

January 5, 1989

LB 48, 52, 84, 161-189

the Executive Board will meet in...the Reference Committee will meet in Room 2102 at three-fifteen today for purposes of referencing bills, Reference Committee at three-fifteen.

Mr. President, new bills. (Read LBs 161-189 by title for the first time. See pages 82-88 of the Legislative Journal.)

Mr. President, in addition to those items, I have requests from Senators Chambers, Nelson, Schellpeper, Hefner, Lamb, Crosby and Hartnett to add their name to LB 48 as co-introducer; Senator McFarland and Schellpeper to LB 52 as co-introducer and Senator Carson Rogers to LB 84 as co-introducer. (See page 88 of the Legislative Journal.)

PRESIDENT: No objections, so ordered.

CLERK: Mr. President, an announcement from the Agriculture Committee and signed by Senator Rod Johnson, the Ag Committee has selected Senator Owen Elmer as its Vice-Chairperson. Mr. President, I believe that is all that I have.

PRESIDENT: Ladies and gentlemen, we're about to start the proceedings for the afternoon, and we're very grateful to have with us Father Dawson this afternoon for our invocation. Would you please rise for Father Dawson.

FATHER DAWSON: (Prayer offered.)

PRESIDENT: Thank you, Father Dawson. Please feel free to stay with us as long as you like. We're privileged to have with us this afternoon the Nebraska National Guard who will present colors. Would you please rise.

PRESENTATION OF COLORS

PRESIDENT: Ladies and gentlemen of the National Guard, we appreciate your being with us and presenting the colors today. If I might say a word to those who will be escorting the folks in today, it will be necessary that we do it a little bit different than we usually do it. When one group of ushers brings in their group, please bring them up onto the stage and then retire back to your seats until the inauguration proceedings are over with and then I will call you back one group at a time to take your group back, because if we should all come in and all stay up here on the podium, we wouldn't have

March 2, 1989

LB 48, 61, 161, 176, 298, 327, 334
349, 354, 354A, 391, 398, 416, 458
459, 502, 542

adopted...or, excuse me, as amended be advanced.

PRESIDENT: You've heard the motion. All in favor say aye.
Opposed nay. It is advanced. LB 354.

CLERK: LB 354, Senator, no amendments to the bill.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 354 be advanced.

PRESIDENT: You've heard the motion. All in favor say aye.
Opposed nay. It is advanced. LB 354A.

CLERK: On 354A, Senator, I have no amendments to the bill.

PRESIDENT: You've heard the motion...Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 354A be
advanced.

PRESIDENT: You've heard the motion. All in favor say aye.
Opposed nay. It is advanced. Mr. Speaker, did you wish to say
something about the time of the meeting tomorrow morning before
we adjourn?

SPEAKER BARRETT: Thank you, Mr. President, just a reminder that
we will convene at eight o'clock tomorrow morning for the
purpose of reading, I believe it is LB 92, the big bill. Thank
you. Eight o'clock, tomorrow morning.

PRESIDENT: Okay, Mr. Clerk, do you have something for the
record?

CLERK: Mr. President, I do. Senator Rod Johnson would move
that LB 161 be placed on General File pursuant to Rule 3,
Section 19, and that will be laid over.

Your Enrolling Clerk has presented to the Governor as of
eleven-o-five this morning bills read on Final Reading this
morning. (Re: LB 391, LB 398, LB 458, LB 459, LB 48, LB 61,
LB 176, LB 298, LB 327, LB 349, LB 416, LB 502. See page 956 of
the Legislative Journal.)

Banking Committee reports LB 542 to General File with amendments

March 8, 1989

LB 141, 161, 333, 379, 457, 742

time by title. See page 1027 of the Legislative Journal.)

Ag Committee reports LB 161 to General File with amendments, that is signed by Senator Johnson; Banking Committee reports LB 333 to General File with amendments, and LB 457 to General File, those signed by Senator Landis as Chair; Transportation reports LB 141 to General File with amendments, and LB 742 to General File with amendments, those signed by Senator Lamb. (See pages 1028-29 of the Legislative Journal.)

Mr. President, Senator Baack gives notice of cancellation of hearing. That is all that I have at this time, Mr. President.

PRESIDENT NICHOL PRESIDING

PRESIDENT: We will move on to LB 379.

CLERK: Mr. President, LB 379 was introduced by Senator Hartnett. (Read title.) The bill was introduced on January 12 of this year, referred to Education. The bill was advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: Senator Hartnett.

SENATOR HARTNETT: Yes, Mr. President, members of the body, this would give school districts authority to invest school district funds in repurchase agreement. Current law allows school districts to invest school funds in the securities under the prudent man rule, and really what it does, it is kind of a clarifying law is that large school districts that receive large amounts of money can invest it within a...before a seven-day period of time and that is really what it does. Some of the attorneys for some of the larger school districts feel that this has to be clarified, and with that, I would ask for the advancement of the bill, unless there are some questions.

PRESIDENT: Senator Elmer, please. No? Okay, did you wish to close?

SENATOR HARTNETT: (Mike off) ...kind of a clarifying.

PRESIDENT: Okay, the question is the advancement of the bill. All those in favor vote aye, opposed nay. It looks like I need a little help, ladies and gentlemen. Record, Mr. Clerk, please.

April 5, 1989

LB 161, 653, 653A

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of 653.

SPEAKER BARRETT: LB 653 is advanced. The A bill, Mr. Clerk.

CLERK: LB 653A, Mr. President, introduced by Senator Hall. (Read title.)

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you, Mr. President. The A bill is in the amount of \$14,570 for '89-90, and \$20,400 for '90-91 periods. They are for the actual and necessary expenses of the commission as we would provide for state employees. I would urge the advancement of the A bill.

SPEAKER BARRETT: Any discussion? If not, the question is, shall LB 653A be advanced? All in favor vote aye, opposed nay. Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 653A.

SPEAKER BARRETT: The bill is advanced. To LB 161, Mr. Clerk.

CLERK: Mr. President, LB 161 is a bill offered by Senator Johnson and others. I do have a priority motion, Mr. President. Senator Johnson would ask unanimous consent to bracket LB 161 until January 1st of 1990.

SPEAKER BARRETT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. President and members, for those of you that are paying attention, this bill is the bill known as the FIFRA program. The FIFRA program is the Federal Insecticide Fungicide Rodenticide Act, which is the act that regulates the application of chemicals, farm chemicals in this state. Currently the federal government is involved in running the program. We are the only state currently that is not involved in having some state role in this program. The federal government has been financing it and has their personnel running the program in Nebraska. This bill would allow the Department of Agriculture to become the lead agency in developing a state program that would be run by state personnel. During the summer and fall I met with many of you and had information meetings

with the EPA, Mr. Morris Kay, who is the Director of the Kansas City Office of the EPA, and we worked out what we thought was a good piece of legislation, LB 161. After the introduction of the bill, there became a need, I think, by some groups to withdraw their support or have their support for the bill waver somewhat. There is a certain amount of nervousness that I sense by some of the farm organizations and, in particular, the fertilizer organization that we are moving too quickly on this particular piece of legislation, even though the first discussion of this was some 10 to 15 years ago. I think it is about time we stood up and took part in this program, but it doesn't appear as if I have enough support right now to proceed with the bill. I have introduced, previous to this time, an interim study resolution that the department or the Ag Committee is going to do this summer to continue the discussion between us and the department or the EPA. The primary concern I think is, one, what kind of control that we will have over the program, if it is a federal program implemented by the state, and, number two, the concern of the funding level that the EPA will provide in matching funds to the State of Nebraska in carrying out the program. Because of that, I feel it is necessary to at least lay the bill over until next year, and in the meantime, the Ag Committee will have an opportunity to discuss these concerns with EPA officials, and continue the dialogue I believe with our farm organizations and our chemical organizations across the state. There are those, I want to tell you, because I have spoken with them, there are those in the chemical industry that want to see the state take over this program. There has been some suggestion that nobody wants the program, that is not necessarily the case, but I think that we are moving in a direction in which we will eventually become part of what many other states have already done in taking over the program, but at this time, I have made a pledge to the organizations involved that would be impacted by this legislation that we would move slowly on it and make sure that everyone's concerns were properly heard by the committee, and by me, as principal introducer of 161. I would like to see the bill maintain its place in the order on General File for next year, so that after the study has been completed by the committee and we have had a chance to research some of the concerns that people have, we can come back in here and have a good discussion as to the impact that this bill will have on the state and upon the protection of our groundwater and soil in this state, which have been suffering in certain cases because of contamination, both natural and by application chemicals. So with that,

Mr. President, I would ask the body's unanimous consent to bracket the bill until next year.

SPEAKER BARRETT: You have heard the request to bracket until January 1 of 1990, the unanimous consent request. If there are no objections, so be it. The bill is bracketed. The next bill, Mr. Clerk, one...excuse me, LB 630.

CLERK: Mr. President, LB 630 was a bill that was introduced by the Business and Labor Committee and signed by its membership. (Read title.) The bill was introduced on January 19, referred to Business and Labor, advanced to General File. I have no amendments, Mr. President.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker, members of the body. LB 630 was brought to the Business and Labor Committee by the Department of Labor. The Department of Labor has the responsibility for inspecting freight and passenger elevators in the State of Nebraska. This is not grain type elevators we are talking about, but rather passenger and freight elevators. Several years ago there was a bill enacted that defined the freight and passenger elevators and further required that the Commissioner of Labor was to adopt by regulation the most recent version of the American National Standard Safety Code for elevator inspection. And what has happened with the past several years is that this code is revised nearly annually, and we find that the problem that exist with the elevator inspectors from the Department of Labor that go out are using rules and regulations because of the lag time in adopting new rules and regulations that are not the most current. So LB 630 would change the statute basically to say that the rules and regulations may conform generally to the standard found in the American National Safety Code as published by the American Society of Mechanical Engineers. It would remove from law the requirement for a public hearing every time there was a change in the national code. So it would speed the process up, wouldn't change anything, and would allow the Department of Labor to use the most recent safety standards in inspecting freight and passenger elevators in the State of Nebraska. With that, I would move for the advancement of the bill.

SPEAKER BARRETT: Any discussion? If not, thank you. The question is, shall LB 630 be advanced to E & R. Those in favor

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

we have people with expertise helping out in the decision-making process of this bill. Secondly, it adds natural resource districts to this list of agencies and groups that would be consulted when a problem of water quality would come up. Third, it defines what a commercial applicator is and, fourth, it specifies that private and commercial applicators certificates, or certification expires after three years. Currently they are four years long, but we have lowered that amount to three so that if I'm a either private or commercial applicator I would have to receive training every three years rather than every four years, so those are what the committee amendments do. Mr. Speaker, I'd move for their adoption.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Discussion on the committee amendments to LB 161. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I'm going to speak partly to the committee amendments and also partly to the concept of the bill because if the committee amendments are adopted and the bill progresses, I'm going to have to become a little more outspoken than I am at the present time. I would just suggest at this time I do not believe that we need to pass LB 161 with or without committee amendments. I want to go back a few years. It's very important I think to review the history of this program. It was in the early seventies that the federal government passed a mandated bill that we were to enact certain legislation in compliance with the federal statute which would then "allow Nebraska to manage their own pesticide, rodenticide, herbicide program." It was obvious to us at that time that there was no flexibility left to the State of Nebraska. We could, in fact, make requirements more stringent than the feds, but we could not relax the requirements of the federal law. It was also interesting at that time, as I recall, that the federal government promised us about two-thirds of a million dollars to help implement the bill if we chose to pass it. Nebraska chose not to pass that bill and since that time we have functioned very well without it. We are at the present time, I believe, the only state that has not passed a bill and I would like to suggest that because we did not pass that bill, there is in the state treasury at this time millions of dollars, maybe more than 10 or \$15 million that we would have been required to have expended to implement, supervise, control a program mandated by the federal government. I'm going to say something here that I

don't very often say and very few politicians like to say. I just want to point out that in the last 24 hours I have been provided with information that we may have made a mistake, ladies and gentlemen, when we listened to the mandate from the Congress relative to the adoption of the low-level radioactive waste program. I want to repeat that. We were told and this Legislature accepted in good faith that there would need to be 14 sites developed for the storage of low-level radioactive waste, that if we did not follow a certain prescribed procedure, become a member of a compact, enact certain statutes, levy certain cost upon individuals, provide certain amounts of financial support, that terrible things would happen to the State of Nebraska, to the generators within the state and to the citizens of the state. I was one of the original legislators involved in that legislation. As a result of that and subsequently through the action of the Ag Committee when Senator Rex Haberman was chairman, we enacted the low-level radioactive waste compact law. Now I find out that we may be able to get along with as little as three of those sites and guess what? It is almost certain that Nebraska will be one of the fortunate three. Now, ladies and gentlemen, at the same time we're under pressure to enact legislation relative to solid waste disposal. I want to say again...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...the area of the low-level radioactive waste activity was the only time I can think of in 22 years that I did not challenge and research and develop evidence as to whether or not there was going to be a possibility of someone changing their mind. I didn't do it, I was at fault. I believe by, in contrast, that Nebraska was correct in not adopting the FIFRA legislation and I can predict to you today that if we do adopt this legislation, that the less than six figure cost that we spend today will mount to a seven figure plus cost in years to come and after that only God knows. So I would oppose the committee amendments at this time. I would oppose the bill. I would suggest that we defeat the bill, but I would like to give Senator Rod Johnson and others a chance to discuss the bill because I think we ought to discuss some of the aspects of this program...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...and I think it's a good idea to do it.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Nelson, followed by Senator Elmer. Senator Nelson.

SENATOR NELSON: Mr. Speaker, members of the body, I will listen intently of some more of the discussion today. I am very well aware of the fact that Nebraska is the only state that doesn't belong to FIFRA. Incidentally, Senator Schmit's words a few minutes ago, very interesting. But anyhow, I have been working for approximately 16 months, 18 months, with DEC, the land quality division and so on. In Nebraska we really have no rules and regulations, that is to disposal of herbicide pesticide containers, loading out of fertilizer and so on. Eventually there probably will be a big spill or down into the water quality and then it becomes the liability and for who, who is liable? I thought that I would have to bring a bill in this year that would have addressed that and I've worked very closely with the chemical companies, with the co-ops, with the applicators, with the manufacturers of equipment and to develop some guidelines. Hopefully we can be able to maybe regulate and be able to form some policies. The policies have been formed and it will be voted on, I think, by the DEC and the land quality divisions in February of 16th of this year and because of timing, but I will tell you that eventually we will have to provide some probably very stringent rules and regulations in regards to the handling and the disposal of these chemicals. If we don't, someone else will do it for us. At this point I will listen very intently. Basically I have been a supporter of FIFRA and I do feel that Nebraska would benefit and for some reason or another, we are the only state that does not belong and that kind of tells you that the program is not all that bad, but I will listen. Thank you.

SPEAKER BARRETT: Thank you. The member from the 38th District, Senator Elmer.

SENATOR ELMER: Thank you, Mr. President and members. As a member of the Agriculture Committee and its vice chair, we listened to this bill last year. It probably isn't fresh in all our memories. The committee amendments that are being proposed are just fairly technical cleanups, and it really doesn't matter much whether they're adopted or not. But the bill itself creates another bureaucracy within the state. The price tag the first year is nearly \$600,000. Our revenues are declining. The bill requires record keeping, requires training, requires label

use enforcement, requires the restriction on the uses of these chemicals that the EPA at the current time is very adequately enforcing within this state. I see no good reason that we should create another layer of bureaucracy within the Department of Agriculture and liaison offices within the other agencies to the greater cost to the state unnecessarily. I would join with Senator Schmit in opposing this bill. I voted against it in the committee and will continue to do so. Thank you.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Schmit, again, on the committee amendments.

SENATOR SCHMIT: Well, Mr. President and members, I think it's important, I think that Senator Nelson raised a good point and I would just like to remind some of my colleagues that I don't recall how many years I had to take a bill to the Ag Committee when I was chairman of that committee that would regulate the control and disposal of suspended chemicals, suspended economic poisons, chemicals that were no longer being utilized. We finally got that done. I want to point out also that we have enacted into law a number of bills which assist us in maintaining high quality groundwater and which assist us in the protection of the soil and environment. I know that it is especially easy at this time to say Nebraska ought to get in line. Ladies and gentlemen, I would say this, if there is anything to be gained by getting in line I would have been first in line 20 years ago. I don't think anything has been gained. I have told the Environmental Protection Agency, we like what you're doing, we like the way you supervise the program. Ladies and gentlemen, you can count on the fingers of these two hands and chop off the thumbs the number of people that they have involved today in the supervision of this program. And I do not know of any major problem. In fact, I think you could probably do it with one hand. Then I ask you, why do you want to implement a program which is going to cost somewhere in the neighborhood of two-thirds of a million dollars? Oh, yeah, maybe that's a little economic benefit, we're going to hire a bunch of people, put them on the road, add to the traffic count I suppose, but from the standpoint of improving the protection of the soil and water, I suggest that's not going to happen. If the EPA can do it today with a handful of people, and they are satisfied. It's a program mandated by the Congress supervised by the Environmental Protection Agency. Why then should we so-called take charge of the program and then find ourselves under some kind of pressure to increase that personnel, by no

one knows how many people, just because some bureaucrat in the agency in Kansas City decides it has to be done. Ladies and gentlemen, if there is a problem, it is not because we didn't do our job. There is a problem because the EPA didn't do their job in their supervisory capacity. Don't blame us. They've been functioning for 15 years. They have the full responsibility. If there is a problem, write to Uncle Sam. How many times on this floor have we in the past taken a program mandated by the Congress, rubber-stamped it and then found to our chagrin that our constituents say, wait a minute, this is isn't going to work and they write to us. Ladies and gentlemen, why not save the postage, why not save the postage? If the constituency doesn't like the program, write to our congressmen, write to our senators. Actually, I don't even believe they're responsible because this bill was passed before any of them were there, but I can guarantee you that if you have a problem with EPA today with enforcement of the law, and you say it is not being enforced properly, I can tell you, you can write to any one of the five members of the Congress and you're going to get some action.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: Because the Congress is responsible. We are faced today with declining revenues and that is going to continue for a while. We are faced today with a very serious drought situation. It is going to contribute to the defamiation of revenues. Ladies and gentlemen, this is not the time in my opinion for us to add to our burden additional financial cost. We didn't ask for it. It's been handled today, properly with no or very little expense to us. Why don't we just let them continue that way? It might just do one more thing, it might encourage those agencies to look twice before they mandate another program and say, let those farmers out in the Midwest pay the bill. Thank you very much.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Schellpeper, Senator Rod Johnson next.

SENATOR SCHELLEPER: Thank you, Mr. Speaker and members. LB 161 probably isn't a perfect bill. I think there is some things that need to be worked out on it and I think that can probably be done, but it seems like it's much better to have Nebraska control our own destiny than have the federal government doing it. As far as the cost of 650,000, as Senator

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

14 sites, there will be nowhere near 14 sites. We rushed into it because we felt threatened. We felt that we were doing the responsible thing based upon the federal statutes. Ladies and gentlemen, if you would have believed the federal mandates back in the early seventies, we'd have rushed into this. The roof hasn't fallen in, the sky hasn't fallen, has been no big upheaval and the environment in Nebraska is in better shape today, I believe, because of the cooperative effort. I think EPA has learned a little bit about running a state program they didn't know before much to their benefit. I would suggest that this is not the time nor place to pass this bill and I would oppose it and I would oppose it for all the reasons I have given, but most of all I think it's important and I particularly ask for the diligence of my good friends who have been concerned about the low-level radioactive waste thing.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: We ought to try to correct that problem and make sure that we are doing that, as much damage control as we can in that area before we embark upon an entirely new program, the consequences of which we do not know, the cost of which we are not aware and the direction in which it will go which has not been pointed out to us. So, again, I would oppose the amendments and I would then oppose the bill. Thank you very much.

SPEAKER BARRETT: Senator Elmer, Senator Morrissey on deck.

SENATOR ELMER: Thank you, Mr. President. Several statements have been made by Senator Schellpeper and Senator Nelson about the desirabilities of this bill and its costs. We all recognize that government doesn't get smaller, it gets bigger and a biennial budget for the next time we put it together, I would guess that that fiscal note will be 700,000 for the two years. We do have in place through our NRDs, very efficient organizations that are attending to our groundwater problems through special management areas and enforcements of fertilizer and chemical applications. Senator Schmit has addressed the federal government control. This FIFRA bill is a request by the federal government that one says to put in place and rubber-stamp those regulations that the federal government have. It's a record keeping bill. It's a label control bill for chemicals. It's a training bill to have the State of Nebraska train and certify farm and commercial operators. It doesn't

address ground quality in any other way than to require labeled applications of chemicals. It has been very well managed and enforced by the EPA. The training programs at the University of Nebraska provide for the farmer and the commercial applicators, has been a very excellent educational program. Why change something that is working so well and spend a great deal of state money unnecessarily? This education that is being done has done a great job for the farmers and the commercial applicators in this state. The University of Nebraska would continue to do that. It's not a...it really wouldn't change anything except unnecessarily set it up, set up a new bureaucracy that will do nothing but grow, doesn't change anything else. I'd urge the defeat of the bill.

SPEAKER BARRETT: Thank you. The gentleman from Tecumseh, Senator Morrissey.

SENATOR MORRISSEY: Yes, Mr. Speaker and members, when we heard this bill in committee I originally voted, if I remember correctly, against or passed on moving it out of committee and I talked to Senator Johnson and Senator Chambers and I believe we reconsidered and I reconsidered my vote and voted to move it out. I've been supporting it since then and I talked to some folks just this morning saying I'm still supporting it, but I would be open to the floor debate and I would listen to the floor debate and I'm kind of speechless now. Senator Schmit got my attention. It's kind of like if you ever had a dog at home, chained up, been chained up for a long time and finally you come home and see him, he comes running out to you full speed, happy to see you, hits the end of that chain, comes to a stop real quick. Well, I've hit the end of that chain with Senator Schmit's speech. In the Ag Committee and the Natural Resources Committee we are continually brought these bills that are mandated by the federal government. The federal government makes their ruling and says, here you go, boys, handle it. And I've been looking for places where we could kind of challenge them and say, now hold on, you just cannot pass this sort of legislation affecting the state and the people in the state with absolutely no consideration to how it affects them. And as Senator Schmit said, the low-level waste bill is a perfect example of that and this now may be another example. I don't know. I support the idea of the bill. I think we need to address the concerns that are listed in the bill, but right now I'm not going to vote. I'm just going to pass. I've got to sit back and think it over some more. I will not vote this morning.

I will vote to support the committee amendments. I think the committee amendments are good to put the bill in better shape but I will pass on the bill. I think we need to sit back and think a little more on it. Thank you.

SPEAKER BARRETT: Thank you. The member from the 2nd District, Senator Roger Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. President, members, Senator Schmit, could you yield to a couple questions, please on this?

SPEAKER BARRETT: Senator Schmit, would you respond?

SENATOR SCHMIT: Yes, Senator Wehrbein, I'll be glad to.

SENATOR WEHRBEIN: One is, Iowa has recently passed some laws, at least restricting the use of atrazine. Are you aware, is that in response to their own laws or would that be through the EPA or FIFRA or just how would that have come about in Iowa? It's...may be a side to the question on this, but maybe it isn't.

SENATOR SCHMIT: Senator, I used to do a lot of aerial application work in the State of Iowa and as you know portions of that state are very undulating, very rolling and there is a lot of concern with the erosion problem that has developed over there because of higher rainfall and heavy applications of atrazine. And to my knowledge, and I visited briefly last session with some of the senators over there, the bill which limited the application of atrazine is strictly an independent bill. We could have the same kind of a bill here if we chose to, independent of this kind of program and would probably be better accepted and I think that's what they felt in Iowa, better accepted than to have an agency mandated program which might happen otherwise.

SENATOR WEHRBEIN: Thank you. I really just wanted to get at that issue whether this is involved. Another question I would have, if I would understand you correctly in what you're saying, you're saying that if we were...if these requirements were to come to us via the federal government, via the EPA, that they would impose...they would probably pose less restrictive regulations on themselves than they would if we were to take this over ourselves and then mandate some regulations. Is that what you're saying in essence?

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

Doctor of the day is Dr. Paul Meyer of Aurora, Senator Johnson's district, so in behalf of the Nebraska Academy of Family Physicians, please welcome to the Chamber, Dr. Paul Meyer and his family under the north balcony. Dr. Meyer. Thank you for the service that you're rendering today. Also before recognizing Senator Lamb, a constituent of Senator Lamb's under the north balcony as well, Mr. and Mrs. Pete Kaps from Broken Bow. Would you folks please stand and be recognized. Thank you. We're pleased to have you with us. Senator Lamb, please, on the committee amendments.

SENATOR LAMB: Well, Mr. President and members, I agree with Senator Schmit on this issue. You know, we have the federal government mandating a lot of things in a lot of areas and then they come around to the state and say, you take the blame for it, you administer it, but do it like we say. And it's not just this bill, but a lot of other bills including the underground tank bill, and some people say, yeah, we should keep that flexibility on the state level but it doesn't work that way in actual practice. In actual practice we have to do exactly what the federal government does, or tells us to do, and, in fact, sometimes even the state gets more stringent than the federal people and it gets...borders the ridiculous sometimes. And to say that we have flexibility or we should be doing it ourselves because we will be able to do it more efficiently, more realistically, just has not worked out in actual practice. The underground tanks problem is I think an example of that where in some cases that program has been carried too far. I think it has been carried beyond what the federal government has mandated and that when we turn one of our state agencies loose on one of these problems, then their tendency is to build an empire and that's the way it works. So I'm willing to let the federal government administer it, take the blame for it and let her go.

SPEAKER BARRETT: Thank you. Senator Johnson, would you care to close on the adoption of the committee amendments?

SENATOR R. JOHNSON: Mr. Speaker, members, most of the discussion has centered around the bill itself and the intent of the bill. I would like to ask the body to focus back onto the committee amendments. There are some things forthcoming on the bill that I think everybody is going to be satisfied when this issue is finally completed or at least most will be. But as far as the committee amendments are concerned, if you would all relax for a moment and take a look at the bill and what these

committee amendments do to the bill, they actually help clarify the situation. They are technical in nature, they are not setting this bill in a new direction, but if, for some reason this bill should pass, which I have my doubts, at least let's put these committee amendments into the bill and then we can start talking about the actual intent or the pros and the cons of the issue and I think Senator Schmit has an amendment or a motion at least forthcoming that we can talk more about the bill itself. But specifically I'd like to ask that we refocus our attention back to the committee amendments which basically help clarify the situation. Again, I'll reiterate them since we've somewhat gotten off the committee amendments, but they simply require the Department of Agriculture, which is the lead agency, to consult with other agencies and groups to...on the water quality issue to get expertise, advice. It adds natural resource districts, that list of groups that would be consulted with. It defines what a commercial applicator is and it also amends the private and commercial applicators license from having it expire in three years rather than four. That's what we're talking about right now and I think we've somewhat gotten off that subject, so I would move the adoption of the committee amendments.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of the committee amendments. All in favor please vote aye, opposed nay. Voting on the committee amendments. Have you all voted? Record, Mr. Clerk.

CLERK: 25 ayes, 7 nays, Mr. President, on the adoption of committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. Senator Johnson, would you care to explain the bill?

SENATOR R. JOHNSON: Mr. President, I think we've had a pretty good discussion of what the bill does. The FIFRA program is a federal...

SPEAKER BARRETT: Excuse me, Senator Johnson. (Gavel.) Proceed.

SENATOR R. JOHNSON: Thank you, Mr. Speaker. The FIFRA bill is the Federal Insecticide Fungicide Rodenticide Act which is a federal act that regulates the application of pesticides in the state. Nebraska's primary responsibility in this program has

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

reluctant to concede that at Bruno. I believe they conceded it at Waverly after much discussion, but the point I want to make is this. I think Senator Smith will verify what I say and Senator Nelson also, the problems they have experienced in their districts, not due to farmers or ranchers or homeowners or cities or counties, due to action by the federal government. Now I would suggest that it's easy for me to lay down the rules here and expect someone else to enforce them. A different story if I lay down the rules and then I must enforce them. I think that we have had a program which hasn't worked too badly. We've had a sort of a joint responsibility. We can come in and superimpose as we did when Senator Rod Johnson and I passed the groundwater protection bill several years ago. We can exercise our prerogative in those areas. We can continue to do so and I encourage you to do so, but I would encourage you also to vote for this bracket motion and then become more knowledgeable and again I agree with Senator Rod Johnson. The debate this morning is good because we get so engrossed in other areas that we forget about the basic resources of the State of Nebraska which are vitally important to us, that's our soil and water. Again, I want to tell you again, I apologize to this body because I did not determine definitely that there was no alternative to the passage of the proposed Low-level Radioactive Waste Act when it was brought before this body a number of years ago.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: Because of that, there is probably very little doubt that Nebraska will be one of the repositories of that low-level radioactive waste. I'm not going to argue whether it is good or bad at this point, the point is this, that we were misled. It is tempting for me to say we were lied to, but we probably weren't lied to, but we were misled when we were told that all states had to be in a compact by a specific date and that all states had to have a program in place by 1993 or the roof would fall in. Ladies and gentlemen, the majority of Congress will protect themselves and Nebraska is going to probably have to pay the difference. Thank you very much. I ask you to support the motion to bracket.

SPEAKER BARRETT: Thank you. Any objections to the motion to bracket the bill until February 23, 1990? Any objections? Seeing none, the bill is bracketed by unanimous consent. Mr. Clerk, introduction of new bills.