

January 10, 1990

LB 662, 662A, 692, 832, 850, 861, 881
896, 952, 965, 1015, 1034, 1055, 1099
1100, 1101
LR 229

that, I hope you will let me know because we are going to take these concerns seriously and draft amendments as required to move this bill and get it to work as quickly as possible out there in the communities. Thank you. I ask you to move the bill.

SPEAKER BARRETT: Thank you. The question before the body is the advancement of LB 662. Those in favor of that motion please vote aye, opposed nay. Voting on the advancement of the bill, have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 662.

SPEAKER BARRETT: LB 662 is advanced. The Chair is pleased to take a moment to recognize a guest of Senator Bernard-Stevens. Under the north balcony, we have from ESU 16, Ogallala, Mr. Ken Wilcox. Ken, would you please stand and be recognized. Thank you. We are glad to have you with us. Mr. Clerk, matters for the record.

CLERK: Mr. President, Senator Weihsing has amendments to be printed to LB 692. I have notice of hearing from Revenue Committee. (Re: LB 850, LB 1015, LB 832, LR 229CA, LB 952, LB 881, LB 965, LB 1034, LB 1055, LB 861, LB 896. (See page 272 of the Legislative Journal.)

Mr. President, new bills. (Read for the first time by title: LB 662A, LB 1099, LB 1100, LB 1101. See pages 273-74 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Senator Kristensen, for what purpose do you rise?

SENATOR KRISTENSEN: Mr. Speaker, I would move that we adjourn today until tomorrow morning, January 11th at 9:00 a.m.

SPEAKER BARRETT: Thank you. You have heard the motion to adjourn until tomorrow morning at nine o'clock. A machine vote has been requested. Those in favor of the motion to adjourn please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 17 ayes, 13 nays to adjourn, Mr. President.

Elmer had mentioned, that's way too much. If you look at the A bill, it's only about 300,000. So I think this bill needs to have some more work done on it, but I think it's really a step in the right direction, so I think we need to move ahead with the bill though, thank you.

SPEAKER BARRETT: Senator Johnson, please.

SENATOR R. JOHNSON: Mr. President, members, I've had a lot of you come up to me and ask me what is going on here, what direction is this bill taking, are we going to take a lot of time on this bill? You know, a lot of times legislation serves as an educational point as well and I think the important thing, as Senator Schmit indicated earlier, it is important that we discuss what could be a very significant problem for Nebraska and that is groundwater contamination. About a year and a half ago I was approached, and I think Senator Schmit was equally approached by officials from the EPA Office in Kansas City to sit down and talk about FIFRA to try and get an understanding at least as to why Nebraska has rejected the idea of participating in the FIFRA program. And from that discussion I...LB 161 eventually was created, again, to raise the point to talk about what some of the problems Nebraska is confronted with and, as I said earlier, I want this discussion more to be centered on the issue of talking about what is going to happen in the area of groundwater quality in this Legislature in the years to come. LB 161 will not solve the groundwater problems Nebraska is confronted with. This program is mostly designed for educational efforts. It is mostly designed in the area of trying to train both farmers and commercial applicators in the proper use of pesticides so that contamination does not occur. And I think that needs to be the main focus of the discussion here. I did visit with Senator Schmit prior to the session beginning this morning, if his committee would consider if this bill was not advanced today, an interim study. He has consented to do so along with, and I want this to be in the record, there is a bill that Loran and I have worked on. I believe it is LB 1099 that has been introduced in this session, that if this bill does not advance today, that we can use our special protection groundwater districts as a vehicle to do some of the things that this bill is designed to do. It is designed to try and, again, protect the groundwater and I think an important thing is that even under that program, under the bill, we may have more state control than we would if we went this direction. I'm trying to be fair to all sides. Back after I had met with

the EPA officials, my staff and I sat down with a number of farm organizations in this state to try and draft the bill the way that they felt would be fair to them and we thought we had something worked out, but of course, that has not quite come about because I know that there is some groups that still have questions about the cost and whether we will be able to control our own destiny under this program. Obviously, I want to make sure that if we're going to frame a statewide management plan for groundwater quality, that Nebraska be the controlling force in setting our own destiny rather than someone from Kansas City or Washington, D.C., but as Senator Schmit has indicated, institutional memory sometimes is a good thing and he was here along with I think Senator Chambers and Senator Warner when the first discussion back in 1974 took place on the FIFRA issue. And so I've listened to some of his comments, I've listened to other comments by other senators here today and as I said, maybe today's discussion all that's going to come out of this is the discussion of teaching us how important groundwater is to the, not only just the quality, but the quantity of water in Nebraska to our citizens which primarily derive their drinking water from the groundwater in this state, and if it's polluted, if it's contaminated, then it's our own fault, so I think the important thing...

SPEAKER BARRETT: One minute.

SENATOR R. JOHNSON: ...is sooner or later this state is going to have to recognize that we're going to have to implement some plans to protect the groundwater. LB 1099, which could be discussed later this session, possibly could be that vehicle or this bill as well, but I've tried to work with some of the other groups to make sure that there is support for the whole plan and not just part of it and, as I said, if the bill doesn't go this morning, I'm going to be disappointed, but I'm not giving up. I think that I've tried to work with Senator Schmit over the interim period to come up with a plan that would help get Nebraska more involved in protecting our groundwater quality. The discussion largely has centered on the bill even though we're still on the committee amendments. Whether you support or oppose the bill I don't think the committee amendments are bad. I think they simply put the bill in a shape that in case it would advance this morning, that it hopefully would make some sense.

SPEAKER BARRETT: The Chair recognizes Senator Schmit, followed

by Senator Elmer.

SENATOR SCHMIT: Well, Mr. President and members, I agree that the discussion thus far has been more broad than just on the amendments, but I believe and I agree with Senator Rod Johnson that it's important that we discuss this issue. So often on this floor we get wrapped up in the subject of revenue and appropriations that we forget some of the other more basic requirements that are important to the State of Nebraska. Senator Rod Johnson and myself and most of the others, members of both the Natural Resources Committee and the Ag Committee, have a deep personal interest in the soil and water of this state and we have an ongoing commitment to maintain the integrity of that system. And I want to say that I agree with Senator Rod Johnson, that I believe 1099 is a preferable vehicle to do that. We have also, over the years, and I want to commend Senator Johnson because when he was chairman of the Ag Committee in the early days, his early tenure, we enacted a bill there that was a very good bill in reference to the protection of groundwater. I think we need to continue that. The State of Nebraska has taken leadership roles in protection of groundwater. I think we can do that without this bill. Senator Schellpeper says Nebraska should control its own destiny. Senator Schellpeper, I suggest that we are not going to control our own destiny by the passage of 161, far from it. We have no control over our destiny at all by simply rubber-stamping the federal mandate. What I'd like to do is call it a federal... a state accountability for the federal program. Let's let the feds tell us why with such a good program that they proposed it would cost two-thirds of a million dollars annually to administer and they are handling it with four or five people, if that many. I would suggest that when, if and when you pass the bill, that price tag will escalate dramatically because they will then find a whole multitude of new requirements for the states to meet. I want to come back again to what I said earlier in reference to my blase acceptance of the mandate for the disposal of low-level radioactive waste and I... it's an embarrassment to me to tell you that I did not do my homework thoroughly, but I did not. And I don't think that I was alone in that, but I'm not going to indict anyone else. I was probably the only member of the body who did not do his homework as thoroughly as he should have. But we were told that it all had to be in place by X number of days, by certain dates and that there would be 14 sites. We had to join a compact. Ladies and gentlemen, I find out now that there will be less than

SENATOR SCHMIT: Well, I have concluded, Senator Wehrbein, that as I recall in the early seventies they proposed sending us about a two-thirds of a million dollars for implementing the program the first year or two and they proposed that we would hire as many as 40 to 44 people. Now in the last 15 years they've only used four or five people in that program and I think they have apparently found no need for additional people and they have found no need to tighten the requirements beyond that which they presently have in place and so, therefore, it seems to me it's been a history of the federal government participation, an agency participation that once it becomes a state responsibility then the requirements become much more stringent. For example, I spoke this morning with an individual who has to clean up a fertilizer spill I believe it is. He is only allowed five parts per billion in the water sample. Almost any water has more contamination in it than that and so he has a problem which is insurmountable because of an agency mandate. I hope we can avoid that.

SENATOR WEHRBEIN: Okay, thank you. This has been...the struggle has been around quite a while. I have been uncertain in the past as to what to do, but it appears to me at the present time that we probably don't serve ourselves any better to go ahead with this and I'd be inclined to vote against this at this time. Thank you.

SPEAKER BARRETT: Thank you. Senator Elmer, please.

SENATOR ELMER: Thank you, Mr. President and members, the people that would be affected by this bill are primarily the farmers and the pest control industry, ground applicators, aerial applicators, lawn and garden and turf people and all of those types of individuals that take care of control of household pests like Orkin and those people. They are universally feel that the regulations that we're working under presently are working very, very well and see no need to add to that bureaucracy. In visiting with the NRDs who are now currently involved in the groundwater area, they much prefer LB 1099 to this bill, but would accept this one if 1099 is not. I would suggest that we hold this bill on General File at least and see if we can advance 1099 to satisfy to a much better degree these people's concerns. Thank you.

SPEAKER BARRETT: The Chair is pleased to announce that our

been the training of commercial and private applicators. That has been done through Extension Service, the University of Nebraska. That will continue to be done whether we pass 161 or not. The issue at hand is whether Nebraska should assume a more direct role in the...not only in the training, but also in the enforcement and administration of the program. As has been noted already, we are the only state right now that has not done anything and my concern is that the groundwater we keep talking about is not the federal government's groundwater, it is Nebraska's groundwater, and it is the people of Nebraska that consume that groundwater and we have to preserve I think the integrity of the groundwater in whatever method we can. And as I said, Senator Schmit and I have had a dialogue since this bill was introduced last year to try and work out our differences about the bill and what it does and I think the important thing that we have to do is to somehow either shape our own state program or go with this program and get something done to preserve the groundwater quality. Now, I have asked Senator Schmit to put a motion on this bill to delay it until such time as the Natural Resources Committee will have a chance to hear LB 1099. At that time we can compare what these two bills do, whether that bill can actually correct the problem or maybe this bill is the only vehicle that we use. But the important thing as I see it, is that we cannot continue to ignore the problem and it has been well documented I think in this body as with the solid waste issue that we discussed yesterday or in this case, the groundwater issue that we are slow to act to the problems until there is a crisis. Well, I don't want to wait that long until our groundwater is actually contaminated and then at that time respond to the problems. But I have consented, in order to appease all the groups involved in here, both farm organizations, fertilizer organizations, state senators and other interest groups that we delay this bill at least until such time as 1099 is introduced and discussed and heard by the Natural Resources Committee and at that time the committee, at least, can take a peek at what that does in comparison with this and maybe that's a better vehicle to use, I don't know. I think the question is how much autonomy, how much support will we have, how much control of the destiny of a program like this will we have in the future and so, as I have asked this body time and time again, we need to do more, we recognize that we have a problem and that maybe 1099 is a better vehicle. I understand many of the farm organizations, the fertilizer organizations are in support of that concept, but we, you know, I think the important thing is we cannot ignore our

responsibility in this state until, in fact, the groundwater is contaminated and then the cost of remedial action there is ten hundred times greater than it is to prevent the problem. And as I said, I think Senator Schmit has filed a motion that I can live with.

SPEAKER BARRETT: Motion on the desk. Mr. Clerk.

CLERK: Mr. President, Senator, I assume Senator Schmit would move to bracket LB 161 to February 23, 1990.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, the reason for this motion, and I've discussed it with Senator Rod Johnson, is that it will give us an opportunity to discuss and debate LB 1099 and if, in the event that we have not been able to resolve our problem in some manner with that bill, then we can always come back to LB 161. I want to state for the record again, that if we were to pass LB 161, that doesn't change anything as far as the protection of Nebraska's soil and water is concerned. The only difference is that Nebraska assumes the responsibility for the supervision of that program. The feds already laid down the mandates as to what is required and what is not required except in this instance we said, okay, gentlemen, you've laid down the mandates, you've drawn the ground rules, you established the requirements, now you just get on your horse and gallop out here and you enforce them, and we're going to stand back and we're going to let you come into my farm and enforce those rules and regs and those statutes you have mandated. Now the difference if you pass 161 is that we throw that burden on the Department of Agriculture. Now we can, on this floor if we wish, make those requirements more stringent and we may want to do that. We can do so, ladies and gentlemen, without passing 161 as Senator Wehrbein has said. We can address a specific issue, a specific problem. Now let me give you a couple of for instances. You've all heard of Mead, Nebraska, the ordnance plant. Had a little problem up there. During World War II it was an ordnance plant. Contamination of the groundwater beneath the soil up there is causing considerable problems for residents in that area, caused by who? The federal government. Ever heard of Bruno, Nebraska? Probably not. You've heard of Waverly, you've heard of other areas. Again, groundwater, city water contaminated, ladies and gentlemen, by action taken by the USDA in treating stored grain. Now they're a little bit

February 16, 1990 LB 159, 163, 594, 656, 854, 989, 1018
1020, 1072, 1073, 1099, 1146, 1153, 1179
1221, 1222

problem. Thank you.

SENATOR LABEDZ: Thank you, Senator Wehrbein. Senator Schmit. Senator Schmit, on the Hefner amendment. Mr. Clerk, do we have anything for the record before we adjourn?

CLERK: Madam President, your Committee on Banking, Commerce and Insurance whose Chair is Senator Landis, to whom was referred LB 1072 instructs me to report the same back to the Legislature with the recommendation it be indefinitely postponed; LB 1073, General File, with amendments; LB 1153, General File with amendments. (See pages 851-52 of the Legislative Journal.)

Madam President, a couple of announcements. The Revenue Committee will meet in Executive Session; Revenue Committee, Executive Session in Room 1520 upon adjournment; Revenue upon adjournment in Room 1520.

Mr. President, a series of priority bill designations. Senator Wesely has selected LB 989; Senator Lamb, LB 1020 as one of the Transportation Committee priorities; Senator Lynch, LB 1146; Senator Nelson, LB 656; Senator Abboud, LB 1018; Senator Lowell Johnson, LB 594; Senator Hannibal, LB 1221; Senator Schmit, LB 854 as his personal priority, and LB 1099 and LB 1179 as committee priorities.


Mr. President, Senator Beyer would like to add his name to LB 159, an amendment; and Senator Beck to LB 1222. That's all that I have, Madam President.

SENATOR LABEDZ: Thank you, Mr. Clerk. Senator Langford, you have a motion up at the desk to adjourn. Would you like to make that motion, please.

SENATOR LANGFORD: Madam President, I move we adjourn until Tuesday, February the 20th at 9:00 a.m.

SENATOR LABEDZ: Thank you, Senator. We are...all those in favor say aye. Opposed. We are adjourned.

Proofed by


LaVera Benischek

February 21, 1990

LB 642, 1009A, 1018, 1090, 1099, 1174, 1226
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Senator Morrissey. Yes, would you like to put some things in the record, please.

CLERK: If I can, Mr. President, very quickly. Thank you. I have a Reference Report referring certain gubernatorial appointments to the appropriate Standing Committee.

Notice of hearing from Natural Resources Committee. Senator Moore has amendments to LB 1009A to be printed; Senator Baack to LB 1090. (See pages 893-94 of the Legislative Journal.)

A Confirmation Hearing Report from Natural Resources. Natural Resources reports LB 1099 to General File. Signed by Senator Schmit. Education reports LB 1226 as indefinitely postponed. Signed by Senator Withem. Judiciary reports LB 1018 to General File with amendments; LB 1174, General File with amendments. (See pages 895-96 of the Legislative Journal.)

And the last item, Mr. President, a resolution, LR 258 by Senator McFarland. (Read a brief description of LR 258. See pages 896-98 of the Legislative Journal.) That will be laid over, Mr. President. That's all that I have at this time.

PRESIDENT: Now we're back on the advancement of the bill. Senator Morrissey first, please, followed by Senator McFarland.

SENATOR MORRISSEY: Thank you, Mr. President, and members, I must admit I'm perplexed and a lot of you are probably going, so what else is new, Morrissey? But I have always been in favor of things like this, the seven-day waiting period. It doesn't seem like it's really that onerous. Back in '74, I went to Hamburg, Iowa and had to buy...wanted to buy a rifle, had to wait, because I was an out-of-stater, seven days. I went back seven days later and bought it. No problem. And it seems pretty simple, but, of course, lately this drive to and from work is working on me. All the way up...all the way home last night and all the way up this morning I was kind of tearing this apart. And one of my concerns, as I have stated on this floor, has been a sort of a constant or slow chipping away of constitutional rights of our citizens in the state and the nation. I thought, well, this kind of comes under that same subtitle. We've got government reaching clear into our lives and deciding if we're good enough citizens to do certain things, and that kind of bothers me. And this is the argument that a lot of people are using, that we should guarantee a citizen's right to keep and

April 9, 1990

LB 163, 1055, 1099, 1124, 1153, 1153A, 1221
1246, 1246A
LR 427

LB 1055, LB 1124, LB 1153, LB 1153A, LB 1221, LB 1246, and
LB 1246A.)

I have an explanation of vote by Senator Landis and a study resolution by the Banking Committee, that is offered...signed by its membership, Mr. President. (LR 427. See page 2032 of the Legislative Journal.)

Mr. President, the first motion I have with respect to overrides of legislation is LB 163. Senator Rod Johnson would move that 163 become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. Speaker, members, my comments will be short and, hopefully, to the point. I guess LB 163 is a substantial policy choice question this Legislature is going to have to make. I know that you have been lobbied heavily on both sides of this issue, and I can appreciate that, and I hope that you've made up your mind. I'm not sure that the debate will add much to the vote that you're about to cast, but I wanted to get some things in the record nonetheless. You know as we all get these notices from the Governor as to why she vetoed the bill, I'm not sure they serve any service other than to piss us off. But I'm at the point right now where LB 163 has three points in it, her veto message, that tell us how she feels about LB 163. The first is she says the first is that LB 163 fails to build upon the work commissioned by the Legislature, past work. Then she mentions a bill I passed in this Legislature a few years ago to commission a study to look into the solid waste problems that Nebraska has. That study pointed out we have a substantial number of solid waste or landfills in Nebraska that have really some substantial environmental and health risk problems to Nebraskans. I realize that, that's what the purpose of this bill has been from the beginning is to begin the process of moving ourselves forward to deal with solid waste. Granted, it doesn't help clean up the contamination that is there, but we have other programs that are designed to help, walk in and start the process of looking at water contamination problems that exist with SPAs or special protection areas. Senator Schmit and I carried a bill this year, LB 1099, which did not make it through the process, but again is a bill that would have helped us deal with some of the contamination problems that exist. What this bill does is basically say we recognize that EPA is going to be coming down in this state very soon, within probably