

January 5, 1989

LB 81-160  
LR 1-2

being here and thank you for your services. We also have guests of Senator Rod Johnson under the north balcony. We have Omer Troester of Hampton, Nebraska. With him is an exchange student, Alberto Porras of Costa Rica. Would you gentlemen please stand up and be recognized. Thank you for being here. We also have, over under the south balcony, a former member of this Legislature, Senator Tom Fitzgerald, would you please stand up and wave your hand. Thank you. Please welcome Senator Fitzgerald back. Thank you, Tommy. Mr. Clerk, back to the reading.

CLERK: (Read LB 81-98 by title of the first time. See pages 61-67 of the Legislative Journal.)

PRESIDENT: We'll stand at ease for some 15 minutes or half an hour while we get some of the work caught up up here in front. So be at ease, please, for a while. Thank you.

EASE

CLERK: Meeting of the Health Committee, under the north balcony, right now. Health Committee, north balcony right now.

SPEAKER BARRETT PRESIDING

SPEAKER BAPRETT: Additional bill introductions, Mr. Clerk.

ASSISTANT CLERK: (Read LB 99-150 by title for the first time. See pages 67-76 of the Legislative Journal.) That's all I have at this time, Mr. President.

SPEAKER BARRETT: More bill introductions, Mr. Clerk.

CLERK: (Read LB 151-160 by title for the first time. See pages 76-79 of the Legislative Journal.) Mr. President, in addition to those new bills I have new resolutions. (Read LR 1-2 for the first time. See pages 79-81 of the Legislative Journal.)

Mr. President, in addition to those items I have a series of announcements. Mr. President, there will be a meeting of the Executive Board today at three-fifteen for purposes of referencing. Executive Board, three-fifteen for referencing.

Mr. President, Senator Rod Johnson would like to have a meeting

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53, 60, 79, 110, 123, 140, 168  
169, 189, 190, 207, 408, 607, 610  
708, 775  
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for the record, Mr. Clerk, at this time?

CLERK:      I do, Mr. President. Mr. President, your Committee on Judiciary whose Chair is Senator Chizek reports LB 42 to General File; LB 44, General File; LB 708, General File; and LB 110 as indefinitely postponed. Those are signed by Senator Chizek.

Mr. President, Revenue committee whose Chair is Senator Hall reports LR 2CA to General File; LB 607, General File with amendments; LB 775, General File with amendments. Those are signed by Senator Hall. (See pages 690-91 of the Legislative Journal.)

Health and Human Services Committee whose Chair is Senator Wesely reports LB 610 to General File with amendments. (See page 691 of the Legislative Journal.)

Mr. President, Report of Registered Lobbyists for this past week as required by statute. (See page 692 of the Legislative Journal.)

I have amendments to be printed to LB 408 by Senator Barrett.

Mr. President, communication from the Governor to the Clerk. (Read communication regarding signing of LB 35, LB 36, LB 38, LB 53, LB 79, LB 123, LB 190, LB 51, LB 60, LB 189, LB 207, LB 45, LB 168 and LB 169. See page 693 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review reports LB 140 to Select File with E & R amendments attached. (See page 693 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: We'll move on to LR 29, please.

CLERK:      Mr. President, LR 29 was offered by Senator Langford. It's found on page 656. (Read resolution.)

PRESIDENT: Senator Langford, please.

SENATOR LANGFORD: Mr. President and colleagues, I offer this resolution with a great deal of joy because this gentleman plays cards and plays golf with Jack, my husband, every day, practically, in the summer. He has been instrumental in the

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231, 361, 366, 426, 643, 714, 760  
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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

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PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated) ...Legislative Chamber. We have with us this morning as our chaplain of the day, Harland Johnson, our Chaplain Coordinator. Would you please rise.

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Harland Johnson, for your thoughtful prayer this morning. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

PRESIDENT: Good. Any messages, reports or announcements?

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read communication regarding signing of LB 284, LB 284A, LB 499, LB 443, LB 214, LB 214A, LB 318, and LB 320. See page 1150 of the Legislative Journal.)

Mr. President, I have a series of appointment letters that will be referred to Reference Committee. (See pages 1150-52 of the Legislative Journal.)

Mr. President, a series of reports. A report from the Department of Roads, the Highway Cash Fund, Department of Revenue; a report from the University of Nebraska, Lincoln, and a report from the Department of Education. All of those will be on file in my office, Mr. President. And that's all that I have at this time.

PRESIDENT: Thank you. We will move on to the General File and LR 2CA.

CLERK: Mr. President, LR 2 is a proposed constitutional amendment that was introduced by Senators Rod Johnson, Howard Lamb, Moore and Wehrbein. (Read brief description of LR 2.) The resolution was originally introduced on January 5, Mr. President. It was referred to the Revenue Committee for hearing. The resolution was advanced to General File. At this time, I have no amendments pending.

PRESIDENT: Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President and members, this morning I bring to you LR 2CA, the bill that is designed I think to help correct a problem that we have with the valuation of agricultural property in this state. It is my priority bill for the session and a bill that I think is extremely important to Nebraska agriculture. Specifically, what LR 2CA attempts to do is exempt ag land from the constitutional requirement that all property in this state be valued uniformly and proportionately to other forms of property. It provides that ag and horticultural land would be taxed, one, as a separate class of property; two, by a different assessment method; and, three, that there would not necessarily be a need for resolving values within, one, the class of properties and other subclasses of agricultural land. Finally, the purpose is to preserve and protect...and I want to reiterate this, preserve and protect the tax formula that was enacted by this Legislature in 1985 with the passage of LB 271 which incorporates earnings as a measure of determining ag lands valuation for property tax purposes. As I began putting together some arguments this morning on this issue, I decided to ask myself a variety of questions that I thought might pop into the minds of those of you who are participating in this debate and are interested in this issue. And the first question that naturally came to mind was, why is LR 2CA needed? I think that answer is rather obvious but I would like to go into some of the history behind LR 2CA. Beginning in 1987, the Nebraska Supreme Court suggested that Amendment 4, which was approved by the Nebraska voters in 1984, and also LB 271, which I have already mentioned, did not do what the people of Nebraska and the Nebraska State Legislature intended and assumed that these measures would do, namely, that they did not make an exemption for agricultural land from the uniformity requirement of our Nebraska Constitution. LR 2CA seeks to end the legal confusion and preserve a different tax method for agricultural property. Currently, commercial and industrial property owners are suing for and, I might add, winning judgments against counties to lower their assessments and their taxes to a level of nearby agricultural property.

PRESIDENT: Excuse me, Senator Rod Johnson. (Gavel.) Could you hold your conversation down so we can hear the speaker, please. Thank you.

SENATOR R. JOHNSON: Thank you, Mr. President. I might add that our utility companies in the state, our railroads in this state, are also threatening to join in those lawsuits. Such continued lowering of commercial and residential values, I think, will continue to erode Nebraska's property tax base and continue to cause revenue losses to our county governments and our school districts. Such lawsuits, I think, will throw our entire property tax system into disrepair and chaos that will result in 93 counties interpreting the law differently and carrying out their duties in a different manner. The current earnings capacity formula provides for an accurate, fair, uniform and predictable method of valuing ag land. Historically, agricultural experience...agricultural land experiences economic and climactic risks that are not typically encountered by commercial and residential properties. So comparisons for them...or to them for purposes of achieving uniformity is not always justified. Take, for example, the problems we have with the variation of...or the variables of commodity prices, world trade conflicts and, of course, the changes in the federal farm programs. The key here, I think, is that agricultural land valuation manual is working well and has assessed values that correlate better than we have ever seen in this state. I might that overall ag land is currently valued at about 94 percent of residential and 86 percent for commercial. That is the closest that those three basic properties have ever correlated in, I think, the state's history. I would like to also indicate that market value, as interpreted by Dr. Bruce Johnson at the university, used to be the preferred methodology used in determining valuation. But now it is interpreted as being an antiquated and inferior method of ag land and earnings is better and a more progressive solution to the problem. The next question, of course, is, is it constitutional? Is this LR 2CA a constitutional provision? I think it is. We have asked the Attorney General, as of February 24th, that...to check every aspect of LR 2CA for constitutional questions. We have not received an opinion back at this point. We expect, and I hope an answer will be forthcoming within a week, but I think it would be unfair for me to represent the Attorney General's Office on this floor and say that we are going to receive a positive statement back from them. At this point, all I can say is we have been in touch with the office. We have spoken to the Assistant Attorney General who is reviewing this case and he has given us some positive feedback but I would...as I said, I think it would be unfair for me to suggest to you that we are going to

receive a positive Attorney General's Opinion on all aspects of LR 2CA. The next question, I guess, I would ask this body, and I think some have asked me, is do we need both LR 2CA and LB 361? Well, that's a matter of interpretation. In my opinion, yes, we do. I think that both bills are necessary to have in this Legislature. We have already advanced LR...or LB 361 which makes some what I consider to be short-term adjustments till we can get to a long-term, which I consider LR 2CA to be, a long-term solution to the problem of ag land valuations. It is the only way I know of that we can preserve the income earning capacity by amending the Constitution. There are other proposed formulas that can be addressed by this Legislature but I think, one, LB 361 helps correct a problem on a short-term basis, at least in my opinion, and LR 2CA would help provide a long-term solution to the overall problem that we face. The next question is, of course, and the one I have heard most of you talk about is or will LR 2CA be approved by the voters in Nebraska? It's ironic to note that in 1984 the prediction was that Amendment 4 would not be approved by the voters, yet 75 percent of Nebraska voters supported Amendment 4 in 1984. Whether or not rising ag values and rising agricultural income will sway the voters in the exact opposite way, this time around, it's difficult for me to predict and I couldn't venture to say. But let me point out, if we take no action and we don't take our case to the voters at all, then, of course, the situation that we have in existence today will continue to fester, and chaos, I think, will continue to reign and, in fact, I think we'll eventually move toward market value, as the method of valuing ag land. That, to me, personally, is not what I want to do. Finally, I'd just indicate those who will support LR 2CA. The question has been whether the farm organizations are behind this proposal. Needless to say, when I proposed LR 249 a year ago, which did basically the same thing, there was some discrepancy among the farm groups, some disagreement as to whether the constitutional amendment was the correct route to go. This time around I think they recognize that this is the only way that they can preserve the income formula using earnings without going to market and the Farm Bureau, the Nebraska Cattlemen, the Nebraska Farmers Union, the Nebraska WIFE organization and other farm organizations, the Nebraska Grange, have all come in support of this proposal. I think that shows that there is some agreement that this is, in fact, one of the only ways, the only long-term way that we can preserve the earnings capacity that we have in the state currently, and if we do not preserve it, then I assume that we

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will move toward using market as a determining factor of valuing Nebraska agricultural land. With that, I would close my opening statements and just urge the body for the advancement of LR 2CA.

PRESIDENT: Thank you. Senator Lamb, please, followed by Senator Coordsen.

SENATOR LAMB: Mr. President and members, I rise to support LR 2 and I hope that it will be advanced today. There has been a lot of discussion about the problems that we face and Senator Johnson has outlined the situation very well. In short, as you all know, seemingly a crisis is building in that there will probably be a number of lawsuits filed in regard to property tax valuations. And LB 361 has been billed as a temporary solution, LR 2 as the permanent solution. And I hope that's true. So that...I believe that those two...those two bills, the resolution and the bill, should advance in tandem here to make an effort to arrive at what seems to be a reasonable solution. Now, as Senator Johnson has indicated, we have no assurance, no assurance that LR 2 would be passed by the voters, but we have to take that chance. We have to take that chance. So I think this is a reasonable way to go. I hope that the resolution can be advanced.

PRESIDENT: Thank you. Senator Coordsen, please, followed by Senator Hefner.

SENATOR COORDSEN: Mr. Speaker, members of the body, I would like to yield two minutes of my time to Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President and members, thank you, Senator Coordsen, I will take a couple minutes and then it will go back to Senator Coordsen. I just wanted to remark that I strongly support this constitutional amendment proposal. As we get more and more into agricultural property values and the accompanying problems, I am more and more concerned to say that this is, I think, the potential solution to a dilemma that we're having in our property tax valuation. Nebraska, as everyone knows, is obviously an agricultural state, and still under our present circumstances with the Supreme Court, we're the only one in the nation that is attempting to tax our personal...our property at full market value. Every state in the union treats agricultural land differently. Two of them tax them at the full value but they still allow them breaks back on the value of the land, that's Wisconsin and Michigan. All the other allow a special



treatment of land values because they recognize the uniqueness of agricultural land and its production capabilities. It recognizes that location makes a difference. The parceling that most farms are purchased under, in other words, they're purchased in parcels, using the market value under that basis makes an exorbitant price for a total parcel of land when, in actuality, the market price, in most cases, is determined on a smaller parcel. I was going to use an analogy of buying a car, if you bought a car or a tractor, if you bought it piece by piece, what the value of that would be versus using the...buying it as a total package. And that's really the way many of our farms are put together and then we end up, if we use the sales or market value, that's going to be priced on its value of that piece rather than on the whole property. So I submit that market then tends to be extraordinarily high. I believe using income approach is the proper approach and, most of all, it is really the fairest as we attempt to ascertain the differences between classes of land, to attempt to use the income approach and I think that we need to put this into our Constitution to clarify that by an amendment. And, with that, at this time I will turn my time back to Senator Coordsen. Thank you.

PRESIDENT: Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Senator Wehrbein. The last time we debated this issue when it failed to pass the body, I had supported it originally and then in the final analysis voted in opposition to it from a personal fear of the mischief that might be brought upon this body by other interest groups if we repeal the uniformity clause in the Constitution. In the last nearly 10 months, 11 months, that we have looked for other solutions, there really is no other solution. So I, myself, representing a rural area as a rural person and looking at the well-being of the state as a whole, support LR 2 in its entirety and would hope that it would pass. If we don't do this, folks, there are going to be some extreme hardships placed upon people who, for simply the geographical placement of their business, are going to be forced out of business because of an inability to generate enough income from land to pay the property taxes based upon a value for other uses. And I'm speaking about those farmers who happen to be caught up, happen to live in the more populous areas of the State of Nebraska where there are developmental opportunities for that land which might well lead to a seriously inflated value far in excess of anything that could be generated, even in using the gross income from that land. I

think it's well to remind ourselves at this time that in residential and commercial real estate the purchasers of these types of property do have some options that aren't available to those that are in the profession of farming, in that you can't create an acre of land to farm.

PRESIDENT: One minute.

SENATOR COORDSEN: You have a choice of perhaps buying a commercial building or purchasing a vacant piece of property and erecting yours...erecting one to meet your own needs if that better...is more beneficial to you. The same thing applies to people who are purchasers of residences. You do have a wide choice in most communities of where you live, of what type of house you may live in. You really don't have that in agriculture. You either are able to buy or rent land or you don't farm. So we have a situation that is deserving of a unique treatment in taxes that is reflected...reflective of the income producing potential of that land. So I think we would encourage you to advance LR 2 all the way through and see that it gets on the ballot. Thank you.

PRESIDENT: Thank you. Senator Hefner is next, followed by Senator Moore. But may I introduce some guests first that we have. Senator Labeledz has some guests in the north balcony. They are 44 eighth grade students from St. Thomas More School in Omaha and their teachers. Would you folks please stand and be recognized. We also have some guests of Senator Smith. Under the north balcony, from Hastings, Nebraska, Ken Fife and Jan Krien. Would you please stand and be recognized. And also in the north balcony we have some Kiwanis led by Bob Morley from District 15 in south and north Omaha, guests of Senator Dan Lynch. Would you folks please stand. Thank you. Thanks to all of you for visiting us this morning. Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I rise in support of this constitutional amendment and what this would do would value ag land differently from other property in our state. The people passed a constitutional amendment a few years ago, I believe it was in 1984, saying that agriculture land could be valued differently than other property. But the Supreme Court, the Supreme Court ruled differently and so we have this problem. I thought that when we adopted the earning capacity on agriculture land that it was a good way to do it because we had such changing values in agriculture land.

Remember, in the late seventies and early eighties, agriculture land skyrocketed. Then we hit the farm crisis and it came down, came down by quite a little. In fact, some parcels came down as high as 50 percent, others higher than that. But I feel that after we got the earning capacity going, that it turned out a fairly good way to value ag land, probably isn't perfect but I don't think we'll ever see a perfect way. Now land prices are going up again and so that means that the assessors are going to have to place a higher value on agriculture land. We did advance LB 361 a few days ago and now we are here with LR 2 and I think and I believe that these two bills need to go hand in hand. One is a short-term solution. LR 2 is perhaps a longer term solution because LR 2 will not become...not come before the voters before 1991. And so I think this is the right way to go. Most of the farm groups are supporting both of these bills and I believe that when it's put before the voters, I believe that they, too, will support it as they did in 1934. I said this would come before the voters in 1991, I believe it's supposed to be 1990. So I want to correct that. But I believe this is the right way to go. I don't believe there is any other solution and so I would encourage you this morning to support LR 2.

PRESIDENT: Thank you. Senator Moore, please. Senator Schmit, please, followed by Senator Schellpeper. (Gavel.) Let's hold the conversation down, please, so we can hear Senator Schmit. Senator Schmit, you're up.

SENATOR SCHMIT: I don't know if that's a good sign or a bad sign that Senator Moore defers to me. It's a bad sign he didn't give me his time. But anyway I have listened with interest this morning to the comments and I really don't disagree with much of what has been said. I have to say this that I really commend Senator Rod Johnson and many other legislators who have worked diligently in attempting to find a solution to this problem. I wish that I were more relaxed with the kind of a solution that we have proposed here before us today. I have several concerns and I think, as I read the transcript, because I was not present when LB 361 was debated, I read the transcript and then I read some of the testimony on LR 2CA and I am concerned, I guess, that someone speaks in terms of 361 being a temporary solution. I am concerned that someone says that this will allow us the flexibility that we need to provide for the valuation in a manner which is, plain language, favorable to agriculture. Senator Rod Johnson, I believe, said that agricultural land at the present time is valued within 93 percent of what is termed

to be market value as opposed to 89 percent for residential property. I would like to ask Senator Rod Johnson or maybe Senator Dave Landis, if given those facts and if those facts are accurate and there was a court test today, what would be the decision of the court relative to the valuation of agricultural land? Would it be equitable and uniform or would it not pass that sort of a test? Can one of you answer that question for me, please?

PRESIDENT: Senator Rod Johnson.

SENATOR R. JOHNSON: Well, Senator Schmit, I stumbled in my statement to you earlier when I was opening. I meant to say, currently when we look at market values across the state that agriculture land right now is at 74 percent, not 94 percent... I think I misspoke, that agriculture land is at 74 percent of market value, commercial is at 86 and residential is at 89 percent of its actual market value. In that case, I would assume the court would find that those values are not yet correlated or not close enough yet and that they would find those to be constitutionally uniform.

SENATOR SCHMIT: Thank you, Senator Rod Johnson. I was concerned about that 93 percent. I have here the Friday, March 10th issue of the World-Herald that says, "Turn Around Continues As Land Values Surge." And in my area, land has improved in value... increased in value 23.5 percent; 37.5 percent, 30.9 percent, out in Senator Lamb's district. Now if you will take that same newspaper, in 1978 land went up 19 percent; '79, up 16 percent; 1980, up 8 percent; in 1981, down 4; '82, down 11; '83, down 9; '84, down 24; '85, down 25; '86, down 10 percent; '87, up 13; '88, up 25 percent. Now the point that I have tried to make repeatedly on this floor is that with that kind of rapid fluctuation in the valuation of the farmland, how can the county assessors or the tax commissioners do a more accurate job than is already being done? Number two, I have always argued that there is a greater disparity between the... within the classes than there is between the classes and I have asked our farm organizations to spend a little time to try to point out and get some actual examples of disparity...

PRESIDENT: One minute.

SENATOR SCHMIT: ...within the classes. You will find homes that are valued at a 110 percent of market value and some which

are valued at 65 or 70, not willingly and knowingly but just because of a variety of factors. Number two, commercial property, for example, many times, most of the time, in fact, I am told, does not...it does not carry a valuation for the blue sky, the value of the business. It carries a valuation for brick and mortar, yet we all know there is a valuation for the blue sky. I am really disturbed and concerned that we, by the assumption that we can pass 361 and 2CA, we can wipe out our problems. I believe we will compound the problems. I am going to ask...I am going to ask again, does 2CA require the valuation of farmland at less than market value or does it allow it at less than market value? Senator Rod Johnson.

PRESIDENT: Are you asking...Senator Rod Johnson, would you respond to the question, please?

SENATOR R. JOHNSON: Currently, the way the bill is written, it would allow ag land to be exempt from the uniformity clause so we could value it, I assume, at any level we choose to do so in this body.

SENATOR SCHMIT: All right, then suppose that in five years from now that it was determined that we had a surplus of corn and that the best way to discourage the additional irrigation of land or the additional development of irrigation would be to value irrigated land at twice market value. Would that be allowed under this constitutional amendment?

SENATOR R. JOHNSON: Again, it would be up to the body to decide how they wish to interpret the law and, yes, it probably (interrupted).

SENATOR SCHMIT: Senator, under the present language of the law...of the amendment, would that not be possible?

PRESIDENT: Time has expired.

SENATOR R. JOHNSON: Yes, it would.

SENATOR SCHMIT: Well, Mr. President and members, I hope I have some more time. I raised the first major concern which I think you must correct before you proceed any further with this amendment. I will raise some additional ones when I have a chance to speak again and I hope that I do. I hope we do not get swept away in the euphoria of thinking that we have resolved

the problem because our good friends in the farm organizations who didn't know where they were going with 271, didn't know where they were going with Amendment 4, didn't know where they were going with any of the rest of the bills we have had, now come back and say, because we have not known where we have been going for five years or six years, we are going to assume we know where we're going this time. Ladies and gentlemen, that's a very poor precedent.

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

SENATOR SCHELPEPER: Thank you, Mr. President, and members, I also rise to support this resolution. I think that this is something that we have to have for rural Nebraska. I am a firm believer that the voters of Nebraska would approve this resolution. Last summer we had several meetings on this issue and I was one of the senators that thought we should put this on the ballot last fall, that we are waiting too long, we should have done it last fall. But I think we can't go back now so we need to go forward and we need to get it so we can have it on the ballot for the next election. This is very important for rural Nebraska. Thank you.

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

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I want to address my comments basically to my urban colleagues because I intend to support this amendment and I want to try to create a case for you to be able to support it as well. Four years ago we had a special session. At that time we voted whether or not to put Amendment 4 on the ballot. I voted against that amendment. Didn't want to see a change in the Constitution. I was convinced that it was not particularly good policy. It was reported out from the special session, went on the ballot. My constituency voted for that amendment two to one. What do they think they were doing? In my estimation, they thought this allows us to value ag land differently than other types of property. It will allow us to value it at its ability to earn income. It means that we're going to have a special way of treating agricultural land as opposed to other kinds of lands and maintain what has been a historical difference between agricultural land and other land. Now that historical difference has been, in my estimation, a form of

preference but a preference that springs from a hard truth. The hard truth is that the holding of property is not equivalent to one's wealth, particularly in the farm setting. Thirty percent of the property taxes in this state are collected from agricultural land. Nine percent of the income that is generated in this state is generated from agricultural pursuits. Compare those numbers again. Thirty percent of the taxes paid that are property taxes are taxes on agricultural land. The income from that land represents only 9 percent of the state's income. Now that's an important difference, and because there is such a difference between those two numbers, the property taxes that are paid but the income that supports it, we have used a wide variety of methods to get around that difference and to make sure there is some attempt to bridge the gap. In some cases, they are Class I schools. In other cases, it's been county commissioners and state boards of equalizations that have over time winked at the undervaluation of agricultural land. We have had school land funds that have had money sent to counties on bases that basically were justified on what they meant to rural counties. We have had state aid fights here and aid distribution fights here that are basically meant to cut against this hard fact. Thirty percent of the property taxes are paid by agricultural land, 9 percent of the income of the state comes from agricultural pursuits. That's a hard fact. My constituency taught me a lesson four years ago. They said, we're prepared to make some adjustments here. And I don't think it's anything strange. This body passed LB 662, the public took it off the rolls, they took it off the law books. We didn't introduce an LB 662 the next year. This Legislature passed a seat belt law. The public took it off the law books. We didn't put a seat belt law in the next year. We have historically honored what our voters have told us when they have acted in their capacity as writers of organic law, of fundamental law, of oversight of our work. In the same way that we would think it arrogant to reverse the judgment of the public the year after they voted safety belts out, it would be arrogant not to return to the public the right to decide this question again which is exactly what the public apparently wanted four years ago and for which I have seen no reason to believe they have changed their minds.

PRESIDENT: One minute.

SENATOR LANDIS: It seems to me our obligation to give this question to them. I can tell you, frankly, there is a stumbling

block. I will tell you I have no wish to do this if my colleagues, on the other hand, are not prepared to face up to their constitutional duties either. Our task needs to be this, to do our constitutional duty, to value agricultural land at market values as soon as we can perform that duty, and, secondly, to return to the voters their right to determine this issue consistent with the message they have already given us and that duty falls, I think, on my urban colleagues as well as my rural colleagues because your constituencies voted for that issue too. And I think you need to honor their wishes and give them a chance to make clear and binding the value choice they made four years ago. Thank you.

PRESIDENT: Thank you. Before we call on Senator Hall, may I introduce some guests, please. Under the north balcony, we have Dr. Daniel Halm of Omaha in Senator Goodrich's district. Would you please stand, Doctor, so we can see who you are. And thank you for serving us today. Also, in the north balcony we have a group of Pawnee Tribe from Oklahoma who are interested in a certain bill. Would you folks please stand and be recognized. Thank you for visiting us. Senator Hall, followed by Senator Schmit.

SENATOR HALL: Thank you, Mr. President, and members, reluctantly, I rise in opposition to LR 2CA, as introduced by Senator Johnson. The bill did come before the Revenue Committee and I did vote to advance the bill to the floor because I was willing to keep my commitment, Senator Landis, at least to that extent because I think it was important for us to address this issue as it was addressed by the public when they voted on Amendment 4. But this clearly is more than just an issue of, I guess, keeping with tradition with regard to the way we have treated agricultural land. It is a question of equity and it's a question of whether this is fair through LR 2CA to treat one class differently than others. We have been dealing with this in regard to the issue of property taxes. We have been dealing with it in the Revenue Committee in a number of different ways, in a number of different bills and the thing that I would like to stress today is that we can't separate those issues. We can't just say that we want to do something that will help agricultural areas prosper because I want to do that and I don't want this to seem that it is an urban senator who wants to bash the rural areas because that's not accurate and I have supported them many times when some of their own people have not. But LR 2CA and LR 7CA, when it was passed, was done at a time when



agriculture was hurting, the agricultural economy was hurting. As Senator Hefner stated in his comments, this is a changing cycle and things do happen, the ag economy has come back. It is cycling through again and I don't know that it is imperative that we pass LR 2CA at this time. I mean, if we want to take it back to the voters strictly on the point that they voted for this but yet it was ruled unconstitutional, my argument could very well be that I think that LR 2CA may run that same risk of being unconstitutional. I have asked for an AG's Opinion with regard to that. But the other thing that we have to keep in mind, in my opinion, with regard to this issue is that LR 2CA in the classification of agricultural land differently than others has two things that it does that I think we all have to weigh. One is that it hurts some of the very same people we're trying to help. The people that are hit the hardest by this are the people in the small towns, the folks who don't own agricultural property but who own homes in a small community that is a rural-based economy because they pick up the tab in many cases in those small school districts for the reduction of that ag land. Those are the people that get hurt. I don't get hurt. My district does not get hurt. The Omaha area that I represent does not get hurt. But the people who get hurt are those people that happen to be the small town dwellers, those people in the rural areas that don't own agricultural land. The other thing that we need to remember is that LR 2CA will be an impediment to the overall issue of property tax relief, that it will stand there and be there as a reminder to us that, well, we have taken care of the agricultural issue, we have taken care of ag land.

PRESIDENT: One minute.

SENATOR HALL: Now, is it that important that we look at the overall reliance on property taxes that we have today which is a problem? Because it wouldn't matter if we valued land at a 150 percent of what it's worth if we didn't have the overreliance on property taxes that we currently do. That is what concerns me the most about LR 2CA, is that it will be an obstruction to an overall resolution to the overreliance on property taxes. And the other issue is that this is rural property tax relief, that when we look at the other property tax relief measures before us, that if we pass LR 2CA, then we should emphasize urban property tax relief in those other measures because I guess what is fair is what is fair and that any measures that we pass down here, we pass for the benefit of all the citizens of the State of Nebraska and we need to keep

that in mind when some of those property tax relief bills are dealt with as priority bills in the near future. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Chambers and Senator Abboud. Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I have always contended that farmland, agricultural land is valued much closer to market value than has been reported by the press and sometimes by our own individuals of state government. We discovered, after years of being told that agricultural land was valued at only half of market value, that someone had conveniently forgot to add in the value of the improvements on that land, which then brought it up to 79 percent. I have pointed out to you already the dramatic fluctuation in the value of farmland, according to market. It does not necessarily mean that it is really worth that much or is not worth that much. I have a series of letters here from county assessors who have told me that when they use the market procedure the general rule is that no more than one-half of the sales in a county are used to determine market value and in some cases as little as five or six or seven percent. Now, I ask you, in the name of all that is fair and equitable, how do you take five or six or 10 percent of the sales of farmland in a county and extrapolate that to where you can determine the fair market value of all of the land within the county? No one can do that, although we have had a really good system, I think, over the years. I think the county assessors, before everyone got involved in it, was doing a pretty good job. Now we do have a problem with the court, ladies and gentlemen, and I contend that we will still have a problem with the court. We're going to have that problem with the court if you take and advance LR 2CA. I would like to ask a very quick question of Senator Rod Johnson. Senator Rod Johnson or (interruption).

PRESIDENT: Senator Rod Johnson, would you respond, please.

SENATOR SCHMIT: Should not you strike the words "uniform and proportionate" on page 3, line 9, if, in fact, you are going to advance this constitutional amendment?

SENATOR R. JOHNSON: Well, Senator, I was not paying attention to your comments, but to respond I would just have to say that I don't know if that's the right way to go or not. I guess that's

part of what we're asking the Attorney General to clarify for us.

SENATOR SCHMIT: Okay. Well, I believe that if you will go back and read the court decision, the court decision stated bluntly that the Revenue Committee at that special session had before them, I believe they called it LR 1, a bill by DeCamp and Pappas and Haberman, which did, in fact, strike the uniformity clause. And to paraphrase what the court said, I believe they said since the Legislature chose not to strike that language, then they apparently did not mean that it...that they were wanting to abandon the uniformity procedure. You have got to...if you want to do what some of...what almost everyone here except Senator Hall wants to do, then you've got to strike the uniform and proportionate clause in the bill, I think. The other thing is that I think we are walking into a really major trap if you do not...if you do not limit the direction in which the variation can go. I want as big a slice of the pie as I can get but I don't want to get hauled off to slaughter. Senator Owen Elmer told about a steer that he tried to butcher and he said, I couldn't get him up the chute, and I had to shoot him on the lot and load him with a loader and take him to the slaughterhouse. Well, if that's what's going to happen to me, ladies and gentlemen, you're going to have to shoot me on the floor and load me up and haul me out, I'm not going to willingly walk up the chute and put another \$50 million of taxes in one year on the valuation of farmland. You have, with this amendment, I believe, started down the road where...

PRESIDENT: One minute.

SENATOR SCHMIT: ...there is all kinds of mischief available to anyone who wants to jockey around with it. I come back to what Senator Hall said, we want to be fair and we want to be equitable. None of us want to have an unfair advantage and I really believe that. I don't believe the urban legislators...I appreciate Senator Landis's remarks, the urban legislators do not want to take unfair advantage but they have not...it has not been proven to me that this constitutional amendment will, first of all, pass the muster of the court. Second, I think, as indefinite as it is, it is an open invitation toward rejection by the people. I have an amendment which I may offer which will not be easy to pass by the people but, if it is passed by the people, will definitely tell us what direction and tell the court what direction we want to go, how we are going to get

there and why we did it. And I think, ladies and gentlemen, that we ought to take some time. We have spent a lot of time on nonsense bills on this floor and we're more than halfway through the session. This is a major piece of legislation. I begged the farm organizations to spend a few hundred thousand dollars to hire some expertise to help us write a bill and, if necessary, a constitutional amendment. They said, we couldn't afford it, couldn't raise the money.

PRESIDENT: Time.

SENATOR SCHMIT: How, in the heck, when you can't raise the money for that kind of a study, can we afford to spend \$50 million of new taxes the first year that we go out of the block? Thank you, Mr. President.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator Abboud and Senator Hall. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, there are some very hard realities that have to be faced by the farming community. One of those is demonstrated by the fact that in 1987 over 60 percent of the total farm income in this state came as a result of direct federal payments to farmers. That does not happen in the city. Senator Schmit correctly mentioned and detailed for you years when the value of land went up, up, then it came down. There has always been, since the beginning of this country, speculation in land, especially speculation in farmland. And if you look at the leverage buying that was occurring during the seventies, you can see why land values were artificial' inflated. Lenders knew this and some borrowing farmers knew this. There was a Secretary of Agriculture who encouraged farmers to plant from fence row to fence row. And if you want to say that farmers are children of the soil and don't really understand the vagaries of economics and speculation in land values, you can give them an excuse for having planted to excess creating surpluses that drove down the prices. Whenever there are high interest rates and the cost of production is very high and those two items make it cost more to produce an item than you can get in selling it, then it is no longer feasible to engage in that activity as a commercial enterprise. We were talking about a tax on fuels yesterday and I had mentioned that in Texas, Louisiana and Oklahoma it costs more to drill a barrel of oil from the ground than...pump it from the ground than they can sell it for. So they don't pump

oil anymore. Farmers are encouraged to continue to overproduce and they are continued by that federal government sugar-tit that rewards, in many cases, incompetency, waste, carelessness. There is a difference between a farmer and a gambler. Those who engaged in the leverage buying of land, the overplanting, the speculating, were gamblers and they probably were hoping that before the bottom fell out or the whole structure collapsed they could make their money and get out or make enough money to continue with a smaller operation that would allow it to be a viable, commercial enterprise. A lot of follow-alongs, who saw big farmers who ought to know what is going on doing this, followed along and they got caught. They're in the undertow and some of them are going to be lost, and whether we put a constitutional amendment before the people and they adopt it that will say they are going to value agricultural land differently than they do that in other areas, it's not going to save the farmer. It is not the valuation of agricultural land that has produced the problem for agriculture. There are farming practices, to make it in farming now there are some things that cost so much that the farmers we say we're concerned about cannot afford it. Advanced technology, the utilization of chemicals can be so expensive at the inception that the farmers who might need it the most cannot even afford it. So the technological advances that might increase production for farmers and tie that into other programs that can help ensure a fair price are beyond the affordability of the farmers who need it. So there is always a discussion of farming...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...as though it is a unity, a unitary concept. There are different levels of farming. There are different sized farms. There are different levels of competency in farming. And we never talk about those things on the floor. We get into a misty-eyed, romanticized frame of mind and talk about farmers as folk heroes. That is not going to cut it. There are realities of the economy in this country that people in Washington are starting to face, more of them from urban areas and they're not going to continue making up 67 percent of the total farm income in a state and there are international considerations that have to be faced and are not being faced. So until we come to grips with that which is truly a problem in agriculture, we're going to widen the rural-urban split by giving the impression that the Legislature wants to give the farmer a leg-up without, at the same time, addressing the

problems that put the farmer in the hole. My time is up?

PRESIDENT: Yes. Senator Abboud, please, followed by Senator Hall and Senator Nelson. Senator Abboud, please.

SENATOR ABOUD: Mr. President, colleagues, there has been a lot of discussion this session about the kinder, gentler State Legislature and I think that that's been apparent the first 45 days. And, for that reason, I will be supporting LR 2 on this stage of debate. I think that we all are aware that the agricultural problems facing this state have been great and there is hope that in the future that farmers will have better years. The urban areas of the state are dependent upon the agricultural economy of the State of Nebraska. I know, for example, that in the City of Omaha approximately a third of all businesses are agribusiness related. It is important that we have a strong agricultural economy in this state in order for the urban centers to flourish and I feel that by keeping the taxes at a reasonable level for the producers of these agricultural products it will, in the long run, help the urban areas as well as...as well as the rural areas. Now as to the constitutionality of LR 2, I think that it's probably something that's going to have to be decided by the court. I know that there are a couple of other considerations that are before the body at this time, one in bill form that I support and I feel that we should enact. And I think that this is just one other development, one other area that the Legislature can look to to try to solve this problem. So I will be advancing...I will be voting to advance this bill onto the next round of debate. I don't...I don't view this as strictly an urban or a rural issue. I view this as a state issue and I am happy to be a part of helping the entire state. Thank you.

PRESIDENT: Thank you. Senator Hall, please, followed by Senator Nelson, and Senator Schmit.

SENATOR HALL: Thank you, Mr. President, and members, the issue of agricultural land valuation is, again, one that is not limited just to that issue. It has an impact on every other thing we do with regard to property taxes, with regard to valuation, with regard to court cases that are before the Supreme Court right now. This decision with regard to putting this constitutional amendment before the people is not one that can just stand alone. It has to be taken into consideration with an equation that includes a number of other components.

Currently, right now, the Supreme Court has recently heard a case that dealt with the issue of the valuation of pipeline companies. They have...it's been expanded or been talked about being expanded to other utility type of companies. There has been the railroad case with regard to the valuation of their property. We have a bill that follows LR 2CA, Senator Bernard-Stevens, that deals with that issue of budgeting. All these things impact the property tax issue, they impact the valuation and they have a total impact on this whole concept of how we deal, how we value property. And it's not just limited to agricultural property, it's every type of property that we have out there. You can't deal with this in a vacuum. You have to look at all those different types of property. You have to look at the impact an LR 2CA will have on that and you have to, I think, if you sit back and take a look at that, see that the whole valuation property...whole valuation process is coming down around our heads. It's very likely that the courts will come down and say, yes, you, too, because of the uniformity clause, can have your property at the same level that ag land is valued at. And then what happens, the roller coaster starts. Everybody jumps on, they get on the next car, and we go down the hill. And, ladies and gentlemen, it is not going to be my district that suffers. It is going to be the rural districts that suffer. I don't want to put an extra burden on the rural areas but, unintentional as it may be, LR 2CA will do just that. We are going to see this process just mushroom where now the railroads and the pipeline companies and the utility companies and those folks who say, who can afford to do this, fight the court battles, they win, they get their property reduced because we are not striking the uniformity clause, as Senator Schmit so clearly pointed out. And I don't think the courts are going to treat LR 2CA any differently than they have LR 7. We are going to be back, not at square one, but at square minus 10 because the valuation is just going to be eroded to an extent that those people who still are paying, those people who are paying as close to market as possible are going to be paying that much more because their assessments are going to have to go up to meet the budget requirements of those local governments. There is no other way for it to transpire. I mean, it's going to come out that way and there is nothing we can do about that at this point except go in the other direction, go in the direction that LB 361 would have us take...

PRESIDENT: One minute.

SENATOR HALL: ...and that's to bring those other classes of property up to market value or as close to market value as possible. This is not the answer. It is not the way that we should deal with the valuation crisis that we currently have before us. That case that I spoke of earlier is...was a case that was expedited. It's very likely that a decision could come down before we are even out of session. And my understanding, just from what happened, and the arguments before the bench were a rehash of ag valuation, a rehash of Amendment 4, that if one were to guess what the decision will be, it will be one that was very similar to the railroad case and, I'll tell you what, when that happens, the railroads will be back in here and they will be asking not only for property but they will be asking for rail and everything else under the sun.

PRESIDENT: Time.

SENATOR HALL: Thank you, Mr. President.

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

SENATOR NELSON: Mr. Speaker, members of the body, I will probably support it but I'm still going to listen to the debate on the floor and I have some of the very same concerns as Senator Hall and Senator Schmit. It seems to me like...and I certainly appreciate the work that Senator Landis...and I still say that it should be valued on the income value. I don't care whether whatever sells, whether it's the Holiday Inn or whether it's the business in the shopping center, or so on, that business is sold on the basis of the fact of the possible income that is received from it. I have some actual cases right now, sales that have taken place in just the last year surrounding my county or my area. We have a quarter section of land south of Grand Island, very good irrigated ground; brought \$1,131 an acre. You go down the highway...or down the road on the same side of the river, just on the other side of the interstate, about five or six miles, again, a quarter section of land sold, \$687.00 an acre. I would call it almost the same, ideal...the same type of land, both irrigated. All right, down from us a little bit closer, a mile and a half from the other side of us, one sold just for \$1,800 an acre, an 80 acres of ground. You go down three miles on the same highway 281, a little bit closer to Doniphan, the very same school district, and so on, that land has been on the market that I am aware of for at least a year or



year and a half, an asking price of 1,500, a price that was offered of 1,300, and then land started to go up so they pulled it off, but they could not get that sold at \$1,300 an acre. That is all irrigated land with the wells on it, good dark, hard soil. These are good soils that I'm talking about. Most of these parcels of land that I have are on the valua...are valued at about \$997.00 per acre, plus then the improvements. The improvements on our quarter section of land makes ours go up \$2,000 on a quarter section of land. So I wonder how in the world can we ever actually arrive at market value. I also want to tell you when you talk about, I think Senator Chambers alluded to this, the neighbor north of us, a bankruptcy sale, complete bankruptcy. They had absolutely nothing; folks our family's age. April the 6th, the land on the south side of us across the road, Farmers Credit is selling that. You know what that means. That means the farmer is losing that land. So I don't see how that you can continually expect agricultural land to carry the burden. Let's take the quarter section of land at home, just our building spots, and so on, the tax is \$4,997. The tax on the house that we live in in Grand Island, not too shabby, that tax is just a shade under \$3,000. Okay, let's just take the quarter section at home where my son lives now and forget other land that he has to farm to make it. You take the tax then for the NRD or the community college, who is paying the most? Obviously, the farmer is paying the most or we would if we were living on the farm, because we support the same common entity. In Hamilton County, last year, about a year ago, a lawsuit brought on by Chief Industries in the valuation of their property, exactly what Senator Johnson is talking about or some of them. We're going to see these coming down more and more often.

PRESIDENT: One minute.

SENATOR NELSON: What this was based on, 1984 and 1985 land values, it was on the tax rolls for 1.6 million plus. The lawsuit asked for a reduction down to 1.2 million. Our own Nebraska Department of Revenue came in and testified that land was only valued at 50 percent of value. So they reduced it to 745,000 and it was actually settled on \$865,000. They went so far as to bring in a psychiatrist to testify that the people that valued the land knew what they were talking about. So, likewise, along came the same lawsuit, settled in Hall County last September. Again, the same companies, 3.8 million. What do you suppose? It was reduced down to 1.9 million. It's going

to go on and on and on and I don't know where it will end. And I...back to my 1984 and '85 land values, I will almost eat that land if it wasn't valued at 100 percent of 1984 and '85, but the court saw different to it and valued it at 50 percent. And I know many, many, many parcels of land that were valued over a 100 percent during that time, not today.

PRESIDENT: Time.

SENATOR NELSON: Thank you.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Wehrbein. Senator Schmit, just a moment. (Gavel.) Could we hold the conversation down so we can hear, please. Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I do not want to belabor this point. I do not want to belittle anyone's efforts. I do not want to call into question the honesty and the integrity or the good intentions of anyone on this floor or off the floor, but I just want to tell you that it is high time that we, as farmers, stop reading what is printed in our own farm organization newsletters and start reading some Supreme Court opinions. I don't have that most recent Supreme Court opinion with me but I remember it pretty well and I remember distinctly that the court said that the Legislature had not...had had the opportunity, the Revenue Committee had had the opportunity to advance a constitutional amendment which did, in fact, repeal the uniformity clause; had chose not to do so, and upon so choosing not to do so, the court had no alternative, paraphrasing the language, except to assume that the Legislature did not intend to repeal the uniformity clause. Now I am asking you again to look at page 3, line 9. I have asked Senator Rod Johnson and he raised the question, he says there is a question as to whether or not we can do it by statute or not. I suggest you cannot leave that language on page 3, line 9, uniform and proportionate, in the bill and do what you want to do. I am assuming that someone can read the same way I can and draw the same kind of conclusion. Go back and read the Supreme Court decision. Number two, I want to make a point. If, in fact, we want to value farmland based upon earning capacity, then am I, who is a poor farmer, raises 40 bushel of corn to the acre, do I get a lower valuation than does a farmer who raises 140 bushels? I think not. Someone is going to say, well, you should not be able to get a tax advantage because you are a poor farmer. Then

let me raise another hypothetical question. There is going to be a lot of oats raised this year because the market is decent. But a quarter section of oats under the pivot is not going to bring back as much...as many dollars as a quarter section of corn under the pivot. Are you then going to have a different valuation for the quarter section? You have two quarter sections that are identical, one raising oats, one raising corn, one producing 200 bushels of grain, the other \$400 worth of grain. Are you going to have two separate valuations for the identical kinds of land? Let's take it a little step farther. Suppose that you raise seed corn on one quarter and on an identical quarter you raise field corn and you raise \$700 worth of corn when you raise it for seed as opposed to \$400 worth of corn when it's raised for field corn. Going to have the county assessor come out and say, well, that's the market value of the crop, therefore, that individual ought to pay a higher level of tax. Suppose that you follow the potato grower who has come to the State of Nebraska and he has one-fourth of his land in potatoes, are you going to then double, triple or quadruple the tax on that quarter section that raises potatoes that year because the potato is worth four or five times as much as corn? I'm raising these questions, ladies and gentlemen, because I think they all need to be addressed at this point. We can stand up here and we all love each other and we love the farmer and it's gracious, I appreciate Senator...particularly Senator Landis's remarks when he said that ownership of land is not an indication of wealth. I preached that on this floor for 20 years before I finally heard one of my urban friends repeat it after me.

PRESIDENT: One minute.

SENATOR SCHMIT: The point I want to make is this, that I believe it's time that you take a really serious look at it. I think that the language also on page 2, lines 18 through 25, may, in fact, may, in fact, confound the problem for you rather than to clarify it. I'm not an attorney but the constitutional amendment, ladies and gentlemen, must be written not so that you or I can understand it but so that it cannot be misunderstood. We are going to have egg on our face, ladies and gentlemen, if you try to advance this bill in this condition. I'm not going to speak again today. I'm not going to offer an amendment today. I am going to let you do what you want to do with this constitutional amendment. I'm going to absent myself from the floor and you can hold the applause. The point I want to make

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is this, that before Select File comes, instead of sitting around talking about what ought to be and what we want it to be, let's do as some of the members on this floor have said, and face reality and address the issue, because I'm cautioning you once again, if you advance the amendment the way it is and if it becomes law, a part of the Constitution, you have created a real Pandora's box to not just lower the value of land below market value but to raise it. Secondly, I think it's important that the proposal that I have talked about where you place in the Constitution a specific amount at which you will value farmland as opposed to its actual value, or market value, the public may not buy it. But if they do buy it, there will be no doubt on the part of the Supreme Court as to what the public meant and I think that is what the court is looking for.

PRESIDENT: Time.

SENATOR SCHMIT: Thank you, Mr. President.

PRESIDENT: Thank you. Senator Wehrbein, please.

SENATOR WEHRBEIN: Call the question.

PRESIDENT: The 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, 4 nays, Mr. President, on the motion to cease debate.

PRESIDENT: Debate has ceased. Senator Rod Johnson, would you like to close, please.

SENATOR R. JOHNSON: Yes, Mr. President. Before so, could I ask for the house to come to order, please.

PRESIDENT: (Gavel.) May we please have the conversation down so that you may hear the closing of Senator Rod Johnson. Thank you.

SENATOR R. JOHNSON: Mr. President and members, I want to go back to the very beginning of this issue and explain to you once again what LR 2CA purports to do. First of all, it provides for a specific exemption for ag land from the constitutional requirements that all property in the state be valued uniformly

and proportionately, that is to provide an exemption from Article VIII, Section 1, for ag land. We, currently, provide an exception to the uniformity clause for motor vehicles in this state and that has been upheld. This would add another exception to the uniformity clause. Look in your constitutional pamphlet. It's right here. Look on page...well, under Section 8, you will find it. It's in there. It's in there for motor vehicles. We're not doing something differently that hasn't been done already. Ag land would be valued as a separate class. It would be valued under a different assessment and I want to point this out. We are not talking about providing property tax relief, we are asking...I am asking this body to consider allowing agriculture to use earnings as a capacity to determine valuation. Let me add, earnings, not market, earnings as a method of determining value. We have heard a lot about the problems agriculture has. We have heard a lot about the peaks and valleys. The fact is this formula uses a five-year working average that provides that when income goes up, valuation will go up. So our taxes in rural areas will go up. The question has been raised in relationship to the disapproval of the voters of Nebraska. I can't predict what the voters of Nebraska will do but I'm not willing to let this fight go on unheard. I guess I'm going to continue to fight the battle here, to get it on the ballot and then take my case to the voters of Nebraska. If it fails, then we probably will stay with what we're going to pass in LB 361 which will use market as an assessment value. That is something I don't want to do, but if that is what the voters of Nebraska want us to do, then that's what we will do. I would go back to a statement I made earlier, we are closer now, under the income earning stream in this state, toward uniformity among the classes of property in Nebraska than we have ever been and that's using earning, not market, earnings, as a way of determining ag's valuation. There have been many arguments raised about stopping property tax relief in this body. I don't purport to say anything to the effect that I'm not interested in stopping property tax relief. The fact of the matter is I'm very much in favor of providing property tax relief. Just because my income goes up doesn't necessarily mean that I don't want property tax relief. I think this body ought to recognize that as well. To close, I would just say that we're not asking the body to provide an exemption or, I should say, a break for agriculture. We're asking to use a different formula than we use to value other forms of property. That's all we're asking here. Now we take our chances in this Legislature in the coming years if this amendment is passed to having our agricultural

land in a new formula, if we want to do it, lowered or raised, as Senator Schmit has indicated. We could run that risk. But I'm willing to take that risk because I think the earning capacity has been the fairest approach that we have ever had in this state toward valuing ag land. With that, Mr. President, I would turn over the rest of my time to Senator Wehrbein.

PRESIDENT: Senator Wehrbein, please.

SENATOR WEHRBEIN: Mr. Speaker and members, thank you, Senator Johnson. I think you made some very good points and I will not...

PRESIDENT: One minute.

SENATOR WEHRBEIN: ...try to do those again, except to add on a little bit. This is for ag land. Ag land is unique in Nebraska. Many say, well, why can't I have some kind of special treatment for houses or whatever? The thing is the agricultural improvements are all taxed just as if they were in a small town or anywhere in Nebraska. So this is really only unique valuation of farmland itself. Farmers pay the same amount of taxes, use the same valuation on their houses, wherever they may be, their residence. We're all in that same boat together. This is only applying to ag land. It only attempts to make a fair, uniform assessment of ag land, based on its income. And I would say that you would have owners of ag land anywhere in Nebraska. They're not confined to just rural areas. They're in small towns, large towns and everywhere in between. So there are many that have an impact on this and will have adjustments made wherever they're at as owning farmland just because it will apply to ag land only. So I would just want to emphasize that this is an attempt to be fair in the valuation of farmland for whatever reason you own it and that income or earnings has been demonstrated to be very fair between classes of ag land and I think it is the most uniform and appropriate way that we can do it. And, in actuality, it probably will even be fairer than using the market value as we try to arrive at values between ag land classes. So I would urge you to support this and let the people of Nebraska decide that...what is the proper way of valuating farmland.

PRESIDENT: Thank you. The question is the advancement of LR 2 to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

March 15, 1989

LB 81, 89A, 163, 228, 270, 325, 339  
427, 438A, 521, 543, 580, 603, 764  
LR 2, 54, 55

CLERK: 29 ayes, 5 nays, Mr. President, on the advancement of LB...or LR 2, excuse me.

PRESIDENT: LR 2 is advanced. Do you have something for the record, Mr. Clerk, please.

CLERK: Mr. President, I do, thank you. New resolutions, LR 54, by Senator Bernard-Stevens. (Read brief description of LR 54 as found on pages 1153-54 of the Legislative Journal.) LR 55 by Senator Bernard-Stevens. (Read brief description of LR 55 as found on page 1154 of the Legislative Journal.)

Your Committee on Natural Resources reports LB 81 to General File with amendments; LB 163, General File with amendments; LB 270, General File with amendments; LB 325, General File with amendments; LB 764, General File with amendments. Those are signed by Senator Schmit as Chair. (See pages 1154-56 of the Legislative Journal.)

Education Committee reports LB 228 to General File; LB 543 to General File with amendments; LB 427, indefinitely postponed; LB 521, indefinitely postponed; LB 580, indefinitely postponed. (See pages 1156-57 of the Legislative Journal.)

Mr. President, Senator Coordsen would like to print amendments to LB 339 and Senator Lynch to LB 89A. (See pages 1160-61 of the Legislative Journal.)

Judiciary reports LB 603 to General File with amendments. Signed by Senator Chizek. (See pages 1157-60 of the Legislative Journal.)

New A bill, LB 438A, by Senators Wehrbein and Hall. (Read by title for the first time. See page 1161 of the Legislative Journal.)

Mr. President, an announcement. The Appropriations Committee will meet in Executive Session on Thursday, March 16, and Friday, March 17, at eight o'clock in Room 1003. Appropriations, eight o'clock next Thursday and Friday. That's all that I have, Mr. President.

PRESIDENT: (Gavel.) Senator Dierks, for what purpose do you rise?

March 20, 1989

LB 188, 262, 311, 643  
LR 2

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

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

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

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

RECESS

PRESIDENT NICHOL PRESIDING

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

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

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



March 22, 1989

LR 2

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated) ...Legislative Chamber. We have with us this morning as our Chaplain of the day, Edie Rhoades, the Associate Minister at the East Lincoln Christian Church. Would you please rise for the invocation.

REVEREND RHOADES: (Prayer offered.)

PRESIDENT: Thank you, Reverend Rhoades. We appreciate your being here. Roll call, please.

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

PRESIDENT: Thank you. Any corrections this morning?

CLERK: Mr. President, I have no corrections this morning.

PRESIDENT: Do you have any messages, reports or announcements?

CLERK: Mr. President, proposed rules change offered by Senator Hefner. That will be referred to Rules Committee for their consideration. (See pages 1273-74 of the Legislative Journal.)

Attorney General's Opinion addressed to Senator Rod Johnson regarding LR 2. (See pages 1274-80 of the Legislative Journal.)

Mr. President, LRs 55, 61 and 62 are ready for your signature. That's all that I have.

PRESIDENT: We will move on to the confirmation report, please, Mr. Clerk.

CLERK: Mr. President, Government, Military and Veterans Affairs Committee offers a confirmation hearing report on Ruth Ann Connell to the Hall of Fame Commission. That's found on page 1214 of the Journal.

PRESIDENT: Senator Bernard-Stevens, are you going to handle that for us, please?

SENATOR BERNARD-STEVENS: Yes, I am, Mr. President. This appointment is for Ruth Ann Connell. She is from Chadron, Nebraska and she has been appointed to fill a vacancy on the Hall of Fame Commission. And, of course, the Government and

April 3, 1989

LB 89, 95, 247, 588, 762  
LR 2, 69

SENATOR LANDIS: I will take just another 30 seconds to complete the answer to Senator Hannibal's question. We do not now have the staff at the state level to be able to do analysis on natural gas regulation. We would have to go out and hire that. The methodology that we have for cities to go out and control natural gas rates is for them to band together and get a consultant for a limited period of time to examine each rate increase by a utility. When they're not faced with that, the staff is not permanent. They've just hired a consultant. If the state is in this business, we'll likely either have to gear up and bring staff in or, in the alternative, we'll have to duplicate the very authority that the cities have which is to use a limited amount of service on an as needed basis by going out into the marketplace and hiring consultants. The former, I think, is far too expensive for its utilization pattern and the second is basically duplicative of existing mechanisms. That's why I think city regulation makes sense. I support LB 95 and urge you to do as well.

SPEAKER BARRETT: Thank you. Shall LB 95 be advanced to E & R Initial? All in favor vote aye, opposed nay. Voting on the advancement of the bill. Have you all voted? Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 95.

SPEAKER BARRETT: LB 95 is advanced. Anything for the record?

CLERK: Mr. President, new resolution, LR 69, offered by Senator Pirsch. (Read brief description of the resolution. See pages 1447-48 of the Legislative Journal.) That will be laid over.

Amendments to be printed from Senators Withem to LB 588; Senator Lynch to LB 89; Senator Moore to LB 89; Senator Withem to LB 247, and amendments to LR 2, Mr. President. (See pages 1448-56 of the Legislative Journal.) And that is all that I have.

SPEAKER BARRETT: Thank you. To LB 762.

CLERK: Mr. President, LB 762 was a bill introduced by the Revenue Committee. (Title read.) The bill was introduced on January 19 and referred to the Revenue Committee for public

April 4, 1989

LB 188, 247  
LR 2, 70

please, and a call of the house also.

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

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

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

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

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

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

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

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

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

April 4, 1989

LR 2

CLERK: Mr. President, the first item I have on LR 2 are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB...or, excuse me, to LR 2CA be adopted.

SPEAKER BARRETT: Shall the E & R amendments to LR 2CA be adopted? Those in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, Senator Rod Johnson would move to amend the resolution. The amendment is on page 1455 of the Journal.

SPEAKER BARRETT: (Gavel.) On the amendment, Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President and members, it is my hope today, along with the support of my colleagues, that we could present some arguments to you today that will convince you to support and advance LR 2CA and also to discuss this particular amendment. Last week, I tried to circulate around the body and discuss LR 2CA with you individually and there came in the discussions at least three different items or topics that were of interest to the body. The first question was, is LR 2CA constitutional? Can we actually amend the uniformity clause without calling for the complete repeal of the clause? Well, we went about trying to contact the Attorney General which presented to us an opinion on March 20th which a synopsis has been provided to you, it's on your desk, that is addressed from me. It outlines what the AG's office told us. It, basically, outlined two areas though of concern that they had with the proposed amendment. What my amendment does is address the concerns the AG had with LR 2CA. The major concern they had with the amendment was not that we could not provide an exception to the uniformity clause for valuing agricultural land. The concern they had was providing nonuniformity among the classes of agricultural land. So what our amendment would do is strike subsection (a) and (b) in LR 2CA which the language which once said, "with other classes of property or be within classes of agricultural or horticultural land". That addressed one of their concerns. The Attorney General also pointed out to us that they had some concern with the language, "other classes

of property" which was in the Attorney General's Opinion. They note at the bottom of the Attorney General's Opinion that while it seems the use of the term "other classes" in this regard is meant to refer to all other property outside of agricultural class which would remain subject to uniformity requirements in Article VIII, Section 1, the provision of language clarifying such an intent may be advisable to clearly reflect this purpose. Well, the language that we're adding, "with all other tangible property and franchises", basically, is language that meets the court's...or meets the Attorney General's concerns with that language and clarifies what other classes of property might mean. Secondly, as I discussed this particular bill with many of you, the question came to me, will it pass? If we pass it out of this body and put it before the voters of Nebraska, will the amendment actually be supported by the voters of Nebraska? Well, again, I can't answer that as I can't really answer whether the court...the Supreme Court of Nebraska will actually find this to be any more constitutional than Amendment 4, but I think we're laying groundwork here through the discussion of this bill that we do want to provide a separate valuation formula for ag land that does not provide for uniformity with other classes. As far as what the voters of Nebraska might do, it's...all I can look back on is how the votes went back in 1984 and I would remind the body that in 1984 the voters of Nebraska overwhelmingly supported Amendment 4. The actual vote was 402,515 in favor of Amendment 4, while 171,558 voted against it. Amendment 4 passed in all 93 counties in the State of Nebraska. And even in the counties where there was some opposition, such as in Douglas and Sarpy Counties, it still passed by over a two to one margin. So it is evident that the people of Nebraska responded to what they thought was a concern in agriculture and it is my hope they will do the same in this case. Finally, the question was proposed to me, what happens if we don't pass LR 2, what are our options? Well, I guess later today we will discuss one of the other options, which is LB 361. I won't go into a long explanation of that other than say it will provide some what I consider to be a short-term solution but it could probably serve as a long-term solution as well. The other alternative is to do absolutely nothing, to allow the chaos that now exists in the system to continue to exist. That, to me, is unacceptable and that is the reason that I sponsored LR 2CA. I...as I said, I think that we have tried to address many of the concerns that the Attorney General has pointed out in this amendment. We have tried to address some of the questions that you have had in regards to the constitutionality, whether it

will pass, what the alternatives might be. And it's my opinion that LR 2CA is probably our best route to provide some long-term solution to the problem if we want to preserve an income earning formula in the state. If we do not, if we want to go to market value, then we can simply do that, we don't need the amendment. But I guess I am one who still supports the idea that the earnings capacity approach is the fairest approach, is working even though there are some concerns the Supreme Court has raised with it and I think that most farm groups I have talked with, most agricultural individuals seem to support the concept of keeping it in place. And this is, as I view the issue, is one of the only ways that we can actually keep earnings in place for a long period of time. So, with that, I will close on my opening and just simply say that I would ask for the support of the amendment which, basically, clarifies some of the concerns that the Attorney General has pointed out to us.

SPEAKER BARRETT: Thank you. Discussion on the amendment offered by Senator Johnson? Senator Landis, would you care to discuss the amendment, followed by Senator Hall.

SENATOR LANDIS: Thank you, Mr. Speaker, and members of the Legislature, I support the Johnson amendment and in turn support LR C2...LR 2CA, rather. My rationale for doing so goes back to an analysis of the voting pattern on Amendment 4 several years ago, a pattern that surprised me, a pattern that I had not personally endorsed prior to the election when in a special session I had voted against placing that measure on the ballot. But, you know, it seems to me that we need to pay attention to those rare exertions of the public will that constitute statewide elections on issues. Frankly, I believe in LB 662, in compulsory reorganization. On the other hand, it seems to me that the public has spoken on that subject at least for a period of time and I have abided by that by not introducing a measure that replicates that issue. Others in this body believe strongly on the seat belt issue but the public spoke and this body has not endorsed a bill or even brought one forward in recognition of what the public did and what they said. Well, even as we have honored what the public has done in the negative by not doing those things which the public has told us through their votes that they don't want us to do, so, too, if you flip that around, the mirror image is it seems to me that it's incumbent on us to do the things that the public has told us that they want through statewide elections of the people. And what they told us in Amendment 4 was, we support a form of

recognition for the valuation differences between agricultural property and other kinds of property. My urban district did that and your urban district did that as well. I don't think there is an urban district in this state in which Amendment 4 didn't pass. I don't think there is an area of Omaha that didn't have Amendment 4 pass. I don't think there is an area in Lincoln where Amendment 4 didn't pass. And the public gave us the message. Now between that message and today there has been the intervening situation of a series of court cases that give us a second chance. It's true, we can pull the rip cord. It's true, we can say things are different. On the other hand, has the message of the public changed? I don't think so. If you want to recognize the public's rare fundamental exertion of their will, I think you have to see Amendment 4 for what we all know it was and that was a recognition of the historical preference that agricultural land has been given and an endorsement of that by the public. The...the stepchild, if you will, of Amendment 4 is LR 2CA. It seems to me that even as I express my anger with the Supreme Court for failing to recognize what I thought was the clear mandate of the people in Amendment 4, even as I have expressed my anger with the judges, I, too, am bound by that same anger in recognizing what the public did. By honoring that action and giving the public a second chance to do what they thought they were doing in the first instance, it seems to me, and that is to pass the measure, LR 2CA, to effectuate the same end that Amendment 4 was designed to pass and which, in my estimation,...

SPEAKER BARRETT: One minute.

SENATOR LANDIS: ...urban voters joined with rural voters in passing. And, for that reason, I will support the Johnson amendment. I urge you to do as well and I urge you to pass LR 2CA. I, as a matter of fact, went to the Speaker...you might recall that in the normal order of events, LB 361 would precede this issue, but to show my rural colleagues a measure of good faith, Senator Johnson and I both went to the Speaker and said, it's all right with us if these two reverse position and LR 2CA comes up first so that rural colleagues can see whether or not this measure has some future in the body, whether or not it looks to be a measure that the body will endorse and use that measuring stick of good will to apply back on the issue of 361. I intend to show that good will. I intend to show, basically, the good will that my constituency did three or four years ago when they passed Amendment 4. I urge you to do the same. Thank

you.

**SPEAKER BARRETT:** Thank you. Further discussion? Senator Hall, followed by Senators Schmit, Chambers and Wehrbein.

**SENATOR HALL:** Thank you, Mr. President, and members, I rise in support of Senator Johnson's amendment. And I think that whether you intend to support LR 2CA or not, it's vitally important that you support the amendment that is before us because in order so that the constitutional amendment is not thrown out at some point down the road, I think Rod's amendment clearly will alleviate that problem or, at least, to a great extent it will and I think that you should support the Johnson amendment. And I happen to be an opponent of LR 2CA but I think Senator Johnson, rightly so, brings this amendment to correct some of the problems with LR 2CA. My opposition to the constitutional amendment has not changed from General File debate. It is still the issue, I guess, of equity and at what point do we say classes of property are treated the same. I did not, as Senator Landis did, change my mind since opposing Amendment 4 those years back. I still oppose LR 2CA, based on the issue of equity. Should land be treated the same? And I think it should. Now, should we look at the issue of reducing the overall reliance on property tax which is the root of our problem? Yes, we should and we're starting to move in that direction. If we pass LR 2CA, it's my opinion that the willingness of the body to continue to look at that overreliance on property taxes will dwindle, it will fade. We will begin to think that, well, it's not a problem or near the problem as it has been. And as the agricultural cycle goes around again, the 10 to 20-year cycle or three to four, depending on who you talk to, goes around again and agricultural prices go up and the economy continues to improve, the desire to look at the property tax issue fades but it doesn't fade for the folks in my district. Those people who live in homes that they put aside more money each month to pay for their property taxes than they did when they made the payments on those houses 25 years ago have as difficult a time maintaining their lifestyle as these folks in the rural areas. It's not an issue of rural versus urban. It's not an issue of, we don't like the rural lifestyle. It happens to be an issue of tax equity and it happens to be an issue of overreliance on property taxes by the local subdivisions of government. And until we address that issue fully, until we say that we agree that property taxes bear too great a burden for the cost of government at the local level,



until we move farther into that arena and closer to a solution, I cannot support LR 2CA. It is not on the basis that I think we should not help the rural sectors of the state. I clearly think that they do look at life in a different way and they are dealt with sometimes very cruelly by mother nature and that's something that, as much as we would like to, we cannot even legislate. But the fact of the matter is, is that should we...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...adopt LR 2CA, the biggest problem with it, in my opinion, is the impediment that it places out there for us with regard to the overall solution of property tax relief. It's not an issue of should this or should this not be done. I think this wagon train is rolling and there is no chance to stop it at this point and I don't intend to. It's the last time I'm going to speak on the issue. But I do believe that it is something that we should think long and hard about and know that when...with the passage of it that the problem is not solved, that it is not a solution in itself, that we have to continue looking at the issue of overreliance on property tax for the funding of local government. And until we correct that overreliance, we do not correct the problem. With that, Mr. President, I would again urge the body to adopt Senator Johnson's amendment to LR 2CA. Thank you.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Well, Mr. President and members, again I want to say that I appreciate and commend Senator Johnson for his work in this area. Although I do not always agree with what he is doing, I think that he does recognize the serious problem we have, and he's attempting to do something about it, which is always commendable. I do think, Senator Johnson, that your amendment ought to go a little farther, if you're going to try to address the number three item on your memo, because I believe at the present time, although it may well be that the amendment, as drafted, would not allow for disparate treatment of land within the class. I believe that really there ought to be an amendment, and I do not have one prepared, that would spell it out. And there ought to be some language added, and I think we ought to take a look at it, that specifically said, after the word "franchises", except that there shall not be disparate treatment within the class, because at the present time I believe, notwithstanding, notwithstanding the other language we

have here, that it could allow for at least, it could allow the Legislature, if not a county assessor, to come back at some other time and make an act of statute. And I want to just caution you that I still believe that this language in the amendment should be definitive, it should lay the parameters by which we are going to allow a deviation from, if you will, market value. I want to say again that on this floor, as I've said many times before, I do not believe the numbers that have been given to us on many occasions that provide for disparity between the various percentages of actual value as opposed to market value between the various classes of property. I have asked the agriculturally oriented people several times to go into the marketplace and to secure the records of commercial property and residences that have been sold, and contrast those records and those prices with the actual value as listed on the tax records. And to learn, if they would, the amount of disparity that does exist and to be able to go on the offensive rather than to continually be on the defensive and, in fact, we have a very weak defense. But I think, Senator Johnson, that at the very least that you should add some additional language, and perhaps by the time we are gifted with the other speakers, maybe we can discuss it a little. But I think that after the word "franchises" there should be some specific language added that states that there shall not be disparate treatment of farm land or land within the class, because I think that otherwise we are inviting, for unlimited amounts of chicanery, not necessarily within the assessors office, but certainly on the floor of this Legislature in future times to come. What would be there...What would prevent us from enacting a statute that would say that family farms, for example, ought to be taxed at half of what corporate farms are taxed at? What would there be to prevent us from saying, by statute, with this...without definitive language that irrigated land ought to be taxed at twice the value of nonirrigated land, or that ranch land ought to be taxed at four times or one-fourth?

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: Remember, we are no longer an agricultural Legislature. We will not have for very many more years the friendliness and the understanding we have today among our urban legislator friends. And so while I still have trouble with the amendment, my trouble stems from the fact that the amendment is not definitive enough. And certainly if you are going to do this then we ought not to allow ourselves to be wide open for

the Legislatures of the future to say that when this amendment was passed we, as a Legislature, intended future Legislatures to be able to address issues as they arose. And certainly we have seen situations reverse themselves in just the brief period of time that I've been here, and we can see it again. And a punitive Legislature might very well decide, in the future, that since we have repealed the uniformity clause, even in the manner which we are attempting to do here,...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...that we ought to then regulate agriculture or regulate production through the taxation method. I have seen that happen in the past and I can anticipate it happening again in the future. So, therefore, I would suggest, Senator Johnson, that you expand your amendment to take care of the disparate treatment within the classes so that it is not left to conjecture and speculation, but that it is spelled out.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is an issue that could be somewhat difficult for a person to vote on, if emotions or feelings are allowed to play a part. If you look at the way the amendment is drafted, right now, the word used is different not less. So a different classification could result in agricultural land being taxed at a higher rate than residential property. I'd like to ask Senator Johnson a question. And, Senator Johnson, so you won't feel that I'm hostile, as a mint condition "Repelican", it's one "Repelican" addressing another, so we're both members of the same party, so these other considerations won't enter in. The question I have is, what percentage, if you know, of agricultural...is agricultural land, what percentage of the land in Nebraska is agricultural land?

SENATOR R. JOHNSON: I don't have those figures in front of me, I'm sorry.

SENATOR CHAMBERS: Okay, thank you. Senator Hefner, do you have...

SENATOR R. JOHNSON: If there's someone that might have, then I'd be happy to have them share it with you.

SENATOR CHAMBERS: I was just won...Senator Hefner, you know?

SPEAKER BARRETT: Senator Hefner.

SENATOR HEFNER: Senator Chambers, what was the question?

SENATOR CHAMBERS: Do you know what percentage of Nebraska land is agricultural, an approximation?

SENATOR HEFNER: I did hear the figure that the value of land in Nebraska was approximately 30 percent.

SENATOR CHAMBERS: Agricultural land?

SENATOR HEFNER: Yes.

SENATOR CHAMBERS: Okay, thank you. What I think needs to be brought out and kept clearly in mind is that this, in fact, is as sharp a rural/urban issue as we could face, if we make rural synonymous with agricultural. There are cities and towns in rural areas that are not agricultural, they are cities, they are not as large as Omaha and Lincoln, but they are cities. There are counties that could be considered rural, but they have urban areas within them. So, if the agricultural land is valued at a lower rate than that of other property, of residential property, it could create a hardship for those small towns in rural areas. So I have a question I'd like to put to Senator Johnson, based on what I just said, if he followed, because I know he's trying to work on some other issues connected with this bill. Senator Johnson, is it true that there are towns in rural areas?

SENATOR R. JOHNSON: Yes, there are.

SENATOR CHAMBERS: So agricultural is not synonymous with rural.

SENATOR R. JOHNSON: That's right. I live in a town, as a matter of fact, I don't live on the farm. I actually live in Sutton, I own a home in Sutton.

SENATOR CHAMBERS: If rural...If agricultural land were valued, as a matter of fact, at a lower rate than residential property, couldn't it put an undue burden on the people in those small towns whose property would be valued higher than the agricultural land around them?

SENATOR R. JOHNSON: It's possible, yes.

SENATOR CHAMBERS: Could it lead, and could it help lead to the demise of some of those towns?

SENATOR R. JOHNSON: Well, I think the overall economy will decide whether a small town will survive or not. I don't know if taxes necessarily will lead to the actual demise of the community.

SENATOR CHAMBERS: Thank you. I'm not sure of the answer to that last question either. But I can see that there are members of the Legislature from the City of Omaha and maybe from the City of Lincoln who equate agricultural with rural, and that is not the case. So considerable thought should be given to what the vote will be on LR 2CA, regardless of how it turns out to be amended. I'm not addressing Senator Johnson's amendment at all,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...because apparently it is needed to have the amendment at least as technically correct to achieve the desired purpose as possible. But as far as what the amendment seeks to do, even though the language of the amendment does not say that, I'm not certain that it's a wise policy. And if the day did arise when...or arrive when there were more urban senators, whether from the cities of Lincoln and Omaha, or taken in connection with senators from North Platte and Grand Island, whose interests would not seem to parallel those of the agricultural interests, and therefore, they would raise the assessed valuation of agricultural land and the amendment could have an opposite effect to that which is intended by those who are offering the amendment now. I don't think it's a wise position.

SPEAKER BARRETT: Time. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. Speaker, members, I just want to support the clarifying amendment offered by Senator Johnson. I think it's necessary. I think one of the risks we run, if we...as we work to put this on the ballot is it does not accomplish what we want to do. And I think Senator Johnson's amendment will clarify exactly what we're after so we don't run into the problem that we had prior to this when we were unclear in what

we said in Amendment 4. I'd like to answer, perhaps, what Senator Chambers is saying. Senator Chambers, as answer to you, I won't ask you a question, I'm going to try to answer the question you raised. I think it's true that many small towns will feel the effect as we've used the income approach in the last few years, that is probably true. On the other hand, I think you'll find many small towns, villages and cities across the state are occupied by rural landowners themselves. So they participate in this treatment of ag land via the fact that they not make perhaps. are not only residence in a small town, just as farmers own residence on all the land that they have in rural areas, but many of them are landowners and appreciate the consideration of land that they own in the country. It's my observation, I don't have the facts, but it's my observation that many, many, many landowners across the state, including in Lincoln and Omaha, have a reaction or have a benefit from treating of farm land and recognizing the importance. In fact, I think that's probably one of the reasons amendment four passed so successfully, because there is broad support for this kind of treatment of agricultural land in the state. I think we have to recognize, getting a little bit into the bill, but prior to this amendment, that all states do treat ag land specially, either through the way they tax it or in the case of two states offer a special break without...not on otherwise...based on not on the way they evaluate farm land, but in another way. And so I think this amendment is important to add to this, to clarify what we're saying. And I'll spend more time on the initial amendment, or the initial bill, proposal after this form is amended.

SPEAKER BARRETT: Thank you. A reminder that we are still on the Johnson amendment to LR 2. Senator Moore.

SENATOR MOORE: Question.

SPEAKER BARRETT: Question has been called. Do I see five hands? I do. Those in favor of ceasing debate please vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Johnson, would you care to close on your amendment.

SENATOR R. JOHNSON: Thank you, Mr. President. I'll be very

brief.

SPEAKER BARRETT: (Gavel.)

SENATOR R. JOHNSON: I appreciate the comments made on the bill itself and on the amendments, and I appreciate even those who have a certain amount of opposition to the proposed constitutional amendment that they will support the proposed amendment that I'm offering to the bill. It does clarify some concerns that the Attorney General has brought to my attention with the proposed amendment. This helps...I think would help prepare the bill to be ready for passage. Senator Schmit has raised a point that I'm not prepared to draft an amendment at this point. It does not mean that I will not bring the bill back from Final Reading, if it advances today, to clarify that section that he has concerns with. I think he raises a legitimate point that does need to be addressed. My staff and I will begin working on an amendment to clarify that aspect, if we feel it is necessary. But I don't believe it would be appropriate at this time, as unprepared as we are with trying to draft language on the floor here, that it would be more appropriate to take some time and consider what Senator Schmit has brought up, and then at that time put that in the bill, if it's necessary. So I would just ask the body's approval of the amendment, and then we can discuss the support or opposition to the bill itself at the appropriate time.

SPEAKER BARRETT: Thank you. You've heard the closing. And the question is the adoption of the amendment offered by Senator Johnson to LR 2CA. All in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 30 ayes, 1 nay, Mr. President, on adoption of Senator Johnson's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: I have nothing further on the bill, Mr. President.

SPEAKER BARRETT: Senator Johnson, on the advancement, anything?

SENATOR R. JOHNSON: Thank you, Mr. President, yes. I would just add that as I sat down with my staff and we began the discussion of how the bill was constructed, needless to say we did want to make absolutely certain that the bill was

constitutional. We've addressed that, I think, in the amendment. We also ask for an opinion from the tax commissioner of the State of Nebraska in order to get his opinion of the bill. And that also is included in your packet of information that was distributed. I would like to reference one particular paragraph that he outlined in his letter. It says, and this is from Tax Commissioner John Boehm, he says, in my opinion it is not necessary and would be poor policy and extreme overkill to repeal the uniformity clause of the Constitution in its entirety to accomplish an exception for agricultural land. The Supreme Court recognizes that there are strong policy reasons for allowing preferential tax treatment for ag property. The plain language of LR 2CA, as amended, clearly states that the agricultural land may be valued by a method that does not result in values that are uniform with the values of other tangible property and franchises, and appears sufficient to effectively exempt agricultural land from the uniformity requirements of the Constitution. That, I think, along with the Attorney General's Opinion does indicate, at least to me, that there is support for an exception to the uniformity clause, that it can be done, and that it's not necessary to amend the entire, or to exempt or preclude the entire uniformity clause in the Constitution. I think many of the arguments that have been raised on the bill were raised in the amendment that I offered, but I'd also like to say that I appreciate the concerns that some of you have with changing or amending the uniformity clause and the potential mischief that could happen in this body in future years. It's also been represented that the changes in populations, the shifts will also mean changes in representation in this body and that we could become a much more urban represented body than rural, and that rural could suffer in years to come. That is a risk that we run on all issues, not just this one, but all issues that affect rural Nebraska. So while I appreciate that argument, I think we have to realize that that is a concern that we will have from 1991 forward as we reapportion the State of Nebraska. I've tried to address many of the points that you had on the constitutionality problems, on the issue of whether the voters support the proposed amendment. Well, of course, I can't really answer that. I would just indicate that they were sympathetic in 1984. What their opinions, the voters opinions might be this time around is very difficult to say. But I think with the strong educational effort that would be provided by the farm organizations across the state, the idea is one that can be sold to Nebraska voters. It is my hope that, if it is placed on the ballot, that a lot of work will be put together to support



the concept and get it passed. With that, I'd just move that the bill be advanced.

**SPEAKER BARRETT:** Thank you. Senator Chizek is announcing that he has 85 fourth graders from Cather School in Omaha in the north balcony with their teacher. I think the group is now leaving the balcony. We want to welcome you. We want to thank you for coming and spending a few minutes with us. Come back again, please. Discussion on the advancement of the bill. I have a number of lights on. Presumably some of you might want to speak. Senator Schellpeper is first, followed by Senators Hefner, Coordsen and Conway.

**SENATOR SCHELLPEPER:** Thank you Mr. Speaker and members. I agree with what Senator Johnson has said, and I also agree that I think it would pass a vote of the people. I think it's a fair and honest way to go, and I think they would approve that. I attended a meeting last Friday in District 18, and the majority of the people there think that by going the route that Senator Johnson has before us this morning is the way to go. And I think that's right. I think if we will go this route that it's the fair way to go, and that the people will vote for something that is fair. So I would sure hope that everyone here would support this resolution this morning. Thank you.

**SPEAKER BARRETT:** Thank you. Senator Hefner, followed by Senator Coordsen.

**SENATOR HEFNER:** Mr. President and members of the body, I rise to support LR 2 as amended. I think we needed this amendment on because we want to make it perfectly clear that we are constitutional when we put this before the voters. This is one of the errors that we made four or five years ago. We didn't have the wording correct, so when it was taken before the Supreme Court they struck it down. It allows the voters in Nebraska, once more, once again, to decide if agriculture and horticultural land can be valued differently than other property. In talking to some of my constituents they would like to have another chance to vote on it. Also, I've talked with some friends and relatives in some of the urban areas, and they feel, too, that the people should have a chance to once again vote on it. I believe that they will support it. I believe that they felt that they did the right thing four years ago and will do it the same. Okay. Why should agriculture land be valued differently than other property? I think Senator Landis

gave a good reason the other day. He said that the valuation of ag land in Nebraska represented approximately 30 percent of the property and produced only 9 percent of the income. It only produced 9 percent of the income. So I feel that there should be a little break there. Did we value other property...do we value other property different in Nebraska than we do some other things? And the answer to that is, yes. Take, for instance, motor vehicles, we value them differently, we depreciate them year to year, whereas we do not depreciate say like business buildings, our houses, or farm land. So we do value motor vehicles differently than we do this. And our Constitution allows us to do that. We don't do that on some of the other properties. I just feel that we need to give the people another chance. And I don't think we need to take a lot of time on this this morning, but I think it needs to be thoroughly discussed and get some of these things into the record. Thank you.

SPEAKER BARRETT: Thank you. Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. Sitting here listening to the conversations on the amendment and now on the bill, a thought occurred to me that I might do something that never happens on the floor of the Legislature, and that is ramble just a little bit. (Laughter.) I'm recall...I recall a conversation I had with a Korean gentleman, several years back, where he was expounding his philosophy on oriental life. He made an observation that in Asia they had a caste system in society that was not unlike that in India, except that it was divided more on occupation than anything, and that they had five castes. And the first caste, the most esteemed people in society, were the educated people, the teachers, the priests in the temple, those of that stripe. The second caste were farmers, because what they did was by nature, since their religions are earth based, was very religious in nature and besides, he added, they provide all of our food. And the third caste were the artists, the poets, the sculptors, et cetera. The fourth caste, in their order of society, were business people, Mr. Speaker, because all they did was deal in money. And the fifth caste were those that made society work, the people that actually did all of the work. I don't know what that has to do with LR 2, except that in our society we've structured ourselves a little bit differently in that we have come to depend upon agriculture and, in Nebraska, the ownership of agriculture in supporting many of our government programs on a local level. The system that we have

in place, albeit judged unconstitutional, the system that is based upon the earnings approach is working well. I think that anyone who owns farm ground has probably received a little notice from their assessor that with the increase in prices has triggered the formula that we calculate the value of farm ground, and the assessed values are up for this year. There is another value in farm ground that we really don't assess too well in other classes of property, and that is the incom...the investment part, the certificates of deposit, the safety of the investment in that land. That is reflected in the difference between the income approach and the sales approach. I think that LR 2 will be put into the Constitution by the people of the State of Nebraska. There's been a great amount of discussion on the floor as to the rural and urban split. Well I would share with you my philosophy that the people who live in what we call "urban" areas basically have no different outlook on life than those that live in rural areas, and certainly understand the necessity of having a sound, viable agricultural system, a means of support of not only local government, via taxes, but also the support of our economy. So I would urge your advancement of LR 2. And, hopefully, as you go out through the state before the next election that you will carry your support in conversation to the electorate of the state. I made a comment several times before when people talk about what the people out there will do. Well, folks, the people out there were smart enough to elect each and every one of us. And I think they're smart enough to do what is right and just and true and good in this case, too. Thank you.

SPEAKER BARRETT: Thank you. Senator Conway, followed by Senator Schmit.

SENATOR CONWAY: Mr. Speaker and members, I rise in support of LR 2, but would like to go on the record demonstrating a great deal of apprehension. As we...those apprehensions, to a great extent, come about from some of the things that Senator Schmit has alluded to with respect to if you read the specific language I think that our drafters of the Constitution properly and cautiously included the uniformity and proportionate clauses in that Constitution for the protection of all people, including the agricultural community in this case. What we are doing with this constitutional amendment is simply creating a means, in the Constitution, to shore up the income approach as it was designed in this body, I believe, I guess three years ago now. That particular approach came under some attack, some consternation,

some concern, some amending on the part of many of us in this body. I believe Senator Hefner and I, at one point, amended and added in some crops to make it a little bit better at one point in time, we saw major shifts, geographically, in the state in terms of the valuation of that property. As far as the chicanery is concerned, I think there is a great deal of chicanery that can come about by virtue of the capitalization rate. This body can change that capitalization rate at any given point in time. But the key to concern that I have in this respect is that concept of being dealt with in a different fashion. When Amendment 4 was passed, in 1984, we were on the front edge of the farm crisis. There was a great deal of sympathy and concern for the agricultural community, that has somewhat passed. I think we could find ourselves in a situation where the people of Nebraska could pass LR 2 with the income approach, and then start stacking it on the farm community. They could very easily say it says different, it doesn't say less, and that's been brought up on the floor before. It could very easily mean more. Then where are we, because we can't turn back to the Constitution and say we have those protections. I think that is something to be very, very concerned about in respect to the farm communities. But as we look at the concept that goes along in this situation, we're talking about using a so-called absolute fair income approach technique, only looking at the income of the farmer and at the same time we also have protective legislation on the books, including Initiative 300, that sets it aside as being something special and different, that ag land is something unique. It has value by virtue of its protections, its value that comes about by virtue of that concept of the family farm, and then we want to turn around and use an income approach. It is a pure business analysis that would go into this productivity. In this particular bill and the way we're running our income approach, as we are today, it's not a pure income approach. Like I say, we've got a capitalization rate, which as a statistician we call finagle factors. It's simply the factor that you plug in that after the product prices are included and the interest rates are included in the formula then we have a capitalization rate which is the finagle factor to try to get us back to whatever outcome we want. So, therefore,...

SPEAKER BARRETT: Excuse me, Senator Conway, please. (Gavel.)  
The house is not in order.

SENATOR CONWAY: So, therefore, this income approach is not a

pure business approach, it's designed in such a way that there is all kinds of chicanery that can be there. Senator Schmit primarily talked about this apprehensions with respect to the "proportionality" within the agricultural classes, but I think we also need to have on the record that some of us have some apprehensions with respect to that between different types of property also is there. So, like I say, I will support amendment two, or LR 2 simply because I think that something needs to be done in this regard, but I do it with a great deal of apprehension with respect to what things may look like ten years from now and what constitutional basis we have built this particular provision on. Thank you.

SPEAKER BARRETT: Thank you. The Chair is pleased to advise that probably all members of the body have guests, at least representation, in the north balcony. We have today 50 members of the Nebraska Federation of Women's Clubs who are attending their tenth annual legislative day. Would you people please stand and take a bow. Thank you very much. We are again pleased to welcome you to our proceedings this morning. Additional discussion on the advancement of LR 2, Senator Schmit, followed by Senators Moore, Wesely, Wehrbein and Lamb.

SENATOR SCHMIT: Mr. President and members, I'm pleased that we have a number of individuals who are discussing this amendment. And I just want to say again that I appreciate the fact that we have a number of urban legislators who are concerned about the problems that face agriculture and are willing to try to assist in the formulation of an equitable method of taxation for agriculture. I just want to say that I could not agree more with Senator Hall, that the best way to provide some sort of equity in this entire area is to reduce the dependence upon property by government. And until we do that, we will never ever really achieve equity. Secondly, I want to say that I agree also with Senator Conway. The uniformity clause was placed in the Constitution, I have been told, to protect minority taxpayers, of which today agriculture is one. It was placed there because there is unlimited opportunity for, I don't like to use the word chicanery again, it's been used many times on this floor this morning, but that is a fact. There is unlimited opportunity for chicanery if we just repeal the uniformity clause outright and do not provide careful and well phrased directions and language. We ought to have learned from the passage of Amendment 4 which all of us thought we understood, which was understood on this floor very clearly, we

thought. But a constitutional amendment, even more than a statute, ought not be drafted so it is understood, it ought to be drafted so that it cannot be misunderstood. I have just returned from about my fourth or fifth trip to the Rotunda. And I can tell you that among the proponents of LR 2CA there is wide disagreement as to how they understand the implication of the amendment. There is general agreement, ladies and gentlemen, that if you repeal the uniformity clause in the manner in which we have done it thus far, with LR 2CA, that it does not limit future Legislatures from taking a position by statute which says that we could tax agricultural land at twice the market value. It does not say...It would also allow, I believe, unless we specifically provide for language, that there must be uniformity within classes, that anything over 160 acres should be taxed at a different rate than is the land under 160 acres. Now if you do not want that to occur, then we, as a Legislature, have an obligation and a responsibility to place that language in the constitutional amendment. We should not naively assume that 20 years from now, when most of us will probably not be here, that the future Legislatures will understand what we meant, or that they may say, well, nonetheless they left it wide open because of changing times and changing conditions. We certainly can all remember when Prudential Insurance Company began to buy land in western Nebraska and developed it for agricultural purposes, that there was knee jerk reaction which resulted in the aiding and abetting of the constitutional language which prohibited the ownership of land by corporations, notwithstanding the fact that for many years on this floor that language had been defeated by the Legislature. But the conditions were right and the surrounding feeling by people that we had to protect...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...the ownership of the land from huge corporations resulted in the passage of 300. Right or wrong, it will be determined in the future. But the point is it's in the Constitution. And we want to make this clear. Third, I think Senator Chambers raised a point which has gone over the heads of most of us. If, in fact, there is disparity in the valuation of agricultural land at the present time, and if we, by virtue of the passage of 361, raise the valuation of land, we will lower the taxes paid by small towns. Then when this bill becomes...when this amendment becomes a part of the Constitution we're going to lower those taxes again on agricultural land and raise them on the small towns. We are going to create some

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hardships within those small towns. We want to prepare for that. Lastly, I want to make the point for the record, I do not believe that we have a bad system today. I do not believe the system we used for the past 50 years was inequitable. And I want to go on record that when we...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...repeal the uniformity clause we are saying, in effect, we have not been uniform. I do not agree with that, and I want the record to so state.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Question.

SPEAKER BARRETT: The question has been called. Five hands I do see. Those in favor of ceasing debate please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 26 ayes, 9 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Closing statement, Senator Johnson.

SENATOR R. JOHNSON: Mr. President, members, a lot of good conversation and points have been raised about the bill. In particular the concern of the nonuniformity of subclasses of agricultural land, Senator Schmit has covered that, and I'm sure that some of you, at least, have been called out and...by former Senator DeCamp and he has a client which is concerned with the fact that there might be a potential of them being treated differently at some particular point. We did strike the aspects of subclasses. It's silent in that regard and potentially we might be able to work something out between now and Final Reading that may clarify his concern with the potential of property in this state, at least agricultural property being unfairly valued, if someone gets mad at a corporation or a particular entity in agriculture. So I'm willing to work with those individuals, I'm willing to talk with them about how we might clarify this situation. But at this time I guess I would be more than pleased to see the bill at least advanced, and we can begin that discussion off the floor rather than taking an awful lot of time here this morning bringing up this particular subject. I did promise Senator Moore the remainder of my time,

if he'd like to have it he's welcome to it.

SPEAKER BARRETT: Senator Warner, was it?

SENATOR R. JOHNSON: No, Senator Moore, and Senator Lamb would like some time as well.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Well just briefly, I haven't had a chance to talk on this issue and I think it's important for all of us to remember many of you were members of the body in that special session in 1984. But if you take a look at the Blue Book and the vote on Amendment 4, the title of it was authorizing Legislature to separately classify agricultural and horticultural land. Now I don't...separately and uniform are two different words, obviously. I think we all remember what the intent was. The intent was, over Senator Schmit's objections at the time, was that we should try and allow the Legislature to value ag land through some sort of income producing capacity so they can get it at market value. Now we all know what's happened since then. We all know the courts said, well you thought you did in '84, you didn't really do, you can't do that. And also it's important to remember what the vote was. The vote was 411,000 people voted for it, only 135,000 people voted against it. Now you know we all use the word fair way too much in this Legislature when we think fair is what we agree in. But it's one of those things. I mean it passed well over 2-1, that the Legislature should do this. Unfortunately, for a variety of reasons we have to go back and let the people vote again. Now there is no doubt in my mind, things have changed since 1984. Maybe the chances of passage aren't as good as they were in 1984, but the simple fact of the matter is I think the voters of Nebraska observed the chance to restate what it is they thought they said in 1984. The only way they can do that is if this Legislature passes LR 2 and puts it on the ballot again in 1990. Obviously, Senator Johnson and Senator Wehrbein and myself had a...ran a bill up to Final Reading last year that, for a variety of reasons, it didn't pass, we couldn't vote on it this year. Senator Johnson and Senator Landis and myself, this summer, talked about the fact that maybe we should put this on the ballot yet, here in '88, we could not get enough people, enough interest to do so. We have a chance one more time. And because of some impending court cases it's important that we do something, and because of that



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we'll probably end up passing LB 361 this year. Regardless of what happens to 361, LR 2 is simply the most common sense thing to do to allow the voters of Nebraska, those 411,000 voters that voted for Amendment 4 they should have a chance to vote on LR 2 and restate what it is they said in 1984. With that, Senator Lamb, has the balance of the time.

SPEAKER BARRETT: One minute.

SENATOR LAMB: Mr President, I rise to support LR 2 and also I'll be supporting an amended version of LB 361. Now, you know I could go either way on these two issues, either both of them...I could vote for both of them, or I could vote against both of them. But not for 361, unless we have LR 2, because this is supposedly the permanent solution, 361, the temporary solution, I'll accept that. However, if LB 361 was the only issue before us I would vote against it because I don't think it's the proper way to go. But I'm willing to accept that and vote for both of them. Some people talk about the chaos that will be created if...

SPEAKER BARRETT: Time has expired.

SENATOR LAMB: ...if something isn't done, that may or may not be true, but at least in my mind it's not a sufficient reason to vote for one of them and not the other one. So, if 361 goes, I'll certainly have to vote also for LR 2.

SPEAKER BARRETT: The question is the advancement of LR 2 to E & R for Engrossing. All in favor say aye. A machine vote has been requested. Those in favor of the advancement of the bill please vote aye, opposed nay. We have a request for a record vote. Have you all voted? Please record.

CLERK: (Read record vote as found on page 1477 of the Legislative Journal.) 35 ayes, 6 nays, Mr. President, on the advancement of LR 2.

SPEAKER BARRETT: LR 2 is advanced. LB 54A.

CLERK: Mr. President, 54A, I have no amendments pending to the bill.

SPEAKER BARRETT: Senator Lindsay.

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CLERK: Nothing further, Senator.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move that LB 722, as amended, be advanced to E & R Final.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. Now, to go back. Would you like to put something into the record, Mr. Clerk?

CLERK: Mr. President, very quickly. Your Committee on Enrollment and Review reports LR 2CA as correctly engrossed; LB 54A, correctly engrossed; LB 335, LB 335A, LB 395, LB 705 all correctly engrossed, all signed by Senator Lindsay. That's all that I have, Mr. President. (See page 1576 of the Journal.)

PRESIDENT: All right, we'll go back to LB 247. And do you have something new for us, Mr. Clerk?

CLERK: Mr. President, back to 247. The next item I have is an amendment by Senators Warner, Langford and Kristensen. Mr. President, you'll find the amendment in your bills books, its AM1114. (See page 1540 of the Legislative Journal.)

PRESIDENT: Senator Warner, are you going to handle that to start with?

SENATOR WARNER: Initially.

PRESIDENT: All right.

SENATOR WARNER: Mr. President, members of the Legislature, this amendment deals with the issue of Kearney State, whether or not it should be a portion of the University of Nebraska system, namely the University of Nebraska at Kearney, which in essence I guess is the issue we've been discussing, in a sense, much of the morning. The amendment, as offered, is identical to LB 160, with three exceptions. At the time the bill was introduced, there was not a provision contained in the original draft that addressed the issue of any bonded indebtedness that Kearney State did have, does have, and how that would be handled. And it was not in there for the reason that it just simply had not been put together by bond attorneys. That has now been addressed and is in the amendment that is proposed. Secondly,

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amendment is to be withdrawn, Senator.

PRESIDENT: Senator Haberman, please.

ASSISTANT CLERK: Mr. President, I have a motion from Senator Haberman to return 506 to Select File for a specific amendment, that being to strike the enacting clause. (See page 1716 of the Legislative Journal.)

PRESIDENT: Senator Haberman, please.

SENATOR HABERMAN: Mr. President and members of the body, I am not going to ask that we IPP the bill but I wanted to enter something into the record and it was explained to me that this is the only way that I could do it. So I fully intend to ask you to vote for the bill after I enter my statement into the record. Due to some confusion among people involved in this issue, for the record I would like to say that it should be understood that school officials must begin employment with the State Department of Education after June 30, 1989, in order to have the choice between the school retirement plan and the state retirement plan. With that statement in the record, Mr. President, I withdraw my IPP.

PRESIDENT: Thank you. LB 506, please.

ASSISTANT CLERK: (Read LB 506 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 506 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1716-17 of the Legislative Journal.) The vote is 44 ayes, 0 nays, 5 excused and not voting, Mr. President.

PRESIDENT: LB 506 passes with the emergency clause attached. We will move back now to LR 2CA.

CLERK: Mr. President, LR 2CA, the first item I have on the resolution is a motion by Senator Wesely. Senator Wesely would move to bracket LR 2CA, Mr. President, until January 3, 1990.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you. Mr. President and members, and I know there are a couple of amendments being filed to this resolution, but I thought for purposes of discussion and consideration, we might want to examine the issue of whether or not we need to pass LR 2 today. In looking over the legislation, I have followed it, of course, now for some time after we discussed this back about five years ago, and I was at that time one of the leading opponents of the effort to change the Constitution to provide for a nonuniform taxation and valuation of ag land property. Since that time, I have reevaluated myself the situation and a memo I just passed out recognizes that, in fact, we would be singularly alone and distinct ourselves if we did not provide for some separate recognition for ag land, of its unique character, and the desire to have valuation and taxation adjusted for our farmers of this state. The memo does go through that. I think that is very important to understand what other states are doing. But in researching the issue, I have also discovered that there is another way to arrive at the ends, I think, the goals that are hoping to be achieved by this legislation, and that is to look at the concept followed in Wisconsin and Michigan which recognizes universally the problem of property taxation and its level versus income and the ability to pay. And in those states, they uniformly assess ag land property, but then they turn around and also provide for property tax credits in Wisconsin which attempt to provide back primarily to farmers an attempt to recognize their ability to pay. In other words, they look at the income levels of farmers and their land and property values, and provide tax credits for that activity. In Michigan, there is a concept known as a circuit breaker, and this is for all property taxpayers, and if they have in excess of 3 percent of their income going to property taxes, they receive, for most individuals, 60 percent of that excess returned to them in a credit. If they are elderly, they get a 100 percent above that 3 percent level is returned, so that nobody that is elderly has to pay more than 3 percent of their income for property taxes, and most taxpayers only pay slightly more than 3 percent, if they have that level of taxation. The attempt is to recognize universally the problem of ability to pay in property tax levels, and this is a concept that really hasn't been explored I think in the discussions that I have heard very carefully in this whole issue. In addition, the circuit breaker concept does apply to renters as well and, of course, on the other bills we have on property tax relief, the renters are excluded from

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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

doing the right thing, and then move forward.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Before recognizing Senator Rod Johnson, Senator Schmit is announcing that he has some guests in our north balcony, 36 fourth graders from David City with their teacher. They are from St. Mary's School. Would you folks please stand and be recognized. Thank you. We are glad to have you with us. Discussion on the Wesely motion to bracket. Senator Rod Johnson, Senator Schmit on deck.

SENATOR R. JOHNSON: Mr. President and members, these last minute pleas to not pass LR 2 are not to be or are not unexpected. I expected this to come. It happened to me last year with LR 249 which was a similar piece of legislation that dealt with ag land valuation, so I feel as if this is a third round of debate which I fully expected. One of the problems that we ran into last year, of course, was that I think a lot of people were looking for alternative ideas besides the constitutional amendment to address this problem. They were looking for an answer, and that answer was supposed to be somehow found out by the Revenue Committee during the interim period, or it was supposed to come from us as individuals. No alternative ideas that are workable that I know of have come forward that provide what I consider to be a long-term solution to the problem of ag land valuations. Delay cost us, quite frankly, an opportunity to put this issue on the ballot in 1988. I wish we would have done that last year. I think a number of you who are now voting for LR 2 have come to me or to others and said, hey, you know, I made a mistake. We probably should have voted for LR 249. I think time was right to deal with that problem. We had a chance in the regular session last year to deal with this problem. We chose not to do it. We had a chance in a plea that was brought to you by Senator Landis, Senator Moore, and myself to have a special session. It was brought to you in August. It was rejected by the body again, and now we sit on Final Reading with LR 2, and we are told that this is not the solution, that there has got to be some other better idea, a more equitable idea, an idea that no one really knows what that might constitute at this point, but I, personally, suggest that we move on with the issue. Now there are other amendments filed here that we will take up individually. The only objection I have to some of those amendments, quite honestly, is that they were brought to me at 8:35 this morning and said here is my

language to the problem. Now I don't mind accepting the revisions to the idea if they are improvements upon what is in the bill, but I do object to the fact that 25 minutes before we were to meet this morning, with LR 2 being the first bill to be read by the Clerk, that I have got an amendment sitting here I am supposed to react to it. I am supposed to have the Bill Drafter's Office look at it and put it in language that reflects what is in the bill. That I object to and I am just a little bit miffed at the idea that we have had lots of time between Select File and Final Reading to bring those issues to me. I have said on Select File and I will say it here today again, when we get to those amendments, that I don't have any objects to at least one of them, but I wished that those who want to take care of their special interest organizations would do a little bit better job working with us in the meantime. I think it would make the process a lot easier and make it a lot easier on us in drafting amendments that I think are workable, but to have them thrown up here on the day of the Final Reading vote I think is reprehensible. I just don't like that idea, I don't like that method. I realize it is an easy method to use but I, speaking to the bracket motion, I would ask the body to reject that motion. Let's move forward, let's deal with the other amendments that are up there, and hopefully this session, we can get to a vote that will pass LR 2.

SPEAKER BARRETT: Senator Schmit, followed by Senator Wehrbein.

SENATOR SCHMIT: Mr. President and members, the reason that we are here this morning debating LR 2 is because for a number of years individuals, entities mostly outside of this body, have taken the position that they knew exactly what was needed and that they would brook no interference, they would take no advice, they would accept no recommendations, no modifications, no alterations, no amendments. That is why we are here today. Five times we have made mistakes on this type of legislation. Five times we have suffered embarrassment, humiliation, and vilification, and rejection, part of the time by the Supreme Court, and the time has come when the people of the State of Nebraska deserve an amendment, if we pass the amendment, which is, at least, conceptually honest. I am going to read a paragraph from the Farm Bureau Newsletter, and I want you to listen to it very carefully. I would like to read the entire article but I do not have time. The paragraph says, "It is a situation that is a must for state senators, many of whom hated to support the bill. But the amendment that was adopted will

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guarantee that ag land values will correlate with residential and commercial property and not go any higher than those properties, he said," quoting Mr. Nowka. Well, Mr. Nowka is a fine young man. He is a friend of mine. To my knowledge, he has no experience in tax court, he had no experience in tax law, and I do not know if he has ever been in a courtroom, but that is not true. There isn't a member on this floor who can tell you that the amendment as proposed today will prevent the ag land from being valued higher than other types of land. I share at least one point of view with Senator Johnson, I do not like to be lied about, I do not like to have misrepresentation in the newsletter which I support with my contributions and with my membership. And that is false, and it needs to be explained as being false. That is why at this late date I am going to offer an amendment later on. I do not like to bring those amendments to this floor lightly either. I bring them because after years and years and years of discussion, the proponents have continually insisted we don't need this. It is implied, it is there, there isn't anything to worry about. The U.S. Constitution provides for equal protection. The United States Supreme Court has consistently, has consistently stayed away from the tax decision. If you want equal protection in that area, what did we do under LB 775? We specifically zapped agriculture under 775. We specifically provided for a different treatment on tax cases under 775. Take LR or LB 84, it might well be that we could live with equal collection of taxes if we can embody the principle of 84 unequal distribution of tax money back. Under LB 84, we distribute money unequally, and if that is constitutional, maybe we can live with our equal collection of it. I do not know. I will argue that point at some other time. I do not support Senator Wesely's motion to bracket. I think it ought to be debated but I want to point out another thing and that is that we can amend the bill this morning, the bill can still be passed on Final Reading, and I think it is high time, and I would like to have the supporters of the bill address specifically, if they would please, those statements that are being widely spread across the State of Nebraska and knowingly spread which are false. The reason we are here again is because...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...the United States Supreme Court stated very emphatically, the Nebraska Supreme Court, correction, stated very emphatically that the Legislature's Revenue Committee had



rejected LR 1, had opted for LR 8, and, therefore, had obviously not intended to repeal the uniform and proportionate clause. Ladies and gentlemen, I ask you not to support the bracket motion, although I can understand Senator Wesely's reason for making it, but I think we need to discuss the amendment more thoroughly here on the floor this morning. Thank you.

SPEAKER BARRETT: Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President and members, I simply want to say I oppose the bracket. I will speak more on the main issue of the resolution later, but I will not support bracketing. Nebraska is a different state than Wisconsin and Michigan. It is too late at this time to move into this area of alternatives after five years or more, and I will speak more later.

SPEAKER BARRETT: Thank you. Senator Wesely, followed by Senators Hall and Schellpeper.

SENATOR WESELY: Thank you, Mr. Speaker, members. I filed this bracket motion because I wanted to raise the idea that there are other ideas yet to be explored and some questions needed to be raised. I didn't realize Senator Schmit was going to offer some amendments. So rather than pursue the bracket at this time, I would ask that it be withdrawn, and if we do delay action on the bill today, then I won't refile it. I did need some more time to look into some of these ideas and come back given some more information and that is the main reason I offered a bracket motion, also for the record to make some points. But I do think we do need to discuss the issue, and with those other amendments, we will have that opportunity. So I would ask the motion to bracket be withdrawn.

SPEAKER BARRETT: Thank you. It is withdrawn.

CLERK: Mr. President, the next motion I have is by Senator Schmit. Senator Schmit would move to return LR 2 to Select File for specific amendment. The Schmit amendment is AM1407, Mr. President. (See page 1717 of the Legislative Journal.)

SPEAKER BARRETT: Senator Schmit on the motion to return to Select File.

CLERK: I have AM1407 in front of me, Senator.

SENATOR SCHMIT: Mr. President and members, I have handed out AM1407. I will read it for you very slowly and carefully. "The method of taxing agricultural land and horticultural land provided by the Legislature shall require that taxes be levied uniformly and proportionately within the class of agricultural land and horticultural and within and between subclasses of such class." Let me tell you why I think it is important that we adopt this amendment. We have discussed this before on the floor and I think it is important that you recognize that, as I said earlier when I spoke on the bracket motion, what we imply has no bearing upon decisions of the Supreme Court. We have to state specifically and we have to do so in language which is unmistakably clear. If we do not, in my opinion, adopt this amendment, then I am concerned that there may be a doubt as to whether or not, for example, having repealed the uniformity clause, that there needs to be a uniform assessment of taxes within various classes of farmland. For example, it would be possible to say, and I have many poultry operations in my district, it would be possible to say that any farmland which contains a poultry operation of such and such a size is therefore declared to be a commercial or an industrial operation. A feedlot, any other kind of an enterprise could be discovered to be a different class than that which we would consider normal farmland, if you want to call it that. We have seen and heard a lot of discussion relative to the so-called family farm. There is nothing that would prevent in the future a different type of valuation on a farm of 160 acres as opposed to one that is 320 acres or 640 acres. There are many other aspects of the amendment which I think are extremely important. Reading the amendment, on page 2, beginning with line 19, "the Legislature may provide that agricultural land and horticultural land," and listen to these words, these five words, "as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values which are not uniform and proportionate with all other tangible property and franchises." Ladies and gentlemen, the least experienced, the newest, very bluntly, the dumbest lobbyist on this...who is registered here will tell you, let me draw the definitions for a bill, and I don't care what the bill contains, you can write the rest of the bill, you can even write the penalties, let me draw the definitions. The language of five words, "as defined by the Legislature," gives this Legislature and every future Legislature not a license, but a mandate to define what shall

constitute a separate and distinct class of property for purposes of taxation. And, secondly, the really dangerous part, which most of us have not paid much attention to, "for a different method," the method, ladies and gentlemen. The method does not mean that you apply it to the value. It can mean how many oak trees are growing on the farm, how many miles it is from town, how many miles it is from the Capitol. There are many, many variations that...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...can be applied to that description. Now some are going to say, well, the Farm Bureau says this is great. Ladies and gentlemen, the Farm Bureau said 271 was great. They said Amendment 4 was great. They are farmers like I am. They have no more experience, in many cases, than I do, and in some instances, I may have a little more. But the point I want to make is this, let us not fall into the trap, let us not fall into a trap of our own making. If you go this route, do not provide an open invitation to widespread dissension, not only between the state taxing authorities, but the various entities at the local level. I have another amendment which follows and I will just briefly outline that. That provides for a specific type of taxes, not less than forty-five, not more than eighty. The reason for that is simple, because even if you adopt the first amendment, ladies and gentlemen, it does not prevent a future Legislature from valuing farmland at more, at more than other classes of property. Let me explain to you what I think the problem might be. We have all heard of the terrible threat to Nebraska's groundwater because of the use of chemicals, and because of irrigation, in some instances. In my estimation, most of it overblown, but nonetheless, suppose a future Legislature not agriculturally oriented were to say all of us must bear the burden of cleaning up Nebraska's groundwater, why then should we allow the farmers to contaminate that groundwater and make us clean it up at our expense. Let us tax their farmland if it is irrigated and they use chemicals and fertilizers at twice or three times the amount of its actual value to discourage, to discourage that. Ladies and gentlemen, do not say it is far-fetched. In the 20 years I have been here, I have seen this Legislature do a 180 degree turn many, many times, and it can happen in this instance. Do not place American agriculture and Nebraska farmers in that kind of a situation. But I want to emphasize again, and I would like to ask, I would like to ask Senator Wehrbein. Senator Wehrbein,

how do you read the language that says, "as defined by the Legislature,"? What do you say that gives us the right to do?

SENATOR WEHRBEIN: I would guess, Senator Schmit, in reply that that means that the Legislature sets the parameters in which valuations should be based, and they would have the prerogatives to decide what those would be.

SENATOR SCHMIT: Thank you. You said that sets the parameters under which valuations can be placed. Senator, it does much more than that. The Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property, a separate and distinct class. It doesn't say anything about values. It refers to the class of property for purposes of taxation, and then shall provide a different method. If we define agricultural land, for example, as being any entity between 40 acres or between zero acres and 40 acres, that is agricultural land. It says we have...but the Constitution gives us that authority. If it says it has got to be between 150 and 160 acres of land, that is what it is. Now you say, oh, that is unreasonable. Ladies and gentlemen, I have seen many unreasonable statutes perpetrated upon the people of this state and I do not intend to stand here and acquiesce in something which looks reasonable today but which, in fact, is a wide open invitation for mischief at the very best and chicanery at the very least, and I would hope that you would understand and review what I am saying here today because it is extremely important. I think it is also extremely important that you adopt the second amendment, because without this second amendment, ladies and gentlemen, it still makes it possible for a future Legislature to provide for a system which allows taxing agricultural land at more than the value of other property, notwithstanding my good friends of the Farm Bureau which says, "not go any higher than these properties." Ladies and gentlemen, that is not true. It is an error. It is false. It is hopefully unintentionally, of course, but it is false. It is blatantly false and my 40, 50 thousand fellow Farm Bureau members in Nebraska read this...they read this like the Bible.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: And, ladies and gentlemen, I am not saying whether the Bible is accurate or not, but this is not accurate, and we need to be sure that we know what we are doing. It is

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kind of interesting, someone mentioned the Syracuse Tax Study once or twice. No one talks about it anymore, no one talks about it. I opposed the tax study because I said we would not follow it. We have not even looked at the bloomin' thing, and so here today we write new tax policy. We are setting up a whole new system which will come back to haunt us for many years. Ladies and gentlemen, I have the advantage over many of you. I am not going to have to be around here when the chickens come home to roost if you do not adopt this amendment, but the younger members of this body will be here and you will have to answer for the failure if you do not adopt this amendment. I suggest you adopt the amendment.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 506, LB 401, LB 372, LB 66, LB 47, and LB 395. Discussion on the Schmit motion to return the bill, Senator Hall, followed by Senator Rod Johnson.

SENATOR HALL: Thank you, Mr. President and members. I rise in indifference to Senator Schmit's amendment because, as you know, I have not supported LR 2CA and I won't support it should we read it yet today into Final Reading, but those are for other reasons than the amendment that Senator Schmit has before us at this time. The amendment would, basically, become a mini-uniformity clause, if you will, with regards to the valuing of agricultural land. It I don't think is an attempt, the first amendment that we are dealing with by Senator Schmit, in any way to harm LR 2CA, and I think it does exactly what he says, and that is spells out the issue of how the classes of agricultural will be treated. I think it is much more though than just clarifying language. Senator Schmit, would you yield to a question?

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Yes, Mr. President.

SENATOR HALL: Loran, the issue would still be one that the courts would and probably will address sometime in the future and my question is, will, even with your amendment that you have before us right now, will...the sales assessment ratio is still going to be a key factor in that determination with regard to the valuation and the, I guess the, oh, the value that is placed on the land that comparisons are made by the court, would it

not? Would the sales assessment ratio still be a key factor in that determination with regard to whether or not I guess the proposal as we have it will be constitutional?

SENATOR SCHMIT: Well, not necessarily, but it would be much more so. There is much more likelihood that a valuation will be used if my amendment is adopted, Senator Hall, than if you do not adopt it. Because if you do not adopt it, then it just says that we may define the land, number one, and then we define...we describe the method and we can just do anything. We can use earnings. We can use (inaudible) landowner. We can use anything.

SENATOR HALL: The concept of rental income?

SENATOR SCHMIT: Rental income, yes, but the point is that unless you adopt this amendment, my amendment, the amendment as it reads today is not, in my opinion, one which is favorable to agriculture in any way.

SENATOR HALL: Thank you. Mr. President and members, the whole concept behind LR 2CA is that it shouldn't be something that is...provides that agricultural land is not used as an excuse to undervalue agricultural land. I appreciate the problems that the agricultural community is facing, and the fact that basically what has happened is the courts have said you have to address this issue. I think that LR 2CA and the way that Senator Johnson has brought it to the body, even though I don't agree with it, is a very up front and forthright way to pursue this issue. It does allow for different ways of valuing agricultural land and I think that we need to do that. I think Senator Schmit's amendment, this one that we have before us at present, is, I will listen to what Senator Johnson has to say about it at this point in time, but I do not see it as an issue that is extremely detrimental to the proposal. Now the second amendment that Senator Schmit has passed out as well...

PRESIDENT NICHOL PRESIDING

PRESIDENT: One minute.

SENATOR HALL: ...is one that I may very well vote for because it may be the one-cent sales tax provision that he amended to 62, that it may be the death knell for the proposal when it goes on the ballot a year from now, and that will be debated

here shortly. I don't know if I will get my light back on in time to talk to it, but with that, I am going to wait and listen to what Senator Johnson has to say about this amendment because I think his amendment that he has to offer is very similar to the one that we have before us that Senator Schmit proposes. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Rod Johnson, please, followed by Senator Wehrbein.

SENATOR R. JOHNSON: Mr. President, members, as I commented on the Wesely motion to bracket, there were a couple of amendments forthcoming that I would speak to. This is one of them that actually I am not opposed to, per se. I think that the language reflected in the bill or in the constitutional amendment is there that covers this, but in order to delineate it in a way in which it is specifically clear, especially when we are dealing with subclasses and subclass uniformity, then I don't have any problem with that. I would, however, suggest to the body that, as Senator Hall has indicated, I do have an amendment forthcoming that does primarily the same thing. What we...this amendment that I was ranting on a little bit ago about being an 11th hour amendment that came from Mr. DeCamp is the one that you are looking at right now, 1407. We really didn't have much time in order to analyze what the amendment did. We knew what the concept was but we went to the Bill Drafter's Office and we asked Mary Sommermeyer to please analyze the amendment, and if there were any revisions I mentioned to that amendment, please let us know. The handwritten amendment that you have on your desk that I gave to the Clerk basically is the revision that Mary Sommermeyer sent down to us. I would suggest we substitute that amendment for AM1407 that Senator Schmit has. It accomplishes what Senator Schmit wants to do which is to make sure that there is uniformity among the subclasses, that we don't have a "Initiative 300" in tax policy as it relates to subclasses of land. There is concern I mentioned on Select File that we may be in a situation where this Legislature could determine at some point in time that corporate landowners are bad and that family farmers are good and that we could tax corporations at a higher level or higher rate than the family farmers. I don't think this Legislature would make that tax policy decision but I can't tie the hands of the Legislature. In doing so, I think that there may be some tax law that would prevent that from happening but to basically appease the folks out there that might have concern with subclass uniformity, I would suggest that my

amendment, which is forthcoming, should be adopted. I would like to ask that you reject Senator Schmit's amendment at this time. As far as his other amendment, I will speak to that when we get to it, but basically as I understand what Senator Schmit is saying, he does not trust this Legislature or future Legislatures, I should say, on how we might determine tax values in the state as it relates to ag land. What LR 2 really is doing, this is an issue of tax treatment. Basically we are talking about the tax structure that we are going to use to determine ag land's value and to provide that those values need not be uniform with other types of property, specifically, residential, commercial, and industrial. It doesn't tell us how to value it. We can use...continue to use the earnings capacity which I would like to see this body allow us to do, but it does not tie our hands to do that. We can choose to go to some other valuation formula, just as when we passed...the state passed Amendment 4, we implemented the earnings capacity with LB 271. We could come back in and rewrite the tax law for ag land, and as Senator Schmit has indicated, we could rewrite it in a fashion which can be higher than it is now or lower. This is not preferential tax treatment. As I see it, it simply is allowing us as I would like to see ag land to be valued under an earnings capacity that brings about valuations that are not necessarily uniform and proportionate to all other classes of property.

PRESIDENT: One minute.

SENATOR R. JOHNSON: We are close. We are very close, as a matter of fact, in our valuation uniformity among all classes, more so today than we have ever been, but we are not quite there yet to a point at least that the courts would determine that we do have uniformity. So Amendment 2 is necessary. As I said, I would like to ask that the body reject this amendment and then take a look at the amendment that I will offer later which does accomplish what I consider to be a compromise with the subclass uniformity which I think Mr. DeCamp has indicated his client could accept.

PRESIDENT: Thank you. Senator Wehrbein, followed by Senator Pirsch.

SENATOR WEHRBEIN: Mr. President and members, so I can understand this very clear, I would like to ask Senator Schmit a question, and then I will go on with some comments.



PRESIDENT: Senator Schmit, would you respond, please.

SENATOR WEHRBEIN: I am assuming that this is trying to get at the issue of, if I was to raise a couple thousand acres of cauliflower and a couple thousand acres of peppers and got along very well and successful, you are concerned that then the assessor, or the state, in this case, would come in and raise the value of that land because it was so profitable and then, therefore, create a disparate value, in this case high, higher, is that...my assumption correct?

SENATOR SCHMIT: Senator, the Legislature has a license to do whatever they please under this amendment, and they can be much less restrictive or more restrictive than you have described depending upon the point of view of that particular Legislature.

SENATOR WEHRBEIN: But that is the issue you are trying to face here?

SENATOR SCHMIT: That is right.

SENATOR WEHRBEIN: But that value could...those values could be picked out?

SENATOR SCHMIT: That is right.

SENATOR WEHRBEIN: Okay.

SENATOR SCHMIT: And you can say because the land is being used for cauliflower instead of corn, it would be taxed higher.

SENATOR WEHRBEIN: Yes.

SENATOR SCHMIT: Because it is being used for a race track, it ought to be taxed for less, and because he trains horses out there, he has \$50,000 horses, thoroughbreds, it ought to be taxed more than Schmit's farm which breeds \$2,500 claimers. It is wide open.

SENATOR WEHRBEIN: Okay, thank you. I accept your premise on that. I have to say I believe that Senator Johnson's is one that I would accept better and I will tell you why. I am very bothered by line number four and five in AM1407, it is, and it says, requires that taxes be levied uniformly and proportionate

within the class, and if I am reading that and understand it correctly, I don't know how that we can determine the taxes, per se, be levied uniformly and proportionate. Now we can set values but I don't know how we can set taxes uniformly considering we have many taxing entities. That includes the mill levy as I would understand it. And if I understand it correctly, I would have to oppose that quite strongly. I can see that we can set values uniformly and proportionately with classes, but if we get in the taxes which would include the levy, and as I have read, I think we vary from an 80 cent levy to over a 3 dollar levy across the state, I think that we would be getting into a realm that is not within our area to do justice to. It is not within our area right at the present stage to have uniform taxes across the state because we get into varied mill levies and varied valuations. So I would oppose this amendment on that basis and would strongly consider Senator Johnson's, which in the wording that I see, does say the values will be uniform and proportionate.

PRESIDENT: Thank you. Senator Pirsch, please, followed by Senator Schmit, then Senator Chambers.

SENATOR PIRSCH: Thank you, Mr. President. I think Senator Wehrbein raised a good point on the word of "taxes" versus "values", but I did have a question of Senator Schmit that would help me understand perhaps what he was getting at, if Senator Schmit would yield. Senator Schmit, may I ask you a question?

PRESIDENT: Senator Schmit, would you respond, please.

SENATOR PIRSCH: Would you respond? By mentioning the subclasses of each class, could you perhaps list some of those subclasses. Would that be wetlands, would that be irrigated lands? Could you elaborate more on what the subclasses would be?

SENATOR SCHMIT: Senator, that could be anything as defined by the Legislature.

SENATOR PIRSCH: They are not defined right now?

SENATOR SCHMIT: No. No. Some of them are but we can...we have a license to define those subclasses in whatever category or capacity we so choose.

SENATOR PIRSCH: So by pointing out then subclasses which are yet to be determined, your goal is so that a subclass of land in Nuckolls County would be evaluated the same or would be taxed the same as that kind of subclass in Gosper County, let's say.

SENATOR SCHMIT: Yes, I am trying to maintain the uniform and proportionate description.

SENATOR PIRSCH: And by saying "taxes", do you think that we perhaps have overstepped by saying taxes instead of valuations? What would be the...?

SENATOR SCHMIT: Well, Senator, in some ways I sort of like that valuation thing because it sort of refutes the entire rest of the darned amendment. It says, notwithstanding the fact that we say you can define it differently and you can describe the method, nonetheless, we do it upon values. How you get the values, I don't know. I am not that smart. There are a lot of people here who apparently have no qualms about that but the language "taxes be levied uniformly and proportionately" is just a copy of the old language in the Constitution.

SENATOR PIRSCH: Okay, thank you, Senator Schmit. I guess I would have a problem with the taxes being levied uniformly and proportionately. Part of the problem I have with this whole structure of valuation across the state is the fact that it is not being done uniformly and that there should be some way that we can, indeed, set that valuation within the classes and follow through with that. Even though it is mandated today, it is not happening, and I am not sure that whether we put in this amendment or Senator Johnson's, if, indeed, there would be any difference, but I don't think we can require taxes. We must require valuation so I regretfully will have to vote against the amendment.

PRESIDENT: Thank you, Senator Pirsch. Senator Schmit, please, followed by Senator Chambers, then Senator Rod Johnson.

SENATOR SCHMIT: Well, Mr. President and members, I guess that we will never ever stop dragging the ghost of John DeCamp across the legislative floor, and that may happen, it may be good or it may be bad. I just want to remind you that had you taken the DeCamp and Haberman amendment five years ago, we probably wouldn't be standing here agitating over this thing today. I don't like to give any credit to Senator Haberman because he

doesn't necessarily support me very much but the point is that he was right, and I don't know whether it was by accident or intent. Senator Haberman, I am sure it was by intent. But I will make you an offer, Senator Johnson, if you will add the language referring to, after horticultural land, that says "and within and between subclasses of such class.", I will accept your amendment and I will offer to withdraw mine. If that is acceptable to you, would you care to comment upon that? I think we need to define the language to the class and subclass. Can we do that yet?

PRESIDENT: Are you asking Senator Rod Johnson?

SENATOR SCHMIT: Yes, I would like to ask Senator Rod Johnson a question.

PRESIDENT: Senator Rod Johnson, would you respond, please?

SENATOR R. JOHNSON: Yes, Senator Schmit.

SENATOR SCHMIT: Senator, I would accept your amendment because I think it does...it answers some of my concerns on page 2, lines 19 to 25, if you will accept the language which will define it further, make it more definitive, and include the language after the word "land", add the words "and within and between subclasses of such class." I am not sure this exactly...

SENATOR R. JOHNSON: Senator Schmit, I passed around a cleaned-up copy, I think it is on your desk, a printed copy for you to look at. It is better reading material than the one I had handed out before.

SENATOR SCHMIT: Okay.

SENATOR R. JOHNSON: But, in any case, I think, and I have been asking several attorneys here today whether or not all property within a class of agricultural and horticultural land would include subclasses, and I have been told they would. Now, if you want to go a step further than that, I guess we can do that but I would suggest it is probably not necessary but I can talk to you with about it further. We can take up your next amendment, and in the meantime, work on that language because I know you have a second amendment coming up.

SENATOR SCHMIT: Fine. Yes, I would appreciate that very much, Senator, if you could...I think it is important that we be definitive, and I will just use a little bit more of my time to point out that Senator Hall said that he thinks that the Schmit language, particularly in the next amendment, is the 662 language of this amendment, and I accept responsibility for that. I think it is high time that the people in this Legislature and outside of the Legislature know exactly and precisely what they are voting upon. I will be very frank, that if you are more definitive and you outline the parameters very clearly, and you state specifically what you are going to do, the battle lines are going to be more clearly drawn, but if you do that and the amendment passes, there can be no doubt in the minds of the court what the people of this state wanted. If you do not make the language definitive and distinctive, then there can be such a doubt, and it ought to be the prime purpose of this body to remove those doubts after the anguish we have gone through in the last five years. I would suggest that I, Mr. President, withdraw this amendment. I would hope that Senator Johnson would accept my addition to the amendment, and that we could then pass that or accept that accepted amendment while I discuss why I believe it is important to include the other language in the amendment also. So with your permission, Mr. President, I ask that the amendment be withdrawn.

PRESIDENT: Okay, the amendment is withdrawn. Mr. Clerk, do you have any other amendments?

CLERK: Senator, would that apply to your second amendment as well? Mr. President, Senator Schmit would move to return to Select File for specific amendment. Senator, I have AM1408 in front of me.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I call your attention to the handout of the Farm Bureau magazine newsletter and I call your attention again to the last paragraph of the article where it says, as I said earlier, "not go any higher than those properties". I would ask any member, any proponent of the bill, any proponent of the amendment, is there a guarantee in the amendment as it is written today that agricultural land can not be taxed at higher than other properties. Senator Johnson.

PRESIDENT: Senator Johnson, please.

SENATOR R. JOHNSON: Mr. President, I don't think there are any guarantees in tax law, ag land, commercial, residential, whatever. I don't think you can tie the hands of the Legislature. I guess, there is a...this is a two-way sword. There is always that possibility this Legislature could determine tax policy that could be increased valuations of ag land as it can do with commercial, residential, and industrial land.

SENATOR SCHMIT: Thank you. Mr. President and members, when we were debating the previous amendment time after time in 1984, or whenever it was, time after time on this floor we made this statement we are willing to pay taxes on actual valuation but we want those values to be determined based upon earnings, not upon some sales assessment ratio where only 5 percent of the land in a county may be used to determine the value of the 95 percent. We were telling the people of this state, we do not want to be different than you. We want to be the same as you. We want our properties to be valued at actual value but we want earnings to be a factor. I suggested a rental ought to be one of the capacities that would help to determine earnings. There are thousands of contracts for rent drawn each year within most counties and they vary with the year, based upon the income, based upon revenues, based upon taxes, based upon interest rates, many other factors. But with this amendment, with this amendment, and correct me if I am wrong, but I believe I have heard the proponents stand on this floor and say many times, we want to be valued at less, at less than actual value. Now, ladies and gentlemen, if that is what you want, then I believe it ought to be stated specifically in the amendment, and I have placed a range in there, not less than forty-five, not more than eighty percent of its value relative to other land. I think that we ought to take a look at that because if you don't we are saying in effect that, yes, future Legislatures can say the ownership of land is a symbol of wealth and, as a symbol of wealth, it ought to be taxed more than the home, more than a business, more than some other entity. We have heard it before. At the present time, we are locked in a tremendous struggle based upon the financial support of schools. One farmer after another stands on this floor and complains and pleads and cries for equity in taxation for support of schools. Most areas, most areas, in my own as an example, about 50 percent of the valuation in my home school district is rural. About

10 percent, I believe, of the children are rural. So we support 10 percent of the children with 50 percent of the valuation. We think that is not equitable and we are trying to change that and blood has been all over this floor many times, some of it mine, because of the attempts we have made to try to resolve that problem. Unless we resolve this problem and we state specifically, state specifically what we are doing, and I am not sure this language is correct, but I think you ought to think about it, and I will accept amendments to this, clarifying amendments, improving amendments, any other kind of amendment you want to call it but, ladies and gentlemen, the amendment ought to do what we want it to do. We should not leave it up to the conjecture of the public what we are trying to do. The public thought they did what we wanted them to do once before. The courts said, no, that wasn't right. Senator Hall says if you put this kind of language in there, you define it specifically, it won't pass and that may be true. I do not know if it will pass if it is cloaked in subterfuge. But, ladies and gentlemen, the last thing I want to do is to stand before the Supreme Court and say, well, you know, yeah, we were a little vague. We were a little vague because Senator Hall said, if you make it specific, they will look at like the 662 amendment that Schmit tied onto another school deal that went down the drain. I still believe that you have got to be specific. This language gives you a variation. Maybe it ought to be different. Maybe it ought to describe something different than the way we do here. There are all kinds of people here who want to hurry the process along. Ladies and gentlemen, never hurry yourselves into a trap. Hurry yourself out if you can, but don't hurry yourself into a trap, and be sure you know what you are doing. I don't know what I am doing but I am only 60 years old and I am free and willing to admit it. I am not willing to take the advice of my intelligent 25 and 30-year-old attorneys around here who have never drawn a tax bill, who have never yet seen one be successful. Ask yourself, ladies and gentlemen, have we done anything right in the five years we have tussled over this? Not yet. That is why we are back here. If you don't learn from history, you are going to repeat it again, and it will be too late, ladies and gentlemen, ten years from now. It will be too late to come back to this body and say, well, golly, we never intended, we never intended that anyone, that any Legislature would be so punitive, so mean, so dispirited that they would take it upon themselves to value ag land at more than commercial property. We are telling them, without this kind of language, that they can do so. And that this Legislature doesn't care,

and if the future conditions of the state are such that it is important, we'll do so. We did it with 775, ladies and gentlemen. With 775, we said if you spend 30 million bucks and you hire so many people, you can have these exemptions and agriculture, be damned. We kept agriculture out of it. So why are we going to do it again? Ladies and gentlemen, it is about time we become adults. We have to accept the responsibility for our actions. I want you to look at this amendment. If you have suggestions on them, improvements, Senator Johnson, have your attorneys look at it. I know they have good intentions. All I am trying to say is that they do those things that they know have to be done and that they do not allow for conjecture. You do not allow for speculation. You do not allow for interpretation to be different from that which we want it to be. If on this floor you want it to be less, then we should say so. If you want it to be more, we should say so. If you want it to be either/or, then you should say so. But if you want it to be less, as the Farm Bureau says, it can't go any higher, then you have got to put this language in there. Otherwise, ladies and gentlemen, it may go higher, and I predict that in the course of the lifetime of many of you, it will go higher. It would be an ideal method whereby you could control values of land around cities, for example. It is an open invitation to address problems relative to schools, relative to irrigated land, relative to commercial development. A whole series of events can be changed by this amendment unless you are specific. Ladies and gentlemen, I ask for adoption of the amendment.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Before recognizing, Senator Chambers, I am pleased to announce that Senator Labeledz has some guests in our north balcony, 32 students from St. Mary's School in Omaha. Would you folks please stand and be recognized? Thank you. We are glad you could be with us this morning. Discussion on a motion to return the bill, Senator Chambers, followed by Senator Rod Johnson.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am going to speak this morning as one who has read constitutional language, has drafted it, and has argued its meaning in briefs filed in court. Constitutional language has a way of taking on a life of its own. Senator Schmit indicated that if you adopt the language that he has offered, then there would be no room for conjecture, speculation and interpretation,



or interpretation, but his language, like all the other language, allows for all of those things. The time bomb that everybody is trying to avoid is incorporated in the language of the amendatory language that Senator Rod Johnson is offering. As Senator Schmit pointed out, the one who controls the right to define controls the whole battlefield, but there is other language. On page 2, the Legislature is allowed to provide for a method of taxing agricultural land and horticultural land which results in values which are not uniform and proportionate with all other tangible property and franchises. So Senator Schmit's amendment is adopted, you enact this...you put it before the public. They vote on it. It becomes a part of the Constitution. When things with reference to real estate change and the value of farmland changes, whether up or down, here is what I will do, Senator Schmit, based on the language of the Constitution. I will offer a bill to say that agricultural land and horticultural land shall be valued at 150 percent of the value of commercial property or residential property or 150 percent of its market value or 150 percent of the value of this land when it is based on its income earning potential. That can be done under this law. As long as you put language in the Constitution that allows this land to be valued and taxed in a way that is different from and not proportionate to other land, then you haven't done anything. Nothing is being done with this language at all. That is one reason I am trying to stay out of the discussion, but I want my remarks to be in the record. Now that that has soaked in, I am going to say one other thing. There is always going to be a rural and urban split because there are urban centers located in agricultural parts of the state, and I say again, this body and other Legislatures do not recognize the distinction between rural and agricultural. There are urban areas in agricultural areas whose interests are different from those of the agricultural areas of which they are a part. Those with the agricultural interests could control that particular area and do things that are detrimental to the urban centers. There is a tendency to think of the term "urban" as applying to large, relatively speaking, cities like Omaha, Lincoln, North Platte, Grand Island, and so forth, but that is not the only kind of areas that the term "urban" would apply to. So with all of the efforts being put forth here today, I think you are going to wind up dealing with a law or a piece of language that you would have if you put a snake's tail in its mouth. As long as you go around the body of the snake, you are never going to reach the end, never going to reach the beginning, because what you have described is a

circle. Every part of the circle is equal distant from the center. So as long as you move, you are just going in a circle. Maybe what you would have to do is say that, however the language would be drafted to do it, that agricultural land can in no case be valued or taxed at a rate higher than that of residential...

PRESIDENT NICHOL PRESIDING

PRESIDENT: One minute.

SENATOR CHAMBERS: ...or commercial property in the county where the assessment and valuation or taxing is to occur. Go ahead and create a straitjacket with the language, but whatever language is taken, be sure, Senator Johnson, that it doesn't come around and bite you. This kind of reminds me of a story that Abraham Lincoln told, and I am sure Senator Schmit is familiar with it since he and old Abe were running buddies in a way. This guy was riding a horse and somehow the horse kicked its hoof up in the stirrup, and the guy on the horse said, well, if you are going to get on, I think I will get off. That is my comment on this bill.

PRESIDENT: Thank you. May I interrupt a moment to introduce some special guests we have under the north balcony, Jeremy Hearder and his wife, Kay. Would you please stand so that I may tell you a word or two about them. Mr. Hearder is the Australian Consul-General stationed in Chicago. He was born in Australia, spent his first eight years in India, then followed by five years in England. He studied in Australia under a Fulbright Travel Grant, the University, on a Rotary Foundation Fellowship, and attended Stanford University where he received his Masters Degree. He has been in the foreign service for most of the time, serving in Laos, Tanzania, Thailand, Kenya, Belgium, back in Australia. He served in the Senior Foreign Affairs and was representative in Sydney for awhile, and following that, New South Wales. He was Australia's First High Commissioner which is equivalent to ambassador to the newly independent country of Zimbabwe, also being accredited as a High Commissioner to Botswana, and an ambassador to Mozambique. He became a High Commissioner to Fiji. Also High Commissioner in Tuvalu, and more lately, back in Canberra, and was Assistant Secretary responsible for Antarctic refugees immigration and asylum, and he has led Australia's delegation to the Antarctic Treaty Consultative meeting in Rio de Janeiro. He and his wife

are visiting and would you please welcome them to our Legislature this morning. Thank you, Jeremy Hearder and Kay Hearder. We appreciate your visiting us this morning. Senator Rod Johnson, followed by Senator Hall and Senator Wesely.

SENATOR R. JOHNSON: Mr. President and members, I am going to be brief. I just would indicate that I am opposed to this amendment. I would like to bring some sensibility back into this whole issue, and I apologize that we are taking so much time, but, quite honestly, Senator Schmit is correct in his assessment. This is, probably, the most important agricultural issue that this Legislature will discuss, and I think we should take some time in considering that this year. But as I indicated, I have an amendment that is forthcoming that I would like to ask this body to bring the bill back and adopt. That would lay the bill over for at least a day and give us an opportunity to discuss further Senator Schmit's amendment or Senator Chambers idea, whatever might win out in discussions or arbitration. But, in any case, there is ample opportunity, I think, for further discussion and on another date. I would like to indicate to this body that I have never attempted to represent LR 2CA as being a bill that provides preferential treatment to agriculture. I am convinced, as one farmer, that the gravy train of tax preference and the gravy train of federal subsidies is rapidly coming to an end. We have to recognize that and we have to move forward, and I don't want to tie this Legislature's hands. I want fair tax treatment for agriculture. I don't want tax treatment that is going to be so fair that we are going to place the burden of property taxes on other classes of property, but I want to make sure that the earnings capacity is protected and, quite honestly, is kept in this state. I like it. I think it works. It is the best...probably the best formula that we have developed in this state for a number of years. I don't know what this body's will is with this bill. We have got a long ways to go before it is actually passed, but if you want to vote against the bill, fine. But for those of us that'd like to move the bill or to try and put the bill in shape in which we would like to see it on the ballot, I hope that you consider rejecting this particular amendment, give me an opportunity to present the amendment that is forthcoming, and then deal with that issue. I will be honest with you, folks. I said this a year ago. I don't know what the answer is to this issue. I really don't. I am doing the best I can to represent what I think is an alternative. If there is a better idea, I will let anyone of you take it. This happens to be my priority

bill, that if it fails, it fails. Somebody else can come up here and say here is how we are going to do it, whether it is rental, or going to market value, or going to some other new tax formula we have not even considered. That is fine with me. All I am asking for is fair treatment. I think the earnings capacity is the fairest treatment we have had. It is getting us closer to uniformity among all classes of property that we have got in the state. I don't see anything wrong with that, and this representation on the floor that we are going to get preferential treatment by this body is senseless. We know that and I am not trying to represent that to you. So I just ask you to reject this amendment, let's go to the next amendment. Hopefully that one would be adopted. We would have to bring the bill back to do that. At that time we can discuss this issue further, but we are spending an awful lot of time that I think it has been well-spent but I sense the body is wanting to move to other issues this morning, and we will have other opportunities, I think, if the bill is brought back, to discuss this motion. With that, I would give the remainder of my time to Senator Landis.

PRESIDENT: Senator Landis, you have a minute and a half, approximately.

SENATOR LANDIS: Mr. Speaker, I wanted to make three points. I guess I will have time to make one of them, perhaps two. First, I hope that those of us who have been here long enough recall, particularly because of our salary issue, that we should learn a lesson about putting numbers into the Constitution. Conditions change, situations change, and percentages and dollar figures and numbers just don't do well in the Constitution. What you need are processes. You need standards, those kinds of things which can shift with time, but what you don't need is an absolute numeric identification of a target, and in this case, I think we would err by doing exactly that. Secondly, if you do this kind of language where you put 'his floor and ceiling, as far as valuation goes, you really have to use a market system, because what you are doing is you are establishing a form of preference, and you are coming down from the norm that other kinds of property are being valued at, and that would be a market-based system. In other words, you really couldn't use the earning capacity system with the Schmit amendment. And, in that sense, I think you place yourself at odds with the very entities that have supported Amendment 4, and 271, 1207 and LR 2CA...

PRESIDENT: Time has expired.

SENATOR LANDIS: ...the farm community. My light is on, perhaps, unless the question is called, I'll have a chance to continue. Thank you.

PRESIDENT: Thank you. Senator Hall, followed by Senator Wesely and Senator Landis. Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. And, Senator Landis, stand still, I'll give you the balance of my time because I'm not going to take very long. I rise in opposition to Senator Schmit's amendment. As I stated on his earlier amendment, the issue of getting as specific as this would have us do, even though I think Senator Schmit's is being very up front and honest, although rather tongue in cheek in his approach to that, that the people need to understand and know what they are voting on, I guess, depends on the issue. I can recall not too long ago a very specific amendment that became known as Initiative 300 that we have wrangled with from the moment that it was adopted by the people, and many of them did not know, even though there were specifics spelled out in there, just what they were voting on. I think the issue of allowing parameters for the Legislature to work with is important. And whether you support or oppose LR 2CA, you need to allow for that, and I think the following amendment that Senator Johnson and Senator Schmit are co-authoring is one that should be adopted to the proposal. But this amendment that would put into place a scale, so to speak, with regard to how much ag land could be valued at, no more, no less, somewhere in between, which has roughly 35 points to vary from, is a very poor way to deal with this issue. Although it is specific and it does address the fact that there should be a preferential treatment, if you want to call it, an understanding with regard to the difficulty of valuing ag land, I agree with that, I understand that. But I'm not yet convinced that LR 2CA does that. And I appreciate Senator Johnson's frustration with the fact that there is no easy answer to this issue. With that, I'm going to oppose Senator Schmit's amendment and would yield the balance of my time to Senator Landis.

PRESIDENT: Senator Landis, please, you have approximately three and a half minutes.

SENATOR LANDIS: Mr. Speaker, I look at this third point that I was going to make and it really was sort of self-serving. There's been sort of a... On the floor the last couple of years Senator Schmit has been a constant critic of the ag land valuation issues. And there has been a repetitive theme that he's developed that, you know, if this issue was in other people's hands it would have been better managed. If we didn't have young pup lawyers running around giving opinions, we'd be doing better here. If the Revenue Committee hadn't taken the tack they did, we'd be better off. If a different set of language had been chosen, we'd be better off than we are today. A series of hypotheticals that really, if you listen to the theme, it seems to say that the leadership on these issues has excluded Senator Schmit, and they've erred, and if we'd gone back and listened a little more wisely, we wouldn't be in the situation that we are today. The phrase that he used this last time was have we done anything right. Oddly enough I guess that's the point I want to talk about, just briefly. We have done something right here. I don't think anybody anticipated what the Supreme Court was going to do following Amendment 4. I didn't, frankly, I don't think anybody else did. As a matter of fact, Vard Johnson argued to the Supreme Court that the court had misread what the Legislature thought was going to happen. That one was, I don't think, very predictable. But following the Amendment 4 decisions, and the passage of Amendment 4, we passed an earnings capacity method. The earnings capacity method has brought better equalization between counties, better equalization between types of farmland, it's brought, for the first time that I know of, agreement between farm groups and county officials and county assessors as to what reasonable standards are out there. And that, by the way, has taken some doing, because not all those people believed in the notion when it began. Oddly enough, if there was a bill in the Revenue Committee that was individually authored by one of the members of the body, prior to the development of the task force's work, it would have been Senator Schmit's bill. Senator Schmit's bill had an income-stream approach in it following the passage of Amendment 4. Bruce Johnson, I think, was the backing academic support for that notion, and he served on the task force and with some changes that wound up being the way that we did the business.

PRESIDENT: One minute.

SENATOR LANDIS: My guess is that if the names on certain of the

bills had been different, we probably wouldn't have been treated to the same level of examination and rhetoric on this issue that we have. In fact, we have done something right. We have tried to identify a way of rationally valuing agricultural land, but without the speculation of the market. Frankly, in most times that will produce values lower than the market. Doesn't mean it has to. Can produce figures that are higher, it's true. But we've persuaded that theory to the voters. We've persuaded that theory to agriculture. We've been able to show to assessors that it's rational, that it produces sensible figures between counties, and that is something right, that is something worth keeping. That's why, by the way, LR 2 is here, to keep something that has been done right after generations of doing something, I think, wrong, and that is skewing the market system with undervaluations rather than inventing or finding a different theory that achieved much the same result, but in a rational, statistical, analytical way that reduced intercounty warfare.

PRESIDENT: Time has expired.

SENATOR LANDIS: That's a right thing, and for that reason LR 2 makes good sense. I oppose the Schmit amendment, hope you do, too, and let's get on with the business of the body.

PRESIDENT: Thank you. May I introduce some guests in the south balcony this morning. We have 64 fourth graders who are guests of Senator Morrissey. They are from Auburn Elementary School in Auburn, Nebraska with their teachers. Would you folks please stand and be recognized by the Legislature. Thank you for visiting us this morning. Senator Wesely is next speaker, followed by Senator Landis and Senator Wehrbein. Senator Wesely, please.

SENATOR WESELY: Question, please.

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. Have you all voted? Record, Mr. Clerk, please.

CLERK: 26 ayes, 2 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Schmit, would you like to close on your motion, please.

SENATOR SCHMIT: Mr. President and members, it's not unusual that I would stand alone on this issue, or stand in very sparse company. I'm not embarrassed to do so. Senator Landis said it might have been different if someone else's name had been on the bill. I am pleased at least they acknowledge that the earnings capacity suggestion was my idea. It is how you arrive at that capacity. It comes back to what I have said here of the definitions, the methods, that is what is difficult. The reason that I opposed 271, and all but a handful, two or three rural legislators opposed 271 was because a method which was devised to arrive at the earning capacity was flawed. As we all know now, it was flawed. Going back a little bit to what Senator Chambers has said, this body, be it rural or urban, have a responsibility to treat everyone equitably. I believe it ought to be done that way, notwithstanding some of the admonitions and implications otherwise. Another reason I voted against LB 271 was because I said, if it is done the way you say it's going to be done, you will raise the values of the homes in the small communities in my district to the point where those individuals will not be able to afford to live in them. . . .d that is a very real threat and one which we cannot afford to lose. I still contend, and I will always do so, that agricultural land, if viewed across the board and if contrasted with commercial property and contrasted with residential property on a case-by-case basis, is much closer to a equality than most people claim it is. We have disparity in every class of property. Agriculture does not have either the resources, the ability or the inclination, which ever you want to call it, to go out and research those inequities and bring them to the attention of the court and bring them to the attention of this Legislature and point out that those inequities do exist. Senator Landis says you can't put numbers in the Constitution. I don't like to put them in there. I don't like to put them in there, but I learned a lesson. Back in 1977, we passed a bill that removed the tax on personal property, thought we'd done something for agriculture. Thirty-five people signed the bill, many of them were urban legislators. The court said the formula for distribution is not equitable, cannot be done the way it was in the past, we'd have to tie it to something different. So what happened? The Revenue Committee devised a formula which sent \$12 million of money from the rural areas to the urban areas. A couple of rural legislators, who are no longer here, supported it. The rural dominated Legislature, a rural dominated Revenue Committee supported the bill coming out of the



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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

be blamed for higher ag land valuations. They were specifically responding to Supreme Court decisions that said the current valuation system is unconstitutional. Who should be blamed, if not us? Who should be blamed, if not us? Ladies and gentlemen, I wrote a letter to many of you a long time ago and suggested that it is possible to determine equity in taxation. It's not going to be done on the floor of the Legislature, has to be done by those of us who want to work on it, getting together off the floor. Senator Landis suggests I've not been too cooperative. I would suggest that my suggestions, Senator Landis, have not been accepted in very good grace because of what I consider to be an improper or a false premonition. I think that the situation is clear, you adopt my amendment and the people vote for it, they'll know what they have done. The Supreme Court will say they knew what they did. If you do not adopt my amendment, then the gate is wide open. The court may accept it, but, ladies and gentlemen, far more dangerous than the court and their ruling is what will happen in a future Legislature when Senator Chambers or some successor of his decides that agricultural land ought to be valued at more than actual value, at more than market value, and it will then be too late because there will not be any semblance of rural resistance that is significant enough to turn it around. There are not very many issues on this floor as important as this one. Senator Johnson is correct, there is no issue more important. I regret very much that Senator Warner is not on this floor. I would suggest that those of you who are quick to be critical of myself in this instance ought to read how Senator Warner has been voting on this issue for a long time. He's been here 27 years, he's watched a lot of issues come and go, but he is especially concerned about this kind of situation. But you cannot hold back the tide, you can't outrun the wind, and you can't outfly the thunderstorm. And, ladies and gentlemen, that may be the situation I'm in here today. It would be tempting to withdraw the amendment, because no one likes to suffer defeat. But I think it is important, Mr. President, that we vote on the amendment and I want a record vote.

PRESIDENT: Senator Landis, please. Pardon me, that was closing. The question is the adoption of the Schmit amendment. All those in favor...okay, return to Select File is actually the vote. Question is, shall the bill be returned to Select File? All those in favor vote aye, opposed nay. A record vote has been requested, so be governed accordingly. Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1719 of the Legislative Journal.) 13 ayes, 23 nays, Mr. President, on the motion to return the bill.

PRESIDENT: The motion fails. Do you have anything else on it, Mr. Clerk?

CLERK: Mr. President, Senator Rod Johnson would move to amend. Senator, I have AM1413. (R. Johnson amendment appears on page 1719 of the Journal.)

PRESIDENT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. President, members, this is an amendment that we discussed previously. It deals with the question of subclass uniformity. I'm sorely tempted today to just withdraw this amendment and go straight to a vote on LR 2CA, but I have been willing to compromise on this issue to a point where I've made statements to individuals that I would at least offer the amendment to the body and allow them to decide whether or not this language is necessary. It's been suggested to me quite honestly that this amendment is not necessary, that the language in the bill is maybe not as specific as some would like to have it, but nonetheless it does cover this concern. Personally, I'd like to go to a vote, but I'm going to lay it...put the amendment out for you to decide whether to bring the bill back for this specific amendment to address that problem. As I said previously, I'm sick to death of the issue, personally. I've tried to provide what I consider to be some alternatives to this body in 249, and now in LR 2. And, as I said before, I'm at a point where I know what this body wants to do. I don't know if it's a matter of pride between those who want their names on bills, or if it's simply a matter of ideology and disagreeing over whether we should use this formula or other formulas to determine ag land. But I'm doing the best I can to present you with an idea that I think is fair. And I think statements on this floor have been made in regards to the fairness of the issue and the fact that we are moving closer to uniformity. I do believe, however, that something does need to be done this year, I would disagree with Senator Schmit on that aspect, and that I'll offer this amendment to you. It does not have the language that Senator Schmit had asked relative to specifying subclasses in it. I think the language that says all property within a class of agricultural land and horticultural

covers that aspect of it, and I would ask the body to adopt the...or bring the bill back for purpose of adopting the amendment.

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

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, again, I'm mainly talking to the record, so if nobody chooses to listen, then I don't mind. That's the way you make them listen. I'm looking at Senator Johnson's language, and I also question whether it's necessary. When language is placed in a Constitution, the Supreme Court, any Supreme Court, unless it has a particular goal in mind, will give meaning to all of the language. So, if something such as Senator Johnson is offering by his amendment, and I understand why he's offering it, it will indicate that without this language then agricultural land and horticultural land, as a class, could be valued differently within that class for the purpose of taxation. But there is something in the bill as it exists, and especially with this new language, that should be troubling to those who are in favor of it. The new language in LR 2, without Senator Johnson's language, says the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation. Now, by mentioning the both of them, but using the singular when you talk about a class, would indicate that that class contains two different types of land, agricultural and horticultural, and they must be considered different or there wouldn't be two designations. So you're all right there. The two of them constitute one class. And, furthermore, the Legislature may provide for a different method of taxing agricultural land and horticultural land which results in values which are not uniform and proportionate with all other tangible property and franchises. The way that language is written it could allow for a different taxation between horticultural land and agricultural land. With Senator Johnson's amendment, if what I'm saying a court could say also, Senator Johnson's language would add, "but which results in values which are uniform and proportionate upon all property within the class of agricultural land and horticultural land." That then would make it clear that even if you view agricultural land as something different from horticultural land, and you put them both in the same class, since they are members of the class, this language would indicate that horticultural land and

agricultural land must be treated the same way as members of that class. But since those are the two that are mentioned, there could be other types within the class that are not mentioned. So, if this drafting of the amendment is to be taken as an itemization or listing of what is to be considered and covered by this amendment, then whatever is not mentioned specifically is not going to be covered. And that's the risk you take in a Constitution and a statute when you begin to itemize. If you make a general, all encompassing statement and leave it to the Legislature to fill it in, then at least in applying the Constitution, you don't run into the problem that I'm mentioning. But, if you itemize in the Constitution, whatever is not mentioned in that list is not covered. So, if the class that is being covered consists of agricultural property and horticultural property, then there could be an ambiguity created by the language being offered. Maybe so and maybe not. But I believe these issues ought to be raised here on the floor so that if somebody wants to address them...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...and try to make it clear what the Legislature at least intended when it presented the language to the people, it might help in a court interpretation. The court has indicated that when the public, by initiative, presents a constitutional amendment and it is adopted, you have to go exactly with what the words are that are contained in the language, in the amendment. If the Legislature offers it, you can go to the debate on the floor of the Legislature to try to find an interpretation or a basis for resolving what might appear to be an ambiguity. Maybe there is no problem here at all, but if there is, I at least want to point attention to the possibility of it.

PRESIDENT: Thank you. Senator Wehrbein, please.

SENATOR WEHRBEIN: Mr. President, members, just to briefly say I support the amendment. It clarifies, I think, what we're trying to do. I'm not a constitutional lawyer, whether it's necessary or not I wouldn't say. But, if it is helpful, I would support it. I understand what Senator Chambers is saying. My interpretation would be that it is agriculture and horticultural land. I simply want to clarify a little bit, I think, this notice that was in the Farm Bureau paper that Senator Schmit sent out, the last few paragraphs, as I read that, it's

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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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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

the term "oxymoron", where you put two things together that don't make sense, like student athlete, or reasonable Legislature, if you will. You cannot place the welfare of a group that may be at a disadvantage in the hands of people whom you have to hope will do the right thing. We must look at what language in the Constitution allows and not say it allows this, but we hope this will not be done. A Constitution proscribes...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...the powers of government at the state level, and it protects the rights of those whose rights may tend to be trampled upon. This Legislature can do anything the Constitution does not prohibit it from doing, which is the opposite with the federal government. Theoretically, it can do only that which the Constitution allows. But this particular piece of legislation, rather than being a restriction on the Legislature, removes a restriction that had been placed there, and we can destroy agriculture, if we choose, and we can describe or define certain types of activities as being nonagricultural even, if the way people popularly think of agriculture, it would be considered agricultural. And to put that kind of language in the Constitution may be the time bomb which, when it explodes, will have people saying, like they said about 773, they said they didn't know that was a tax increase, they'll...

PRESIDENT: Time.

SENATOR CHAMBERS: ...say I had no idea that this could be used to hurt agriculture.

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

SENATOR SCHMIT: Mr. President and members, when you heard it from me, there are those who shout Schmit is against the farmer, hypocrisy. You just heard it from Senator Chambers. He made my pitch. Senator Rod Johnson, being a reasonable person and an honorable one and a decent person, assumes that he's going to have 48 such colleagues. I've been here long enough, Senator Johnson, to know that is not always true. And as I look in the future, it's not always going to be true. You know what we're trying to do, very frankly, with this amendment is to give agriculture the edge. Now that reminds me of a friend of mine,



a native of Omaha, he's in business in Las Vegas, Jackie Gaughan. He said, if you asked me to flip a coin for a dollar, I won't do it. But, he said, ask me to flip the coin where I get a dollar and a penny and you get 99 cents, I'll say flip the coin, because I've got the edge. We're asking for the edge in agriculture. But Senator Chambers has pointed out to you we're delivering the edge, we may well be delivering the edge to Senator Hall and his urban colleagues, who benevolent though they may be as the Revenue Committee, may see it differently than some of us. I just want to say this, it's so easy on this floor to see it as we want it to be, as we believe it to be, as we have every reason to think it ought to be, but it is very, very difficult for it to work out that way sometimes. I am going to vote for Senator Johnson's amendment, am going to do so because I think maybe, Senator Johnson, it does more than what we think it does. And I think maybe even Senator Chambers, who can read the Constitution better than I can and the statutes better than I can, and who pointed out the agricultural land situation, the horticultural situation, it may just do more than what we intend because it goes back to values, and hopefully the court will say all of this other gobbledegook, between lines 19 and 25, may not mean what you say they mean because the Legislature, in their last final act, adopted some of the language. At least they will give preference, it doesn't stop a future Legislature from getting into mischief. And I can see Hall's mind working already, see, he can see what Senator Chambers pointed out. The only other question I'm going to ask is this, I stood on this floor a few weeks ago and I listened to someone say I did not vote for a tax increase in 773. I did not vote for a tax increase in 773. We wanted to maintain the status quo. Scotty Moore sat there and read the transcript from 773. Some of the questions I asked Vard Johnson, he sat right where Senator Pirsch is, I said, Senator Johnson, does it provide a tax increase? After a certain amount of vacillating he said, yes, 7 to 9 million. I said, do you think it might be three to five times, five to seven times that? Oh, no, you're clouding the issue. Senator McFarland said it's going to be a tax increase, plain and simple, and not where you think it's going to be either, as I recall in paraphrasing his comments. The day will come, ladies and gentlemen, when you're going to read some of these comments and you'll say, sure, the Legislature knew it could go up. But agricultural land, under this definition, does not need to be uniform and proportionate, and...

PRESIDENT: One minute.

SENATOR SCHMIT: ...it may in fact, it may in fact need to be taxed at 150, 200 percent; if you own 1,000 acres, 300 percent; if you own 10,000 acres, 500 percent. All of a sudden, ladies and gentlemen, you confiscate property. I'm going to support the amendment. I believe it makes it a better bill, Senator Johnson, than it was before and I commend you for it. Thank you.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have to ask a question on something that has been bothering me ever since I've read this bill. It's like you're reading a sentence and you're getting the sense of it, then a word pops up that can throw it onto a different track. So I have to ask Senator Johnson a question.

PRESIDENT: Senator Johnson, would you respond, please? Rod Johnson.

SENATOR R. JOHNSON: Yes.

SENATOR CHAMBERS: And, Senator Johnson, maybe this has been thoroughly explained and I've just missed it. But we say, and I'm on page 2, and I'm starting on line 22 where we're talking about for purpose of taxation, the Legislature added those two words, may provide for a different method of taxing which results in values which are not uniform. How can the method of taxing determine the value? Should the value be determined somehow and then the taxing be done? How can the method of taxing determine the value of the land?

SENATOR R. JOHNSON: Senator, as I understand the language as it relates to that, it would allow this Legislature, not our county assessors or not the court, to basically come up with a method that determines the value, such as we have now with the earning stream capacity that we use now to create the values that we have for tax purposes.

SENATOR CHAMBERS: Why don't they say provide for a different method of valuing agricultural land and horticultural land, which results in taxes which are not uniform and proportionate?

SENATOR R. JOHNSON: Senator, I can't answer that at this particular point. I'll have to ask...

SENATOR CHAMBERS: Okay, is there....Okay, and I'm not trying to...

SENATOR R. JOHNSON: Yeah, I understand.

SENATOR CHAMBERS: This is not a trap. Is there somebody who favors the bill or who opposes it who could answer that question for me, because it's obvious I'm not an expert on matters of finances and taxation. I'm just dealing with my ability that I think I have to understand words. And the way the words are put together, something is out of whack here. Then I'm going to say something. I'm not...I didn't vote for Senator Johnson's amendment. I don't think I voted against it, because the body should be allowed to do what it has a mind to do. I'm not going to vote for this bill under any circumstances because there are things in it, forgetting the subject matter, that I don't think constitutes good constitutional language. And I'm going to read this out loud again, and maybe if I read it, then it will come clear to my mind what is being said. For purposes of taxation the Legislature may provide for a different method of taxing agricultural land and horticultural land which results in values which are not uniform and proportionate. That would be like saying that if you have a value that doesn't have to be proportionate, then you can use a different standard for determining the value. But once you've determined the value, then the way you tax it has to be the way you tax all other land. But this is saying that the method of taxation is going to determine the value. So, if I tax the land at 150 percent, I'm taxing it at 150 percent of what? There is no value established. The method of taxing is going to determine the value. So it seems like a horse is being put behind the cart, to use an example that maybe my agricultural friends will understand and be able to help straighten me out on. If the value is determined by these other methods,...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...then what you ought to say is that that valuation doesn't have to be uniform with the way other property is valued. But if, in the first instance, you're going to determine the value by the method of taxation, and that is what it says, the method of taxation results in values that are not

proportionate to others, then taxation becomes the cause, the value becomes the effect, and to me that doesn't make sense.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I hope that you will read what Senator Chambers just said. He put his finger on it, the word method. The method may be how many whooping cranes fly over the land, and how many of them land on the land. The method may be, as I said earlier, the distance from a city, the distance from the State Capitol, the distance from a four lane highway, all of those things may be utilized. I'm not going to talk about the bill anymore. I just want to say this, that if the body wishes, all of you know that amending a legislative resolution does not mean that it cannot be read on final today. Talked to the Clerk, it just has to go up for engrossing. And those of you who want to get it done today, you suspend the rules, I believe, get 30 votes, Mr. Clerk, and you can read the bill. So after it is readvanced, and I assume it will be, then if you want to do that, you just suspend the rules and you can read it on final today and we can rush into print with our victory.

PRESIDENT: Senator Conway, please.

SENATOR CONWAY: Mr. President, members, I rise to suggest that I will support LR 2, but would like to go on the record as firmly believing that this is an opportunity for some of the farm organizations to shoot themselves in the foot. I think Senator Schmit and Senator Chambers have both drafted some serious concerns that ought to be considered. As we look at the various methods by which we value property we use the income approach, the market approach, or some form of replacement cost. We've been using the market approach, three years ago I guess it's been now we were able to convert the income approach. The agricultural community was somewhat excited about this approach, and as you all know how the question had been framed, the Supreme Court has ruled that out of line, and so, therefore, this whole thing has come about simply out of the agricultural communities' obsession with returning to or having an income approach in the assumption that the income approach, by virtue of the way that it's calculated and by virtue of the way that agricultural land is viewed, is probably going to let them off the hook a little bit cheaper than they would be under a pure market approach, because we also know in agricultural land that

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some of the value that is affixed to or assigned to the value of agricultural land is not necessarily of a good business sense as we would calculate a warehouse. We have property that has value by virtue of it being close to other property we already have. We have property that has an enhanced value by virtue of the fact that your father owned it, or it's a neighbor that had the land and you always wanted it, so, therefore, that market approach often reflects a value greater than what the real value of that property is by virtue of its ability to produce crops, at whatever that current market price is. So by having the income approach purely they know that that is going to produce a value that is somewhat less than what the market approach is going to be, because these kinds of forced inflation factors that go into the value of land basically is what got a lot of farmers into trouble in the late seventies and early eighties, because they were paying more for the land than what its income producing capability was, because they had these various emotional attachments. So this will, in effect, reduce that. But I think the obsession with doing it is creating a situation where we're making changes or putting in front of the people changes in the Constitution that ultimately is going to go back to my original statement is that they are going to shoot themselves in the foot. They want it, they're obsessed with it, I'm going to vote for it, but I did want to go on record so that I can go back and be a great big I told you so. Thank you.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. President, members, I am going to continue to vote not to advance LR 2CA. And I won't try to persuade anybody to vote different than how they've been voting in the past. But I think we've spent approximately two and a half hours this morning on this issue, and I think it's time well-spent. But it's time that we will continue to spend year after year, session after session, bill after bill until we address the issue of the overreliance on property taxes. It makes no difference if we value ag land at 150 percent of income, of market, of whatever, if you didn't rely on property taxes for such a great proportion of the cost of education, as we do presently. And I think the other bills that we've dealt with earlier this session, specifically LB 611 and LB 84, move us into the area of correcting that problem, at least alleviating some of the overreliance on property taxes. My opposition to

LR 2CA is solely on the basis that it takes us out of addressing that issue up front. And I think we are working on that, and I appreciate the support from members of the body on that effort. Senator Johnson, I think, is one of those. I appreciate his efforts here in LR 2CA. But until we address that overreliance on property taxes, this is going to continue to be a nagging problem, not only for agricultural interests, although they probably feel it more than most, it is as severe a problem for homeowners and those who own commercial and industrial property as well. So I hope that we will address, in the not too distant future, as we've started this year with some of the bills I mentioned, the issue of our overreliance on property taxes which is basically the root of this problem as well. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Just so that we're clear on this, and Senator Wehrbein is very close to the livestock industry, I want to ask Senator Wehrbein a question. Senator Wehrbein, do you believe that under this amendment, when it becomes a part of the Constitution, this Legislature could pass a bill which would say that you can tax a piece of farmland based upon the gross sales off that farmland?

SENATOR WEHRBEIN: I would assume, Senator Schmit, that that could be the case, if we open up the...because constitutional is allowing...Constitution...we can do what the Constitution allows us, and the way it is interpreted we are going to be setting the parameters again that ag land will be valued on. So that could be a possibility, yes.

SENATOR SCHMIT: So that, if I happen to own a feedlot on a quarter section of land, and it will handle 50,000 cattle, and I feed calves off of it, and I turn them once a year and they then have a value at 40 percent of the value of yearling cattle that are turned two and a half times a year, could I be taxed at 40 percent of the value of the feedlot that turns the yearlings two and a half times a year?

SENATOR WEHRBEIN: I suppose that analogy could be drawn. The only thing is I don't know that that would meet a sense of fairness, and to attempt to value land that way really doesn't make sense. So I think that that wouldn't meet that test, even in the Supreme Court.

SENATOR SCHMIT: Senator, Senator, Senator, my goodness sakes, you've been here long enough to know that, as Senator Rumery said many times ago, reason and common sense has very little basis often on the floor of the Legislature. And you have just answered the question affirmatively, whether it makes sense or not is in the eyes of the beholder. If, in fact, that I sell \$5 million worth of cattle off of a piece of land, or \$10 million worth of cattle off a piece of land, could very well be construed in the eyes of some individuals as making sense. The same thing is true, as I have said earlier, relative to the various types of crops, what it's used for, the \$2,500 claimer versus a \$50,000 horse, all of those things are factors which can be used. We have completely changed the method. There may be a saving grace in Senator Rod Johnson's amendment because he goes back to the value. But I am scared to death, Senator, of the land that says as...the language that says as defined by the Legislature, and then, secondly, may provide for a different method. We are doing something there which we may live to regret as Senator Conway has pointed out, and if we don't need any other indication, I think that your answer has just proven my point. And, if your livestock feeders have reason to be concerned now, they will have more reason, I'm afraid, to be concerned in future years.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, and especially Senator Johnson, I'm not trying to badger the bill. But I want some things in the record, and we've been discussing it over here under the balcony, and here's...I'm going to try to say it as clearly as I can what I'm seeing. By saying that the method of taxation results in the value which is not proportionate, the best way to try to get out there what I'm talking about is with an example. The value doesn't have to be proportionate to that of other land. So we take residential property and value it at 80 percent of its whatever, however we're going to determine it, market value or whatever, and agricultural land at 40 percent. Then we levy a tax on the residential property of 10 percent and levy a tax on the agricultural land of 150 percent. There are two...there are two concepts that have been put together here. Can the valuation, the value be disproportionate to other property and the amount or the rate of the tax levied? It ought to be clear what is being done. It doesn't matter, in one sense, if you say that

you're going to take 20 percent of the value of the agricultural land, however you arrive at it, for the purposes of taxation, then tax it at 300 percent of that value. Is that what you're allowing here? And if you are not, what in the language prevents it? That is why I was asking, just what is the intent of this language? And I think by the time it gets to Final Reading again, somebody should get into the record clearly what is intended and then the language should reflect what that intent is. The way I read the bill now, the taxing method determines the value, and I don't see how that can be done. That doesn't register in my mind. I am going to ask Senator Korshoj a question maybe he can answer, because I think I hear him saying that he does understand it. Senator Korshoj, ...oh, Senator Morrissey, can I ask you a question?

SENATOR MORRISSEY: Go right ahead.

SENATOR CHAMBERS: Because we are just trying to get things into the record, clarify for me what the bill does, if you will, and that will allow you to discuss it in whatever way you have to to make the point?

SENATOR MORRISSEY: I would like to clarify what I said and I think what I said was that Ernie has got a point.

SENATOR CHAMBERS: Oh, okay, thank you. Really what I thought he had indicated was that he was going to explain what is there. So with having scratched that up and not having expected it, I think I will just ask Baron Hefner a question, if I may. Would you yield to a question?

SPEAKER BARRETT: Senator Hefner, would you respond please.

SENATOR HEFNER: Senator Speeder Chambers, yes, I will.

SENATOR CHAMBERS: All right. Senator Hefner, the way the bill...the language is drafted now, what do you understand it to mean with the reference to the things I have tried to get on...and I will try to make it clear where I have a problem. The way the language is drafted it says the method of taxation results in the values that are not the same as those for other property, you know, it is not proportionate. How does the taxing result in a value that is not proportionate? And if we are talking about the rate of the tax, how...



SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...does that tie into all of this?

SENATOR HEFNER: Senator Chambers, as I read the last amendment that we adopted, I presume we are talking about that, aren't we?

SENATOR CHAMBERS: I am talking about the original language in LR 2.

SENATOR HEFNER: Okay, "but which results in values which are uniform and proportionate upon all property within the class of agricultural land and horticultural land", so we are just picking those two descriptions of land.

SENATOR CHAMBERS: But how does the method of taxing determine that? It seems to me the value would have to be determined, then you lay the tax.

SENATOR HEFNER: Are you saying whether we use actual value or market value or earning capacity value?

SENATOR CHAMBERS: However we use it. It seems to me that the language should be drafted to say that the valuation...the value does not have to be proportionate to that of other property, and then you levy the tax in a uniform manner. Once you have determined...

SPEAKER BARRETT: Time has expired. Senator Wehrbein.

SENATOR WEHRBEIN: Senator Chambers, I will jump into this and I don't know, I'm probably foolish to do that, but it looks like to me, I see it taxing agricultural land in its broadest term. It may well be that it should be value. I wouldn't dispute that. I think we are looking at the value of agricultural land, but on the other hand, using the verb in its broadest sense as taxing agricultural land does not seem to be, to me, to be incorrect. That is really what we after, a way of taxing agricultural land. That makes up in its broadest sense, in my opinion, the term the value and the levy rate, however it might be. That is the way I interpret that in its broadest terms. It may well be that it should be value because, obviously, value is a part of the taxing of agricultural land, but I haven't been involved in the wording of this up until the last five years. Why the word "tax" is in there instead of "value", I can't

explain. It is kind of a late notice, but on the other hand, we are after taxing agricultural land in its broadest terms. I think it could be correctly interpreted that way and it should stand. Now if we are going to get into the constitutional issue of interpreting the meaning of the Constitution, I am not qualified to do that. I am not a Constitution lawyer. I don't even have the definition of the word "tax" in front of me at this time but it doesn't seem to me that what we are intending to do here is that far out away from what the words actually say. Now I would accept a question back, probably dangerously so.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Just call the question, Mr. Speaker.

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

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Rod Johnson, please, to close.

SENATOR R. JOHNSON: Thank you, Mr. President and members. Quickly, I have four points to make. Senator Hall, I wholeheartedly agree with you that the reliance upon the property tax has been excessive and that it is necessary for this body to continue to move forward to provide some meaningful property tax relief, and I think we have several vehicles in which we can discuss that aspect. Senator Chambers, I apologize for the construction of the amendment, that it may be necessary to reexamine the construction of that sentence. We have some time between now and when this bill will be back on the agenda to examine that and, hopefully, we can clarify that situation for you and for the body. To Senator Schmit I would just say that I am not planning on asking the Speaker to bring the bill up again today. I think that there is several questions that need to be answered and I would like to take some time to examine that closer. Finally, to Senator Conway and others who indicated to us that I told you so, I am waiting for your responses as to how to deal with this problem because I fully admit that I don't know if I have the absolute answer. If you do, I am sure more than happy to listen to that because I don't

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want to create a situation where we have to come back in and discuss this a third and fourth and fifth time. I am exhausted with the issue. I am trying to do what I think is right, trying to work with the farm groups as best I can to give them what they think is best for agriculture, and if that is wrong, then I will be corrected by this body I am sure many times in the future. So I'd ask the bill be readvanced, Mr. President.

SPEAKER BARRETT: Thank you, sir. We have had a request for a machine vote. The question is the advancement of LR 2 to E & R Engrossing. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 36 ayes, 2 nays, Mr. President, on the motion to readvance LR 2.

SPEAKER BARRETT: LR 2 is readvanced. For the record, Mr. Clerk.

CLERK: Mr. President, bills read on Final Reading this morning have been presented to the Governor. (Re: LB 395, LB 47, LB 66, LB 372, LB 401, LB 506.)

Senator Schmit has amendments to be printed to LB 683 and LB 397. (See pages 1720-21 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Two reminders, the blood pressure checks and the cholesterol checks are still proceeding in Room 2102 and will be held up until one o'clock today. So those of you that would like to take advantage of it, please do so between now and one o'clock. Also be reminded that we will start with 761 at one-thirty following our recess. Senator Wehrbein, would you care to recess us, please?

SENATOR WEHRBEIN: Yes, Mr. Speaker, I'd move that we adjourn...or adjourn recess until one-thirty.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Those in favor say aye. Opposed no. Carried. We are recessed. (Gavel.)

RECESS

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this go on about the possibility down the road of some kind of discussion down the line of the two entities, namely, the local monitoring committee and DEC, under its rules and regs, getting into a dispute over was the money properly expended, and maybe we need a better agreement right up front on how that process is going to work. We are about out of time and we may want to come back to that. That is the question I want to raise and I think we have got, at least, some intent here into the record, and I would not want to see this unnecessarily tie the hands of a local monitoring committee that might have legitimate reasons to wish for more data or a different analysis of data. Thank you.

SPEAKER BARRETT: Time has expired. Any other discussion? Any closing, Senator Schmit?

SENATOR SCHMIT: I have no closing, Mr. President.

SPEAKER BARRETT: Thank you, sir. The question is the adoption of the Schmit amendment, AM1403. Those in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Schmit's amendment.

SPEAKER BARRETT: The amendment is adopted. Mr. Clerk, for the record.

CLERK: Mr. President, I have a reference report referring certain gubernatorial appointees to the appropriate Standing Committee for confirmation hearing. I have a series of appointment letters from the Governor. Those will be referred to the Reference Committee, Mr. President.

Enrollment and Review reports LB 182 to Select File, LB 325 Select File, LB 247A, LB 651A, LB 603, LB 603A, all to Select File. Enrollment and Review reports LR 2 as correctly engrossed, Mr. President. A series of amendments to be printed, Senator Coordsen to LB 89; Senator Lynch to LB 89, Senator Lynch to LB 89A; Senator Lamb to LB 84 and LB 84A. (See pages 1726-33 of the Legislative Journal.)

Mr. President, the next amendment I have is by Senator Schmit. Senator, I have AM1417 in front of me. (See page 1733 of the Legislative Journal.)

Mr. Clerk, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of LR 83.

PRESIDENT: The resolution is adopted. Move on to Final Reading of LR 2CA. Mr. Clerk, you have something on the bill (sic)?

CLERK: Mr. President, Senator Wesely would move to bracket LR 2 until January 3, 1990.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you. Mr. President, members, this will just take a couple of minutes I think. I just want to rise once again and raise an issue with the vote on the constitutional amendment, LR 2, this morning. We went through the debate last time and Senator Schmit had raised some issues, and Senator Johnson amended the bill, but it has been such a short period of time since then, I have just simply been unable to pursue a handout that I distributed at that time talking about agricultural property tax treatment. Now the bottom line of the studies and the research that I have seen indicate that ag land values ought to be recognized as being over...overvalued, that we need to provide assistance to our farmers and our agricultural producers, and that some method needs to be developed to do that. My concern is that in looking at that and trying to find, you know, exactly what the best solution would be to the problem, that I did discover several states that have maintained the uniformity clause, which we are trying to strike, in essence, in this amendment, that would maintain uniformity and yet still provide the tax relief on a need basis and a targeted basis that our ag producers and farmers need in this state, and do it across the board. The circuit breaker concept which is used in Michigan and also utilized in Wisconsin I think is a fairer system, one that I think recognizes the potential of renters and providing them with tax relief, in targeting the actual need for tax relief, in trying to do it in uniform fashion. For a number of reasons, there is, I think, a better way to approach this problem than LR 2, satisfying the needs of our agricultural producers and yet still doing it in a fair fashion, one that is, I think, much, much better for many different reasons than what we are proposing in LR 2, and I only raise that simply because I recognize after the studies have come out that LR 2 is a legitimate position in trying to find a

solution to the problem. And as I was looking at it, thought, well, the question I have had on it is it will provide tax relief in some cases to ag producers that really have the financial means and ability to pay for those taxes, and that it really doesn't necessarily provide the best targeting of tax relief, that it really is just an open carte blanche reduction in valuations and not based on the uniformity question, which again has been a problem for urban citizens. Why make the distinction between rural values and urban values? Why not have uniformity? And it is because of those questions that I looked into this further and found, well, we need to help this problem, but at the same time, how do we answer those concerns about uniformity, how do we answer those concerns about meeting a need's test? And, frankly, I think that this is the better course to follow, but at the same time, I understand the dynamics and the political situation we are in. We have got two bills tied together here that people want to vote on today. I know there is little or no support to pursue the idea of waiting and studying further the other alternatives that we have, and so I don't plan to pursue this motion to bracket, but I wanted for the record to state that I think LR 2 addresses an important issue. I simply feel at this time there may be a better solution that we haven't had the time to look at, and there is no reason to act today on LR 2 when it won't be on the ballot until the fall of 1990, next year. We could wait and look at the issue and come back next session. But I understand the supporters of this have waited a long time, they are concerned and want to see action taken. I am simply raising the potential of a better solution out there we have yet to address. And so with that, I would withdraw this motion to bracket, Mr. President.

PRESIDENT: Thank you. Senator Rod Johnson, the motion was withdrawn. Okay. Would you please return to your seats, ladies and gentlemen, and we will begin reading the bill. (Gavel.) Will you please return to your seats so we may read the bill? Mr. Clerk.

CLERK: (Read LR 2CA on Final Reading.)

PRESIDENT: All provisions relative to procedure having been complied with, the question is, shall LR 2 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

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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

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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 way 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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SENATOR NELSON: I move we recess until one-thirty.

SPEAKER BARRETT: You've heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Carried, we are recessed.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: Roll call, please.

CLERK: Mr. President, I have a quorum present. Mr. President, one item for the record, a communication from the Secretary of State regarding the passage of LR 2 this morning. (See pages 1870-71 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Going back to LB 330, would you remind us where we were when we recessed, Mr. Clerk. Okay, before we do that, however, Speaker Barrett would like to have a word with you. (Gavel.)

SPEAKER BARRETT: Thank you, Mr. President. At this point, simply an announcement, we have a very special guest with us in the front of the Chamber, a friend of several of us, visiting Nebraska not for the first time, but Mr. Carl Tubbesing, who is the Director of the Washington Office of the National Conference of State Legislatures is with us. Carl, take a wave, thank you. Thank you, Mr. President.

PRESIDENT: Glad to have you with us, Carl. Thank you. Mr. Clerk, where were we?

CLERK: Mr. President, LB 330, there was pending a motion by Senator Scofield. Senator, do you want to take up your motion or defer for a moment?

SENATOR SCOFIELD: I will defer for a moment. I think we have worked out some language that is acceptable to interested parties over lunch and it is coming down from the bill drafters, so why don't we just pass over this for awhile.