

January 18, 1990

LB 161, 1136-1171, 1181-1194

Mr. President, finally, I have a reference report referring LBs 1136-1171. (See pages 373-74 of the Legislative Journal.)

Mr. President, announcement, the Speaker would like to hold a chairmen's meeting tomorrow morning at eight-fifteen in Room 2102. The Speaker is calling a chairmen's meeting tomorrow morning at eight-fifteen in Room 2102. That is all that I have, Mr. President.

PRESIDENT: Do we have some new bills, Mr. Clerk?

CLERK: Mr. President, new bills: (Read LBs 1181-1194 by title for the first time. See pages 374-77 of the Legislative Journal.) That's all that I have at this time, Mr. President.

PRESIDENT: We'll move on to General File, LB 161, Mr. Clerk.

CLERK: Mr. President, LB 161 was a bill that was originally introduced by Senators Rod Johnson, Scofield, Coordsen, Baack, Weihing, Schellpeper and Elmer. (Title read.) The bill was introduced on January 5 of last year, Mr. President. It was referred to the Agriculture Committee for public hearing. The bill was brought to the floor with committee amendments attached. It was considered on April 5, Mr. President. At that time Senator Johnson made a motion to bracket the bill until January 1 of this year. I have pending the committee amendments. They have not been adopted yet, Senator.

PRESIDENT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. President and members, the committee amendments are relatively straightforward. It is simple but I would like to share them with you and indicate that hopefully they are noncontroversial. There are four parts to the committee amendment. The first requires the Department of Agriculture to use other agencies when enforcement is necessary in the question of water quality. The Department of Agriculture is the lead agency in implementing this bill, but in many cases we have expertise, especially with water quality and other areas including the Department of Environmental Control, through their work; the Department of Health for the Safe Drinking Water Act and the State Resources Office and there is just a variety of different agencies that I think the department could turn to for assistance and I think the important thing is to make sure that

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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

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LB 551, 769, 974, 975, 1192  
LR 247

house and a roll call vote, please.

PRESIDENT: Okay. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 16 ayes, 0 nays, Mr. President, to go under call.

PRESIDENT: The house is under call. Please record your presence. Those not in the Chamber, please return to the Chamber and record your presence. Senator Haberman, would you record your presence, please. Thank you. Senator Ashford, would you record your presence, please. Thank you. Senator Nelson, would you record your presence, please. Thank you. We're looking for Senator Chizek, Senator Wesely and Senator Withem, and Senator Lamb. We're looking for Senator Withem and Senator Chizek. We're all here that are not excused. And the question, shall the Chair be overruled? Roll call vote has been requested. Please hold your conversation down so the Clerk may hear your answer.

CLERK: (Roll call vote taken. See pages 485-86 of the Legislative Journal.) 15 ayes, 25 nays, Mr. President, on the motion to overrule the Chair.

PRESIDENT: The motion fails. The call is raised. We have a priority motion, Mr. Clerk?

CLERK: May I read some items for the record, Mr. President?

PRESIDENT: Yes, please.

CLERK: Mr. President, I have a motion to withdraw LB 1192. It's offered by Senator Schmit as primary introducer. Judiciary Committee offers notice of hearing for January 31, February 1, February 2, those signed by Senator Chizek as Chair. Revenue Committee, chaired by Senator Hall offers notice of hearing. Business and Labor Committee reports LB 974 to General File, and LB 975 to General File with committee amendments attached. (See pages 487-88 of the Legislative Journal.)

Mr. President, Senator Byars has amendments to LB 551 to be printed. A new resolution, Mr. President, offered by Senator Haberman, (LR 247), asking the Legislature to express its condolences to the family of former Senator Clarence Jacobson.

Nebraska, and Senator Jacobson was proud to follow in his father's footsteps. When he was appointed to office in 1982 by Governor Thone to complete the term of Senator Dick Marvel, he was a conscientious legislator who possessed a sincere desire to do his best in the office. Senator Jacobson was also a devoted family man and was delighted at becoming a grandfather for the first time last year. I know he will be missed by all who knew him, and I appreciate this opportunity through Legislative Resolution 247 to express sympathy to his family at their loss. I would ask you to join me in that expression. Thank you.

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

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of LR 247.

PRESIDENT: The resolution is adopted. May I introduce some guests, please, in the south balcony who are guests of Senator Carol Pirsch from the Omaha Public Schools. We have Tabitha Holston, Stacey Eckley, Nicole Grosse, and Sarah Fredstrom, and their sponsor is Linda Dutton. Would you folks please stand and be recognized by the Legislature. Thank you for visiting us today. Move on to number six, the motion, please.

CLERK: Mr. President, Senator Schmit would move to withdraw LB 1192. Senator Schmit offered his motion yesterday, Mr. President, and it laid over pursuant to our rules.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President, and members, I introduced LB 1192 at the request of a constituent. The opponents and supporters of the bill are talking the bill, obviously, is not going to go anywhere this session, which is probably true of some of the rest of my bills, and probably ought to look at the rest of them, too, but, anyway, I move that the bill be withdrawn.

PRESIDENT: Is there any objection? All those in favor of the withdrawal vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to withdraw the bill.

PRESIDENT: The motion (sic) is withdrawn. Something for the record, Mr. Clerk.

CLERK: Mr. President, very quickly, I have a notice of hearing from the Natural Resources Committee, signed by Senator Schmit. And a cancellation of hearing by the Banking Committee, signed by Senator Landis. That is all that I have, Mr. President.

PRESIDENT: Thank you. We will move on to LB 769. As I recall from yesterday, the Chair was being challenged on ceasing debate, and the lights that I have on at this moment are Senator Labedz, Senator Schimek, and Senator Landis. Senator...no, okay. Senator Schimek, do you wish to speak? Senator Landis, do you wish to speak?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, LB 769 comes to us with the claim that this measure has been found constitutional by the 8th Circuit Court and that is true. However, there is a longer history to the arrival of this bill on our doorstep and before the Chair for his decision as to whether or not the question can be divided. In 1986, after about four years of application, the parental notification bill was challenged in Minnesota and the federal district court there in 1986 found the law unconstitutional. This was Judge Donald Alsop and he struck down the parental notification bill on two counts. The first count was that it required both of the parents to be notified and the second reason it was struck down was because of a 48-hour mandatory waiting period, which was the amount in 769 as originally introduced. Additionally, the court went on to make a number of factual findings in addition to those findings of unconstitutionality, and the court said that the minors that used the bypass system inevitably chose to be the more mature minors and the immature minors who were driven to this choice by their own self-interest, but that it did not get to nonmature minors whose best interests might be affected but who were intimidated out of using the process. The court also went on to say that the bill failed to protect minors, failed to promote parent-child communication, and failed to improve family relations. That was the finding of the facts before the court. Later a three-judge court upheld Judge Alsop's decision and then the entire 8th Circuit sitting en banc said that Alsop had made a mistake in one respect, that, in fact, the two-parent notification was not unconstitutional, but at no time did any of the appellate courts disturb any of the factual findings. In other words, the very case that Senator