session, and if you don't, then the devil take the hindmost. I think that it's interesting, of course, that we pass...I didn't vote for 775, I didn't vote for 773, the neutral tax bill that raised \$300 million in new revenue. Now that's going to raise the hackles all across the place, but the facts are that's what you've got in the bank and you can't prove anymore than I can prove it didn't raise it, it did raise it. You can't prove it didn't raise it. But there are a group of people here today who told me they are going to get this money one way or the other. No one has told me yet how you're going to get it back to those subdivisions that lost it. I'd like to know that and I hope that someone, not on my time, will address that issue. As I understand it if the railroads don't pay personal taxes, certain subdivisions will lose money. Are you going to repeat what you did a few years ago and send a specific amount of money back to those subdivisions in the exact amount that they lost? Well then, does it pay then to collect an unconstitutional tax regardless of what happens and secure in the knowledge that this Legislature, naive as we are, will reimburse you if you get caught at it. I don't know why they should, if they've been living off an unconstitutional tax for all these years, why should we bother trying to reimburse now? I don't see any reason for it. I think you have to remember also that the \$12 million is not a lot of money from the standpoint of the State of Nebraska, not nearly as much money, ladies and gentlemen, as we have played around with in many

other bills. Most of all, why are we here in the first place? We're here because the court ordered us to stop taxing the railroads. We didn't do it voluntarily. You had a chance to do it voluntarily, ladies and gentlemen. I've not said so specifically, but you're all getting up here touting LB 7.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: When I introduced the bill along with Senator Robak, the only difference between that bill and...my and Senator Robak's bill were a couple of digits. Ours is 497. No one supported the bill with the exception of myself and Senator Robak, I believe, and the railroads and you had a chance then and there was reason then, there was reason then to support the bill because at that time the issue was still in doubt and you could have settled it with your heads in the air and you wouldn't have gotten a shellacking from the court. Now you've been...we have been whipsawed by the court. So now we come back with our tails between our legs and our heads bowed and we say, oh, we're going to give this money back because we cannot tax the railroads, so we're going to give it back to the subdivisions. It is our fault, ladies and gentlemen, because you didn't pass 497 in the regular session that the subdivisions have got that \$12 million hit, and maybe the rest of the hit also because had we known, had we done then what we should have done...

SPEAKER BARRETT: Time has expired.

SENATOR SCHMIT: ...we would have taken the action necessary to have alerted the subdivisions that they were going to lose that money. We didn't do it then, so now we're trying to place the blame on someone else. I'd like to have someone explain to me if they intend to make a direct appropriation through this bill to those subdivisions who will lose the money as a result of the Supreme Court decision.

SPEAKER BARRETT: Senator Rod Johnson. Excuse me, Senator Landis, followed by Senator Hefner. Senator Landis. Senator Hefner, would you like to speak to the amendment?

SENATOR HEFNER: Mr. President and members of the body, I rise to oppose this amendment to this bill, LB 6. I appreciate what Senator Landis is trying to do. He is trying to find a little more money, but I don't think we need any more money right now.

Projections say that we're going to be about \$42 million over what we figured on. So why can't we just appropriate some of that to local government? Okay, and if we accept...if we approve this amendment it will put our top corporations, those that make a lot of money, it will put them about thirteenth or fourteenth from the top and I just wanted to call your attention to that. And when we compare that to our surrounding states, South Dakota doesn't have any corporate tax. Wyoming doesn't have any corporate tax. Missouri has 3.3 corporate tax and this bill takes the top bracket, the top corporations up to 8 percent. Colorado has a 5.5 percent corporate tax on their top corporations. Kansas has 6.75 and I just wanted to call that to your attention. Also, I think that whenever we increase a tax rate we need a public hearing. Are we going to throw our Standing Committees out of focus here? I think that we ought to give these companies a chance to come before the Revenue Committee and defend themselves. And so I would suggest that, Senator Landis, that you introduce that bill next session, and Senator Dierks. Introduce it next session, have a public hearing on it and see what their comments are. I don't think this is an emergency that we need to raise that during the special session. All we're here for as I understand it is to try to protect the base of the local governments, try to save that \$30 million base that they are in jeopardy of losing. And so I would, at this time, I would just urge you to defeat this amendment.

SPEAKER BARRETT: Thank you. Senator Lamb.

SENATOR LAMB: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Record, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SPEAKER BARRETT: Debate is now ceased. Senator Landis, to close on your amendment.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, when reviewing some of the materials that I have given to you, I want you to go back to the line of the argument. Is there a hole in what has historically been support for schools, counties, cities, to the tune of about 12 million bucks

for our railroads? Yes, there is, undeniably. Secondly, what is their tax base? Where are they going to make up that 12 million bucks? Real estate, undeniably. Third, what is the least taxed form of wealth in this state that is a generalized tax base? Corporate income, undeniably, uncontested in our discussion today. What has happened is a series of hand-wringing apologies, not now. Gosh, they must not have read about it in the Omaha World-Herald, we need a public hearing. They're the weakest chickens on the block and we don't want to bully them around. Now is not the time, maybe as some sort of structural change later on down the line. That later on down the line never comes. That is my experience in the Legislature, that far from being the weakest chicken on the block, this is the biggest, meanest, toughest, and let's leave it in the...the rooster? Shall I use rooster? I was going to use...no, let's use a person. Let's use person here so we don't start using up and down the ecological scale here, and I identify something, person on the block. They never lose. And I'll tell you something, I don't know about you, but if you go home and ask your people, I wonder if your district doesn't have the same reaction my district does. Legislature listens to the big boys and they don't listen to us, to the point that in its most extreme forms they think the fix is in. That's how cynical people are about government. Now, there is a lot who don't think that it's the fix, but they do think this, that we listen to the lobbyists, that we take care of those who can take care of themselves, that we, generally speaking, lend the biggest, broadest ear to the people who have campaign contributions who already are the haves. And you hear that expression, what do you do for the little guy, don't you? Sure you do. I hear it all the time. I try to explain it away. I try to point out the justifications. I...you know, I'm sure I'll be able to say, well, gosh, there wasn't a public hearing and, gosh, I don't know, we've got some surrounding states to worry about and, gosh, I think there's a looming change down the line someday that we may be able to inveigle the corporations to assist us with, and they look back with that blank look and they say, what did you do for the little guy? And at the end of this session what we will have done is to have legitimized and turned into law a \$12 million hole in the personal...I'm sorry, in the personal property tax system which ultimately comes back to local political subdivisions who raise their taxes to do so. And that is what we will have done for the little guy. We will have raised his taxes 12 million bucks, not because we had to. Unlike LB 361, we didn't have to do this. We had a choice, it

was LB 6, but we didn't do it.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: We didn't do it because we were too busy worrying about the timing, some change in the future, whether or not we would send the wrong message, and the message will get sent again if we don't do this kind of thing and say, when there's this unavoidable, unexpected, unfortunate hole in our system, that we will take a look around and look for the tax bases and pick the one that we have touched the least and ask you to pick up the slack. That is what is at stake. I hope you will vote for the amendment. I hope you'll adopt it to LB 6. I hope it will take its place. I hope all of you will have a chance to go to the Governor and ask her to expand the call to include this as a way of closing the loop to what LB 7 means. Mr. Speaker, I understand that the body can't be all here today, I ask us to have a call of the house before we proceed to a vote on the measure. Thank you.

SPEAKER BARRETT: Thank you. Clear the board, Mr. Clerk. Members will place themselves, vote on placing themselves under call. Shall we go under call? Those in favor vote aye, opposed nay. Record, please. Record.

CLERK: 28 ayes, 1 nay, Mr. President to go under call.

SPEAKER BARRETT: The motion is adopted. The house is under call. Members, please check in. Those outside the Chamber, please return and record your presence. Senator Haberman, the house is under call. Senators Pirsch and Scofield. Members, please return to your seats, the house is under call. Will the Sergeant-at-Arms please assist us in this matter. The question before the body is the adoption of the Landis amendment to LB 6. All in favor vote aye, opposed nay. A record vote has been requested. Have you all voted? Record, Mr. Clerk.

CLERK: (Read record vote. See page 129 of the Legislative Journal.) 19 ayes, 24 nays, Mr. President, on the amendment.

SPEAKER BARRETT: Motion fails. Anything else on the bill?

CLERK: Mr. President, I now have a motion by Senator Hall to indefinitely postpone LB 6.



SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Mr. President and members, the cynic in me put this motion up after the 25th vote that allowed it to be pulled from committee...

SPEAKER BARRETT: Senator Hall, excuse me, the call is raised.

SENATOR HALL: ...thinking that what happened in this last vote would happen and with that, since the vehicle is no longer needed, I think it appropriate at this point in time to kill LB 6 as it was introduced because that is what we have before us on General File.

SPEAKER BARRETT: Thank you. Senator Haberman, would you care to respond?

SENATOR HABERMAN: I believe that the purpose that we brought LB 6 to the floor has served its purpose and it doesn't shame me anymore to have this body kill my bill than it did to have the committee kill my bill. It just shows that it was a bad, bad bill to start out with, so with those remarks, Mr. President, I would support the IPP motion.

SPEAKER BARRETT: Senator Hefner.

SENATOR HEFNER: Question.

SPEAKER BARRETT: Senator Withem, did you care to discuss...thank you, that won't be necessary, Senator Hefner, there are no other lights. Senator Hall, anything further? The question then is the indefinite postponement of LB 6. All in favor vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to indefinitely postpone LB 6.

SPEAKER BARRETT: Motion prevails, the bill is killed. Anything for the record, Mr. Clerk?

CLERK: Mr. President, just one item. I have notice of hearing change and room change for the Government, Military and Veterans Affairs Committee hearing scheduled for tomorrow. Those meetings will be at nine o'clock in Room 2102, and that is offered by Senator Baack as Chair of the committee. That is all

this motion.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Senator Korshoj, please.

SENATOR KORSHOJ: Mr. Speaker, and members, I don't feel guilty of taking a few minutes to speak at this time. I have not been on the floor one time since we came down here, but I have got to admit I was one of the people that sent the Governor a letter requesting this Special Session. And I said in there I felt that I would rank 49th of all senators who would want to come down here at this time, but I said we should attempt, yes, attempt to solve this problem. I further said the courts weren't going to solve it for us nor were the newspaper comments or their suggestions, that only we with her could solve it. And then I said that the Revenue Committee has had hearings all over and I wanted to hear what they found out in these hearings. So I sat here for five to six days as an observer. I have been here every minute of the debate, I've listened to everything that was said. So I observed. I knew what was going on in here because when I left the floor every night I would ask three or four senators, what have I observed today? I have no idea what is going on, but nobody could tell me. Nobody could tell me what I had observed. And I think that the unwillingness of the Governor to expand this call is really where the trouble is. I think we are in the right direction, but also think that if she would have cooperated and expanded this call, we could have found a way to pay for this \$12 million shortfall or whatever. On the motion of Landis yesterday on LB 6, I didn't vote. I'd voted on it a couple of times. I was in favor, very much in favor of it, but it was outside of the call, totally outside. I feel if we'd have passed that and taken it over to the Governor, there is no way she was going to expand that call, no way at all. You could have drafted those 20 deer hunters of Spence's to get up there and pound on that desk, Spence, put them in a circle, and put the Governor in the middle of it, and said you either expand it or else. There would have been singing at the mansion but Kay wouldn't have heard it. We'd be going to a state funeral today. This call is not going to get expanded. It was very apparent from day one, and I am very much in favor of raising the corporate tax and getting this money back. In all the observing I done and understood very little of it, I never got to set in when the lobby and the Department of Revenue decided what we were going to do on this floor. Here it come.

SPEAKER BARRETT: State your point.

SENATOR HABERMAN: Could we go ahead and read the bills, then ask for Senator Labedz's motion?

SPEAKER BARRETT: No, I am afraid not, Senator Haberman.

SENATOR HABERMAN: Well, after we read the bills, don't we vote on them? Don't we have to vote on them after we read the bills?

SPEAKER BARRETT: No, I think we must dispose of this situation first.

SENATOR HABERMAN: Well, it's...

SPEAKER BARRETT: Senator Landis makes a good point. Senator Landis, the Chair has determined that your point is well-taken and is grateful to you. The Chair also at this point would recognize Senator Haberman.

SENATOR HABERMAN: Mr. President, and members of the body, would you please rule on my interpretation on actions that I intend to take or am considering taking. If I remove my motion, it goes down to the bottom of the pile of the motions on that particular bill, is that correct?

SPEAKER BARRETT: If you withdraw your motion, it would occur to me that it would go...

SENATOR HABERMAN: And then resubmit it.

SPEAKER BARRETT: ...to the bottom of the pile on that particular bill. That would be my understanding.

SENATOR HABERMAN: Well, then to solve this dilemma, it sounds like LB 6, again, doesn't it, folks? To solve this dilemma, I will withdraw my motion and resubmit my motion and let Senator Labedz's motion go ahead of mine.

SPEAKER BARRETT: Thank you. We, then, return to Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I move for the adoption of my motion. Thank you.