

January 18, 1990

LB 37, 50, 159, 259A, 409, 422, 465  
503, 503A, 543, 662, 742, 953, 1220-1242  
LR 8, 244, 245

not, the question is the advancement of the A bill. All those in favor vote aye...say aye. Opposed nay. It is advanced. Mr. Clerk, do you have anything for the good of the cause?

CLERK: Mr. President, I do. Mr. President, your Committee on Retirement Systems, whose Chairperson is Senator Haberman, to whom was referred LB 953, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File. That is signed by Senator Haberman. (See page 397 of the Journal.)

Mr. President, I have a series of hearing notices from Judiciary Committee, Appropriations Committee, Health and Human Services and Revenue, all signed by the respective chairs.

Mr. President, Senator Kristensen has amendments to LB 159 to be printed. Enrollment and Review respectfully reports they have carefully examined and reviewed LB 37 and recommend that same be placed on Select File; LB 742, LB 662, LR 8CA, LB 50, LB 543, LB 422, LB 409, LB 503, LB 503A, and LB 465 all to Select File, some of which have Enrollment and Review amendments attached. (See pages 398-408 of the Legislative Journal.)

Mr. President, new bills. First of all, Mr. President, two constitutional amendments, LR 244, offered by Senator Schmit. And LR 245 offered by Senator Hefner. (Read brief summary of resolutions. See pages 408-11 of the Journal.)

Mr. President, new bills. (Read LBs 1220-1242 by title for the first time. See pages 411-17 of the Legislative Journal.)

Mr. President, reminder, Reference Committee will meet at three-thirty today in Room 2102, Reference Committee at three-thirty in 2102. A final reminder, Mr. President. Chairmen's meeting tomorrow morning at nine...I'm sorry, at eight-fifteen in Room 2102, Chairmen's meeting, eight-fifteen, in 2102. That's called by the Speaker. That is all that I have, Mr. President.

PRESIDENT: I understand that we have 434 new bills introduced this year. This is the last day, of course. So you might be interested in that. Senator Baack, you're close to your microphone, would you like to adjourn us until nine o'clock tomorrow morning, please.

January 19, 1990

LB 272A, 1117, 1135, 1172-1242  
LR 242-245

PRESIDENT NICHOL PRESIDING

PRESIDENT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We are happy to have with us this morning as our Chaplain of the day, Mr. Gerry Harris, who is the Executive Secretary of the Gideons, and lives in Lincoln. Would you please rise for the invocation.

MR. GERRY HARRIS: (Prayer offered.)

PRESIDENT: Thank you, Mr. Harris. We appreciate your coming and giving us the benediction, not the benediction, the invocation this morning. Roll call, please.

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

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

CLERK: Mr. President, I have a Reference Report referring LBs 1172-1242, and LRs 242-245, signed by Senator Labedz, as Chair of the Reference Committee. Senator Coordsen gives notice of hearing for the Business and Labor Committee for February 5 and January 29. (Re: LB 1135, LB 1117.)

I have a report of registered lobbyists for the week of January 18, and, Mr. President, an Attorney General's Opinion addressed to Senator Landis regarding LB 272A. (See pages 421-24 of the Legislative Journal.) That is all that I have, Mr. President,

PRESIDENT: We will move on, Senator Lamb, are you in position to handle that confirmation report. Okay.

SENATOR LAMB: Mr. President, and members, I would offer to the body the confirmation report for Mr. Myers.

CLERK: Senator, yeah, Lawrence Myers, the Nebraska Power Review Board.

SENATOR LAMB: Yes, Mr. Myers appeared before the Natural Resources Committee about two days ago and he is a reappointment. He was appointed, I believe, late last year and there was no opposition to his reappointment, and the committee voted unanimously to recommend that Mr. Myers be appointed to

made some excellent points relative to the grand jury and the judicial system and the process. He sees it from one perspective, I see it from another. He sees it as a conveyance of a message that perhaps the Legislature does not approve and, in fact, I think the message is even more plain than that that we do not approve of certain types of vacillation and equivocation. On the other hand, I look at it as a positive situation where I like to say, yes, Judge Hastings has exercised good judgment, he is a man of conviction and principle and good temperament, as are, I think, most of the rest of them. I would like to see additions to that judiciary that are even better than what we have today and I think that would go for all of the sitting judges. I don't think it's going to make much difference whether it's 10 percent or 13, or 20 percent, but eventually it's the expression of a job well done that there is some recognition by this body that they do perform well. As I said, there is no punishment factor that can be exercised by the judiciary. There isn't much that can be done that way. There isn't anything that can be...they can't withhold their political support, they can't crank up political support, so they don't have that kind of a club. All you do, ladies and gentlemen, is to do what you think is right. I know that's what you're going to do and I respect that and I accept it. I do not, as Senator Chambers suggests, jump for joy. I do accept what is the inevitable and I would suggest, Senator Chambers, and I suggested it to you the other day, if you let me know when you're not going to be here, there might be another day and I might make an end run, but now I have to worry about the Lieutenant Governor also. But, anyway, vote your convictions and we'll get on with the show. Thank you.

SENATOR LABEDZ: Thank you, Senator Schmit. We are now voting on the advancement of LB 42 to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk.

CLERK: 35 ayes, 4 nays, Madam President, on the motion to advance LB 42.

SENATOR LABEDZ: LB 42 is advanced. We now move to Select File. Mr. Clerk, LB 163. Items for the record, Mr. Clerk.

CLERK: Madam President, thank you. Urban Affairs Committee reports LR 11CA to General File; LB 1229, General File with amendments; LB 912, indefinitely postponed. Those are signed by

February 16, 1990      LB 163, 164A, 226, 260, 457, 571, 838  
846, 866, 880, 958, 1003, 1019, 1028  
1039, 1062, 1103, 1106, 1113, 1184, 1205  
1215, 1229

Senator Hartnett.      (See pages 846-48 of the Legislative Journal.)

Judiciary reports LB 838 to General File; LB 880, General File; LB 846, indefinitely postponed; LB 1103 and LB 1205, indefinitely postponed.

I have amendments to be printed to LB 866 by Senators Lamb, Haberman, Rogers and Crosby. (See pages 848-50 of the Legislative Journal.)

Mr. President, priority bill designations. Senator Labeledz has selected LB 457. Senator Hartnett for Urban Affairs has selected LB 1106, LB 1229; Senator Conway, LB 260; Senator Bernard-Stevens, LB 1062; Senator Beck, LB 958; Senator Rod Johnson, LB 1019; Senator Haberman, LB 1039, as one of the Retirement Systems priority bills. Senator Hall's Revenue bills are LB 1028 and LB 1215; Senator McFarland, LB 226; Senator Hefner, LB 571; and Senator Chizek's personal priority, LB 880, and Judiciary Committee's, LB 1003 and LB 1113.

Mr. President, Revenue Committee gives notice of hearing. And one new A bill, LB 164A by Senator Ashford. (Read by title for the first time as found on page 850 of the Legislative Journal.)

And, finally, Senator Scofield has amendments to LB 1184 to be printed. (See page 851 of the Legislative Journal.) That's all that I have, Madam President.

Madam President, when we left LB 163, the Enrollment and Review amendments had been adopted. Senator Johnson had an amendment to the bill that had been adopted. Senator Morrissey had amendments. Senator Hefner had his first amendment adopted. The bill was bracketed, Madam President. I now have pending Senator Hefner's amendment. Senator, this amendment is on page 599 of the Journal. I believe...it's AM2141, Senator, the biodegradable. Right. Okay.

SENATOR LABEDZ: Senator Hefner, on the amendment.

SENATOR HEFNER: Mr. President and members of the body, you will find this amendment on page 599. And what this would do, this would add a tax or a fee on disposable diapers...on nondegradable disposable diapers at the rate of 10 cents per dozen. The tax would be collected by the Department of Revenue

March 16, 1990

LB 958, 1229  
LR 11

Again, I think Senator Beck has outlined the bill in sufficient detail, and with that I would simply urge the advancement of LB 958. Thank you.

SPEAKER BARRETT: Thank you. The question is, shall LB 958 be advanced to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 958.

SPEAKER BARRETT: LB 958 is advanced. Proceeding to LR 11CA.

CLERK: Mr. President, LR 11CA was introduced by Senators Scofield, Smith, Schellpeper, Peterson. (Read title.) The resolution was originally introduced on January 18 of last year. Mr. President, at that time, it was referred to the Urban Affairs Committee for hearing. The resolution was advanced to General File. I have no amendments at this time, Mr. President.

SPEAKER BARRETT: Senator Scofield, would you care to open.

SENATOR SCOFIELD: Thank you, Mr. Speaker. LR 11CA is essentially an outgrowth of an issue that has been before us before. You will recall that we dealt previously with LR 21CA, which was the debate on that started in 1987, and toward the end of that whole process, in 1938, we ran into some problems with an amendment and, subsequently, did not get anything passed to address this issue. Very simply what LR 11CA does is this is a constitutional amendment which, if it is adopted by the voters in November, would permit cities to appropriate money from local sources of revenue, at this point, sales tax, property tax, city lottery, city proprietary operations, and so on. If you look at the accompanying language in LB 1229, it tells you how this is going to be carried out. We sat on this bill last year in the Urban Affairs Committee with Senator Hartnett's cooperation and hard work, his staff has put together enabling legislation, which you can also refer to see how this is going to work. You can expect amendments I believe to come and further clarify what local sources of revenue are and I will leave that for Senator Hartnett to comment on when he gets to the bill. But the purpose of allowing this is to allow communities to fund economic or industrial development projects or proposals if they are approved by a vote of the residents of the city. It requires a simple majority of those voting at a special or

March 16, 1990

LB 1229

LR 11

it back when we did LR 21CA as well, but that is why we need LR 11. It is the best tool I think right now that we can give our small cities and our small villages to pursue other avenues of economic growth, and we all know that in this state that is crucial, that is perhaps the number one priority of most communities out there is to figure out how to pursue some kind of economic growth. So with that introduction, I would ask you to advance LR 11 today and leave the floor for other comment. Thank you.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Thank you. May I introduce the doctor of the day, which I guess we haven't done so far today. He is from Senator Rod Johnson's District. It is Dr. Clarence Davis of Osceola, Nebraska. Would you please stand, Doctor, under the north balcony. Dr. Davis, we again appreciate your services for the day. I know you have been here before and we appreciate it. Mr. Clerk, I understand you have something.

CLERK: Mr. President, Senator Hall would move to amend the resolution. (See AM3045 on page 1403 of the Legislative Journal.)

PRESIDENT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, and members. The amendment is very simple. It is very easy to understand. All it does is this, it strikes cities of the metropolitan class from having the ability through LR 11CA to basically levy taxes for the purpose of economic development. It is all it does. I have traditionally been an opponent of proposals such as LR 11CA, and continue to be so. I was the only member of the Urban Affairs Committee who did not vote to advance the bill out of committee or the accompanying bill, LB 1229. The purpose on my part for striking, basically, the City of Omaha from the bill is that the City of Omaha does not need this. If you look at the committee amendments to LB 1229, the committee amendments reduce the amount of money that can be raised in this area to \$1 million for any city other than Lincoln and Omaha, and it allows Lincoln and Omaha to raise \$3 million in this area through the purposes of a taxing authority, whether it be property or sales tax. And the reason I say that the City of Omaha does not need it is because the City of Omaha about ten years ago now, it was 1980, when the Omaha Development

March 16, 1990

LB 1229

LR 11

building, but that building is also being financed through tax increment financing by the city, and if Warren Oil is going to go away at their location at 13th and Leavenworth, they are going to be torn down. Leavenworth Street is going to then become a through street to 8th Street, which is the gates of the ConAgra project. Now I don't have any problem with that. I think that is probably a fine thing for the city to do, but they are currently using taxpayers' money through street bond proposals that have been endorsed by the voters and they are using that to do exactly what I think Senator Scofield rightly says needs to be done in some of the smaller communities, and that is why my amendment does not attack the integrity of the proposal that she emphasizes and did emphasize in front of the committee last year with the introduction of LR 11, and then the accompanying bill in LB 1229, not only over the summer, through interim studies with Urban Affairs Committee, but before the committee this year when it was introduced. What I deal with is the amount of money that we are currently spending in the City of Omaha in this way. Maybe we are being unconstitutional in our approach. Maybe what we are doing is totally without any statutory or constitutional merit, but I don't think so, because if it was, I doubt that the city would be doing it. I doubt that Douglas County would dump a matching \$11.5 million into that same Riverfront Project. I am not opposed to the Riverfront Project. What I am saying is is that that single project alone in the last year, about 18 months, has...we have been able to raise through basically a quasi city entity, the Development Foundation, Omaha Development Foundation, the City of Omaha and Douglas County, nearly \$85 million for this purpose, and we have done it without the constitutional authority that Senator Scofield would allow for other parts of the state. All I do is strike out cities of the metropolitan class through my amendment so that we can go on doing our business without very likely, I mean the possibility is there that one could say if the argument were to be made that we would now be limited to the \$3 million cap that the accompanying LB 1229 would put into place. I know we don't want to do that in the City of Omaha, and I am sure that we can continue to do what we are presently doing, and that is bringing these people in, using the foundation to buy, then the city condemn, the foundation tear down, and then turn over to the city, deed to the city, give title to the city these properties that then can be financed through tax increment financing for these businesses, these companies that have been brought in and put into business in Omaha through a method that currently, from m

March 16, 1990

LB 1229  
LR 11

CLERK: Mr. President, very quickly, Senator Lynch would like to have a meeting of the Rules Committee in the lounge now; Rules Committee in the Senate Lounge now. That is all that I have.

PRESIDENT: Thank you, Mr. Clerk. Senator Peterson, followed by Senator Hefner, then Senator Korshoj.

SENATOR PETERSON: Mr. President, and members, I, too, rise to oppose Senator Hall's amendment. I am kind of surprised that Senator Hall would introduce this amendment because I think all of the cities should be involved and with less federal money in coming down the pike and probably less in the next few years, maybe Omaha doesn't need it right now, but if they do in a couple of years, then we have to have another constitutional amendment and we can correct that as Senator Hartnett, I think, explained in LB 1229, if this passes, and we need Omaha and all the cities involved in it. I would relinquish the rest of my time to Senator Scofield.

PRESIDENT: Senator Scofield, please. You have eight minutes...three minutes left.

SENATOR SCOFIELD: Thank you, Mr. President and Senator Peterson. I don't know that I would add very much to what has been said. I would suggest that Senator Hall could address his concerns on the enabling legislation, and while Omaha, as Senator Peterson mentioned, doesn't need this right now, I would be reluctant to have this amendment added to the constitutional amendment; number one being should those federal sources go away as we have seen them start to go away in significant amounts and that trend continues, there might come a time when Omaha would want this and then, of course, we would have to go through the whole process of yet another constitutional amendment, and at the same time, I think we can address the concerns that Senator Hall is raising through the enabling legislation. It would...furthermore, just in terms of the nature of passing a constitutional amendment in the state, it does take the votes of everybody in the state, and this concerns me as a person who believes this is an extremely important thing for all of the communities of the state. Doing this through the constitutional amendment concerns me because there might be good reason for a person from Omaha to look at that amendment and say, well, this doesn't have anything to do with me, and while they didn't maybe really have strong feelings one way or the other, they simply wouldn't vote for the amendment and that could defeat the



it's an issue which is based on moral, religious, ethical principles and there is not going to be a resolution, so I will write them what my view is but not try to change their mind and that I have no expectation of doing that. What we're doing here is expressing our opinions and not one vote is going to change, not one mind-set is going to be altered. But I do believe things should be put into the record because there is an educational function that must be served by the Legislature and the record of what we do and say emerges from our debates. So, for that reason, as long as we discuss this issue and whenever we discuss it, I'm going to put into the...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...record those things I think ought to be there.

SPEAKER BARRETT: Mr. Clerk, you have a motion on the desk.

CLERK: Mr. President, I do. I have a priority motion. Senator Korshoj would move to adjourn until Monday morning, April 2nd at 9:00 a.m. May I read some items, Mr. President.

SPEAKER BARRETT: Have you items to read in?

CLERK: Very quickly. Senator Barrett has amendments to be printed to LB 1153. (See pages 1759-61 of the Legislative Journal.)

Senator Haberman would like to add his name to LB 1184, LB 1229, LB 610, LB 431 and LB 1088 as co-introducer. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The motion before the house is one of adjournment. All in favor say aye. Opposed no. A machine vote has been requested. Will members please return to your desks and record your presence. Those members outside the Chamber, please return and check in, please. Senator Moore. Senators Schmit, Labedz, Haberman. Senator Wehrbein, the house is under call. The house is still under call. The question is adjourning until Monday morning at nine o'clock. Those in favor of that motion vote aye, opposed nay. Have you all voted? Have you all voted? Record. Record vote has been requested.

CLERK: (Record vote read. See pages 1761-62 of the Legislative

committee priority bills. This one, LB 1020, changed provisions relating to driving under the influence of alcohol and drugs. We certainly don't want to end the session without at least being able to pass LB 1020, which I totally and strongly support, and then we have LB 1229, which is Senator Scofield's local option municipal economic development act, that also is very important to Senator Scofield, Senator Peterson and Senator Schellpeper. I think most of the bills on the committee priority bills are bills that are vitally important. And, if we don't get to them today, which I'm sure we will not, I strongly urge the members of the Legislature to allow 30 votes to be shown on the board so that we can not only discuss these nine bills on Select File, we're not making the motion to send them to Final Reading, we are saying they should go, they are senator priority bills. They haven't been heard. And I understand, Senator Chambers, you mentioned LB 908 as your priority bill, well I want to also mention the fact that LB 769 is my priority bill and it is not listed in those nine. In both cases, those two bills failed to advance and LB 9...of course LB 769, I got to mention this, never came to a vote for advancement. LB 908, Senator Chambers' bill, did have a vote and it failed to advance, and that's the reason it's not on the General File, 1990 senator priority bills. I often have told the Speaker, and as I show you here, there are 20,000 signatures in this list...

PRESIDENT: Excuse me, Senator. (Cavel.) Let's hold it down, please, so we can hear the speakers. Thank you.

SENATOR LABEDZ: ...of people in the State of Nebraska that are anxiously waiting for at least one abortion bill to be discussed, and that is LB 854. It's never had a chance or a vote to advance, and I think it's a very important bill and you do, too, and so do these 20,000 people. I am willing to vote to suspend the rules on Final Reading so we can read the bills without further debate or amendment. As you know,

PRESIDENT: One minute.

SENATOR LABEDZ: I have several amendments on LB 1059 and a few others, and I will be most happy to withdraw...not withdraw my amendments, but to vote with Senator Barrett and suspend the rules to permit Final Reading of bills without further amendments, motion or debate. We are just asking these nine bills to be advanced to Select File, because they are senator priority bills and they haven't had a chance. Thank you.