

November 8, 1989

LB 1-9  
LR 1-3

escort the Honorable Kay A. Orr from the Chamber.

Ready for the introduction of bills.

CLERK: Mr. President, new bills: (Read LBs 1-7 by title for the first time. See pages 59-60 of the Legislative Journal.)

Mr. President, in addition to those new bills I have new resolutions. (Read brief explanation of LRs 1-3. See pages 60-62 of the Legislative Journal.) That, too, will be laid over, Mr. President. That is all that I have at this time, Mr. President.

PRESIDENT: If you will stand at ease for just a few moments, we have a couple more bills coming.

EASE

CLERK: Mr. President, further introductions: (Read LBs 8-9 by title for the first time. See page 63 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Senator Labedz, did you have any words of wisdom for the body, please?

SENATOR LABEDZ: Thank you, Mr. President. Yes, I would like to request that the...

PRESIDENT: (Gavel.) Please have your attention to listen to Senator Labedz a moment, please.

SENATOR LABEDZ: Since it is almost noon I would suggest that the Exec Board meet at one-thirty as part of the Referencing Committee to reference the bills that were introduced today, one-thirty in Room 1517.

PRESIDENT: Thank you, Senator Labedz. Senator Barrett, do you wish to adjourn us until tomorrow and tell us at what time, please?

SPEAKER BARRETT: Thank you. Mr. President and members, I move that the body adjourn until nine o'clock tomorrow morning. Thank you.

PRESIDENT: You have heard the motion to adjourn until tomorrow

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LR 1

resolve this problem with the present bills, LB 1 and LB 2. I have not studied LR 3...LB 3. We cannot resolve the problem in a regular 60-day session which will be forthcoming in 1990. There will be too many other problems at that time. We need to take the time now slowly, deliberatively, painfully, working with all the groups, principally the legislators. Of course, it's good to listen to those groups who spend the taxpayers' money, who have supported these bills. They have a responsibility to protect their entity but it is the Legislature's responsibility to draft the legislation and we should represent the taxpayers to the best of our ability. We should do that in slow, deliberate and a very painful process...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...and, therefore, I support the McFarland resolution.

SPEAKER BARRETT: Thank you. Senator Nelson, followed by Senator Lamb.

SENATOR NELSON: Mr. Speaker, members of the body, I, too, will support Senator McFarland's resolution. I hope that, through our deliberation and our consideration, that we can lay all politics aside. I was elected by my constituents probably by a larger majority of the party that I am not represented to come down here and be as knowledgeable as I can be and to find out the facts and then try to make the best decision. I feel, by the very narrow call and these bills that were given us, I, too, have a lot of concern with a major change, particularly in LR 1. I would defy any senator on this floor right now to say that they fully understand the implications of that bill. Another thing that bothers me, I think Senator Schimek alluded to it very much. I don't blame the interested parties that had a lot of input in the drafting of these bills. They represent their own special interest. The one tax study group here, I called them last Friday. They named off the individuals that had met earlier that morning, primarily the railroads, the pipeline companies, the realtors, the Farm Bureau, and the school boards, and so on, and I said that is fine, but where was the Legislature? Who represented the Legislature? Who represented the taxpayers and my constituents? I think the answer was, well, that is coming. I am not comfortable. I am not saying that the draft is all right or they are wrong, excepting that for us to come down here and all along I have said, we don't

CLERK: Mr. President, I have received from the Reference Committee reference reports referring LBs 1-9 as introduced yesterday. I have also received a reference report regarding certain gubernatorial appointees to the appropriate standing committee for confirmation hearing. (See pages 66-68 of the Legislative Journal.) Mr. President, pursuant to receipt of the reference report, I have a motion on the desk. Senator Schmit would move to rerefer LB 1, LB 2, LB 4, LB 5, LB 6, LB 7, LB 8 and LB 9 to General File, pursuant to Rule 6, Section 2.

SPEAKER BARRETT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I will not speak at great length at this time because there will no doubt be others who will wish to address the issue. I just would like to offer this motion because I want to point out that the reason for a public hearing, of course, is to provide the public an opportunity to come before the committee, present their point of view on a proposed piece of legislation. At this time, I doubt that hardly any members of the public do have before them any copies of the bill. Most certainly, they do not have before them the rewritten copies of LB 1, which I have seen, which I understand is still undergoing some change. Number two, I want to point out that I believe that, depending upon whether or not Senator McFarland receives sufficient signatures to extend the session or to expand the session, that the bills ought to be discussed and debated by the entire body. I have read many comments by the members who have indicated that the bills, LB 1, LB 2 and LB 3, at least, were going to be passed and, in fact, one of our colleagues said that he didn't know what was in them, didn't know if they were good or bad but that they would probably be passed. I don't think that reflects probably the total consensus but I think, it all honesty, it's an honest consensus and I certainly do not criticize the member for having been so frank. More than anything else, I believe that we ought to have all members involved in the process. I have introduced before the Revenue Committee many bills, in the past years that I have been there, very few, I might add, that have seen the legislative floor. I would like to suggest that it might have been a little less burdensome in this regard today had some of those bills made it to the floor. I would suggest that some of the bills that have been introduced, not...by the Governor, and not to pick on those bills or on Senator Warner's bills, some of the bills that I have introduced, some of the bills that Senator

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                             LR 5

McFarland. (Read brief explanation.) That will be laid over. And LR 5 offered by Speaker Barrett. (Read brief explanation.) That, as well, will be laid over, Mr. President. (See pages 99-100 of the Legislative Journal.) And that is all that I have.

PRESIDENT: We will move on to General File, LB 3, please.

CLERK: Mr. President, LB 3 was a bill introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on November 8, Mr. President. Subsequent to that action, the Reference Committee reported the bill directly to General File. I have no amendments pending.

PRESIDENT: Thank you. Senator Labeledz, please.

SENATOR LABEDZ: Thank you, Mr. President. LB 3 appropriates the funds that cover the expenses of the Legislature and it is for the special session, of course, and Section 1 includes \$24,973, General Funds, for the senators' mileage and the per diem cost. There is also a \$5,000 for the...basically the printing costs. That is it. Thank you, Mr. President.

PRESIDENT: Thank you. You have heard the explanation of the bill, all those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to advance LB 3.

PRESIDENT: LB 3 passes. LB 1.

CLERK: Mr. President, LB 1 was a bill introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on November 8, referred to the Revenue Committee. The bill was advanced to General File, Mr. President. I do have Revenue Committee amendments pending. (See page 91 of the Legislative Journal.)

PRESIDENT: Senator Hall, please. Are you going to take the bill first, or the amendments, or how do you propose to handle it?

SENATOR HALL: Mr. President, I would like to take the amendments to the bill.

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LB 1, 3, 6  
LR 6

need to be clarified, and I guess they would be the ones that would have to clarify it, because, in my opinion, the way it is currently drafted, it goes to the intent of the amendment that was offered, and it exempts the irrigation systems from being called real property, which means they are classified as personal property. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Ashford, you are next but I understand we have an amendment to the committee amendments. Mr. Clerk.

CLERK: Mr. President, if I may read some items for the record.

PRESIDENT: Please.

CLERK: Mr. President, I have a confirmation hearing report offered by the General Affairs Committee, signed by Senator Smith as Chair. A new resolution offered by Senator Abboud, Mr. President. That will be laid over. (Re: LR 6. See pages 100-102 of the Legislative Journal.)

A motion by Senator Warner with respect to raising LB 6. Enrollment and Review reports LB 3 to Select File, Mr. President.

Mr. President, Senator Schmit would move to amend the committee amendments. Senator, I have AMO28S in front of me. (On file in Clerk's Office.)

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President, and members, I have just been handed letters from two county assessors in which they say that LB 1 clearly defines real and/or personal property and outlines why they support LB 1. That only leaves 91 more county assessors to get their letters into Mr. Larry D. Worth, Administrator of the Property Tax Division. I would suggest they also send copies of these letters to the Supreme Court because that is where we are going to be again, and I am sure they will be most impressed with these two letters. Anyway,...and I mean they mean well, they mean well. Senator Hefner said that the pump, the irrigation pump is real property. Senator Hall said the irrigation pump is personal property. Ladies and gentlemen, you don't need to point the finger at me for raising the issue. You have got two members of the Revenue

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that I have at this time, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then directly to item 6 on the agenda, Select File, LB 3.

CLERK: Mr. President, on LB 3 I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: (Mike off.) ...advance to E & R final, excuse me...

CLERK: Senator, it's LB 3, I'm sorry.

SENATOR LINDSAY: ...LB 3 to E & R final.

SPEAKER BARRETT: Any discussion? All in favor of the advancement of LB 3 please say aye. Opposed no. Ayes have it, motion carries. The bill is advanced. Next bill.

CLERK: Mr. President, the next bill is LB 1. The first item I have, Senator, are Enrollment and Review amendments on LB 1.

SPEAKER BARRETT: Chairman Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1.

SPEAKER BARRETT: You've heard the motion to adopt the E & R amendments. All in favor say aye, opposed no, carried they are adopted.

CLERK: Mr. President, Senator Elmer would move to amend the bill.

SPEAKER BARRETT: Senator Owen Elmer, please.

SENATOR ELMER: Thank you very much, Mr. Speaker. This amendment is basically what I had proposed yesterday and got 22 votes to consider. You know, we've all been trying to reach some sort of a permanent solution. The public would like to have us do that and all the testifiers at the hearing Friday before the Revenue Committee asked us to try to accomplish that, but neither the Legislature nor the Governor's Office are really ready to do this. These changes would be far-reaching, we don't

be considered for final enactment.

SPEAKER BARRETT: Thank you. There are no other lights on, and the question before the body is the advancement of LB 7 to E & R engrossing. All in favor of that motion please vote aye, opposed nay. A machine vote has been requested. Have you all voted? Have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 7 nays, Mr. President, on the advancement of LB 7.

SPEAKER BARRETT: Motion prevails, the bill is advanced. I'd like to suggest that we stand at ease now for a few minutes for the bills to be correctly engrossed. I would say probably a ball park, 10 minutes, 15 at the latest. So if we would stand at ease, please.

EASE

SPEAKER BARRETT: Mr. Clerk, have you something to read in?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 1 and find the same correctly engrossed, LB 2 correctly engrossed, LB 3 correctly engrossed and LB 7 correctly engrossed, all signed by Senator Lindsay. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Anything else for the record?

CLERK: Nothing further, Mr. President.

SPEAKER BARRETT: No messages on the President's desk?

CLERK: No, sir.

SPEAKER BARRETT: Senator Lindsay, would you care to adjourn us until nine o'clock in the morning?

SENATOR LINDSAY: I would yield to Senator Kristensen.

SPEAKER BARRETT: Senator Kristensen, would you do the honors, please?

SENATOR KRISTENSEN: As Vice-Chairman of E & R, I would. I

SPEAKER BARRETT: Thank you, Senator Korshoj. It has just occurred to the Chair a very honest oversight perhaps should be rectified at this particular point. There was not a motion on the agenda today to suspend our two-day rule and I would like to defer to the Clerk at this point to have him explain and perhaps handle it at this moment. Then we will proceed to the voting order. Mr. Clerk.

CLERK: Mr. President, Senator Labedz, as Chair of the Executive Board, would move to suspend Rule 6, Section 7(b), which is the two-day layover provision, to allow consideration of bills on Final Reading today.

SPEAKER BARRETT: Senator Labedz.

SENATOR LABEDZ: Mr. President, I have nothing further to add to the motion other than I will read the motion, I move to suspend the rules, Rule 6, Section 7(b) to permit consideration of LBs 1, 2, 3, and 7 on Final Reading today, and the rule is on page 45 of the Rule Book, Final Reading, "No bills shall be voted on for final passage until two legislative days after it is referenced to Final Reading." I move for the adoption of the motion.

SPEAKER BARRETT: Senator Landis, state your point.

SENATOR LANDIS: Mr. Speaker, I understand why we have to make that motion and we should, but my question is this, there is a motion before the body in the form of Senator Haberman's motion. We are not entitled to proceed to another matter of business without disposing of that item, it seems as I understand it. We have a little difficulty here of getting the chicken and the egg, but our rules do not permit once a matter is joined to elevate a motion which is not a priority motion before it. Unfortunately, Senator Haberman is going to have to withdraw his motion for Senator Labedz's motion to be heard. In which case, it loses its priority and Senator Chambers gets his motions. That I think is according, but I am asking the Chair whether or not that is correct, but I don't believe once we have made a motion that we can intervene with another motion unless this one is either disposed of or withdrawn.

SPEAKER BARRETT: Senator Haberman, did you have a comment.

SENATOR HABERMAN: A point of order, Mr. President.



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SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 2 with the emergency clause attached become law? All in favor vote aye, opposed nay. Record, please.

CLERK: (Read record vote. See pages 158-59 of the Legislative Journal.) 36 ayes, 9 nays, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 2E passes. LB 3 with the emergency clause attached.

CLERK: Mr. President, Senator, I have a priority motion with respect to LB 3. Senator Hall would move to bracket LB 3 until 12:00 p.m., November 17, 1989.

SPEAKER BARRETT: Senator Hall.

SENATOR HALLS: Thank you, Mr. President, and members. The motion is there strictly to jump in front of Senator Haberman's motion which was in line first so that I would have the opportunity to, although I didn't think he would be as charitable on LB 3 as he has been on the other two bills because there are more than just one motion that follow. I rise to just briefly get into the record some things in relation to LB 3 and much of the debate that has surrounded it over the last week. The personal property tax issue as we have debated it over this Special Session as well as a number of years has yet to be resolved and will yet to be resolved with the passage of LB 3E or the passage of the two previous bills as we have had them. But I would just like to get into the record some things of the court that we have talked about much, I think, over this same time and we have said that the court has given us little direction, and I have been one of those who stated that in some ways I agree with it, and in others, I disagree, and I earlier in debate on this bill read some things into the record.

SPEAKER BARRETT: Excuse me, Senator Hall, excuse me. Are you discussing LB 3?

SENATOR HALL: Yes.

SPEAKER BARRETT: As opposed to LB 7?

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SENATOR HALL:    Oh, excuse me.    I apologize.    I will tell you what, while I am on a roll...

SPEAKER BARRETT:    I am sorry.

SENATOR HALL:    I'd withdraw that motion.

SPEAKER BARRETT:    You are out of order.

SENATOR HALL:    I will apply to the correct bill.

SPEAKER BARRETT:    Thank you.    Any discussion?

CLERK:    Senator Haberman, may I...do you want to offer your motion, Senator on LB 3? Your motion is to suspend the rules and vote without further amendment or debate.

SENATOR HABERMAN:    Well, there are no amendments on the rest of the bill, is there?

CLERK:    No, sir.

SENATOR HABERMAN:    Okay, withdraw it.

SPEAKER BARRETT:    It is withdrawn.    Anything else?

CLERK:    Nothing further on the bill, Mr. President.

SPEAKER BARRETT:    Proceed.

CLERK:    (Read LB 3 on Final Reading.)

SPEAKER BARRETT:    All provisions of law relative to procedure having been complied with, the question is, shall LB 3 with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK:    (Read record vote. See pages 159-60 of the Legislative Journal.) 41 ayes, 3 nays, 1 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT:    LB 3E passes.    LB 7E.

CLERK:    Mr. President, I have a series of motions with respect to LB 7. I do have a priority motion from Senator Hall.

cow, because we had a real estate system which had some inequities, but which has made some progress toward equity in recent years. Unfortunately, with the classification process we have place in LB 1, I am not going to go into that now, Senator Chambers touched upon one which I think is absolutely an improper class, that of center pivots, we have started a process which where we sow the wind and reap the whirlwind and it is too bad. I think we had better pass LB 7 now and at least be able to go back home and tell the folks that we did something which is not going to come back and haunt us forever and ever. I am afraid that LB 1 and 2 will, and so there ought to be something redeeming about this session other than LB 3, and that will be LB 7. So I would suggest we go ahead and vote on it. Thank you.

SPEAKER BARRETT:      Thank you.      Senator Hefner, followed by Senator Lamb.

SENATOR HEFNER: Mr. President, and members of the body, Senator Lindsay, I think you should have had this amendment on each bill, LB 1, LB 2, and LB 7, if you are really serious about asking the Supreme Court to do this. But I believe the Supreme Court is going to have this before them in record time anyway, and so I would just say that I really don't think it is necessary on LB 7. There is one other thing that I want to get in the record, and that is Senator Chambers has been saying that the Governor wants her way, the Governor wants her way, and the Governor called this session. I would just say to you, Senator Chambers and the body, that the Governor was requested by the local government entities to call this session, and the reason we are here, I thought I emphasized that enough before, the reason we are here is try to preserve \$30 million for local government because I felt that if we didn't pass these bills, LB 1, LB 2, and LB 7, that they would come up short, and I realize we can appropriate \$30 million, but I don't know how soon that will come. And if we don't get these bills passed with the emergency clause, come December 31st, it is all gone. The \$30 million is gone. So, ladies and gentlemen, I just wanted to get this into the record. We want to help local government with this \$30 million.

SPEAKER BARRETT:      Thank you.      Senator Lamb.

SENATOR LAMB:      Question.

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SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 1, LB 2, LB 3 and LB 7. Mr. Clerk, item 8 on the agenda.

CLERK: Mr. President, one item. Senator Hannibal would like to remind those members of the LR 222 Committee regarding prison overcrowding that they will meet in Room 1004 at approximately 2:00 p.m. today; Room 1004 at approximately two o'clock.

SPEAKER BARRETT: Thank you. Item 8, please.

CLERK: Mr. President, one other announcement. Senator Schmit would like to announce that the Franklin Committee will meet at approximately two o'clock, 1520, Room 1520.

SPEAKER BARRETT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Well, Mr. President, I move that a committee of five be appointed to advise the Governor that the Ninety-First Legislature, First Special Session, of the Nebraska State Legislature is about to complete its work and to return with any message the Governor may have for the Legislature. Yes, but there is a motion up there to allow no debate, Senator Chambers.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Is this on the motion that he read or his motion not to allow any debate?

SPEAKER BARRETT: The motion, as offered by Senator Haberman, is debatable.

SENATOR CHAMBERS: Mr. Chairman, where is the chair located on which they will place the Governor and then lift to their shoulders as they carry her to the Chamber in the appropriate posture?

SPEAKER BARRETT: Thank you. The Chair appoints the following members to return to the Chamber with the Governor with any message that she might have. Senators Hefner, Lamb, Schellpeper, Pirsch and Robak, will you members please advise the Governor and return to the Chamber with the Governor.