

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

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

Haberman has introduced, do merit debate on the floor. I believe that it ought to be up to the entire body to determine whether those bills have merit or whether they do not. I don't believe we should place the entire emphasis and give all of the responsibility to eight members of the Revenue Committee. I think it's important at this time that we recognize that there is no purpose to be served by going before a public hearing unless the public from Scottsbluff to Bellevue, from Falls City to Chadron, have a chance to come in and be heard. I have had numerous calls from individuals who have contacted me wanting to know how they can have input on these bills. My response has been very simple, call your senator. That individual is the best access you have to these bills. To attempt to come before the committee...and I respect Senator Hall and his committee very much, I have always said it's the hardest working committee on the floor and the most difficult committee to work as a member of, but I do not believe that we can get input from the entire cross section of the State of Nebraska. To the extent that we cannot, the thinking of the committee is not going to reflect a statewide opinion. It will, in fact, reflect the opinion of eastern Nebraska and I suggest that that is not fair and that is not equitable and that might be why the bills, as we see today, particularly LB 1 and LB 2, are in such a state of disarray. Certainly, had there been more input from outstate Nebraska, from rural, urban business groups, the bills would not be undergoing the rewriting that they are undergoing today. I suggest and I ask the question how can those individuals who will come before the committee tomorrow have any inkling of what is going to be in those bills when the amendments are being drafted as of now? They will be coming before the committee prepared to testify on the green copy if prepared to testify on anything, and I would suggest that the green copy that we have before us today will in no way reflect the content of LB 1 and LB 2 when they come before the committee. I would hope that the body will discuss the merits of having the bills on the floor where all 49 members can have input because we represent, as has been said today here several times, each a constituency. The only manner in which that constituency can be represented in the drafting of these bills at this time is if the bills come to the floor. If we get a microcosm of bills before this body, we are going to only address a very narrow part of the problem and I suggest that that will not be a solution. We should not be dodging the issue. We should not be dodging the tough questions. We should be addressing the tough questions, as difficult as they are, as unpopular as they are, as unpopular,

yes, as they might make us back in our home districts. But we do not have the luxury, we do not have the ability, I do not think, at this time to delay those decisions until another time. If you will go back and read the news accounts, and Senator Lynch had some here, I believe, yesterday, each time for the last 10 years that we have met in a session or a special session we talked about a temporary solution, a part-time application of a solution to a very difficult problem. We never did address the entire problem. Way back in 1979, I said you cannot patch a totally bad roof one shingle at a time, you must apply a new roof. Ladies and gentlemen, it's time for a new roof. It's time that all 49 of us were working on it and I think we ought to address it in that manner and, Senator Hall, again, I want to emphasize it is not in any way an indication of lack of competence in your committee, it is just an expression of mine that I think we ought to all be involved in the legislative and drafting process. Thank you very much.

SPEAKER BARRETT: Thank you. Discussion on the Schmit motion. Senator Chambers, Senator Hall on deck.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, as a member of the Executive Board, I opposed the Executive Board referring the bills directly to the floor and felt that the motion should be handled in the way Senator Schmit is handling it now by presenting it to the entire body and I'm going to support his motion. The better course would be to delay the public hearing so that there would be adequate time to publish this legislation and make it available for the public who will be affected very profoundly by it, but that is not to be done. And it's clear that it's not the administration's desire that the public know because the administration deliberately withheld even the green versions of the bill from the Legislature. That was done to manipulate the system and maneuver the Legislature into becoming a rubber stamp. But to show that certain news outlets understand the insignificance of what we're doing because it's a done deal, I can't help noticing things and I shouldn't read newspapers like I do, other than the funny papers but I do read something other than the funny paper and the sport section. But here are things that were more important to the Lincoln Star. Doctor. Kitty Dukakis drank rubbing alcohol. Here's another thing that's very important. Eating fish twice a week shown to prolong life. Then the new 84th and "O" project proposed. And here is an international issue that should merit front page coverage. German crisis

monitored by worried super powers. Another article. After mid-terms, 'tis the season to skip classes. Then winter is a murderous time as crows visit Nebraska towns. There is nothing about the Legislature in any of these articles and I think it just shows a decision made by those who publish the paper that this is nonsense that we're engaged in, this is a circus, this is a carnival. When has a carnival merited front page coverage? Now the World-Herald will give front page coverage because the World-Herald supports Governor Orr and the World-Herald has tried to make everything she do seem as though it makes sense when, in fact, it doesn't. When there is one large newspaper and it, instead of trying to inform the public, tends to becloud the issue and argue that there is no necessity that the public know what the Legislature is doing, it's clear that that paper has made itself an arm of the administration. It can do that. It can do that, because the Constitution grants them the freedom to do it, but it is not ethical and it is not professional. But when have the terms "ethical" and "professional" ever appropriately been attached to the World-Herald in anything that it does? I noticed the other day, after Nebraska had gotten its pants pressed in a football game with Colorado, that the World-Herald editors all got together in secret conclave and wrote one of the most vitriolic editorials against a university because the players took inspiration from the fact that one of their teammates had died from inoperable stomach cancer. Now if old Harold kicks the bucket and they write all these glowing terms about him and I stand up on the floor and talk about some of the terrible things I think he did, they would say I'm terrible. This young quarterback did not hurt the Omaha World-Herald. They did not...he did not do anything to try to improperly influence public opinion or defame anybody as the World-herald regularly does. But when you have a cheap, yellow journalistic sheet, like the World-Herald, supporting the Governor in what she does, it's difficult to make a jump but sometimes you say you judge persons by the company they keep. Now it's clear that there is no intent that the public be aware of what this legislation should consist of. It's clear that the legislators are not to be made aware of it. A public hearing would be a charade under these circumstances.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: The whole session, as I said, is simply pro forma just to go through the motions, but we don't have to participate in creating a sham that we foist on the public. As

Chairman of the committee, I can see where Senator Hall would want to discharge his duty and make a forum available to the public even though the time frame is so short that members of the public who may want to participate realistically will not have an opportunity to do so. I would rather that instead of getting into such a breakneck hurry to carry out the Governor's will...and I'm surprised some of my colleagues who pretend to love the legislative process so much and are praised by Dick Herman for loving that are not joining me in saying we should delay the public hearing until such time as the public can hear. But the purpose is not to give the public a hearing but to make the Governor's first step toward reelection a success. I'm going to support Senator Schmit's motion.

SPEAKER BARRETT: Thank you. Senator Hall, followed by Senator Warner.

SENATOR HALL: Thank you, Mr. President, and members, I rise in opposition to Senator Schmit's motion to reference the bills to General File and it's not because I am looking forward to the public hearings that we're going to hold tomorrow. The public hearings were scheduled, basically, for tomorrow because it did allow for additional time for the general public to get a look at the bills, at least, if nothing else, read the press reports, listen to the press reports on the bills that have been introduced. There had been some indication as to what was going to come in prior to yesterday. They, in their papers either last night or this morning, have I think gotten information that details what is in those eight bills. We were...I thought if we held the hearings this afternoon would be jumping the gun in terms of allowing folks from across the state the opportunity to testify on the various measures before us. Holding the hearings tomorrow, although it is Veterans' Day as recognized by the state, was I think the most opportune time to allow for complete discussion of the issues. Now that we have eight bills before us, we will spend the vast majority of the day from nine o'clock on dealing with all eight of those issues, in their entirety, in front of the committee. I understand Senator Schmit's concern. I would argue that the Revenue Committee would not look at these issues strictly from the viewpoint of eastern Nebraska but look at them from the viewpoint of the entire state. Our revenue system runs across the state. It is not limited to a certain geographic area of the state. I would also argue that I would appreciate Senator Schmit's testimony tomorrow before the Revenue Committee on these issues, and I would be very

interested in seeing a copy of the rewrite of LB 1. Senator Schmit, I have not been privileged to get that as of yet, and I will be very interested to hear the reasons for the amendments to the bills as they are presented tomorrow morning. It will make it easier for me to get up at six o'clock knowing that that is going to be presented the first thing in the morning. With that, I would argue that it is important, our whole system here, the Unicameral system is based on the public hearing. As you all know, we are the only state in the nation that allow for a public hearing on every bill. To deny that, I think, although many of the issues have been heard before, at least one of the bills is the bill that Senator Schmit...virtually the same bill that Senator Schmit introduced a year ago, was heard before the committee. They deserve the opportunity to be heard. They deserve to be debated. They deserve the opportunity to have amendments offered. I think there will be more amendments offered than the ones that Senator Schmit talks about. Those all need full public debate. We will allow for that tomorrow. After that, the committee will deliberate and make a determination as to how they will deal with the bills as they have been presented. We won't do anything any different than we have in the past, and I hope that the body will defeat Senator Schmit's motion to refer, although I completely understand his reason for offering it. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Warner, please.

SENATOR WARNER: Mr. President, members of the Legislature, I would rise to support Senator Hall's position to go ahead and have the hearings. I don't know if this...actually when I pushed my button, I wrote an amendment out to exclude from Senator Schmit's motion LB 7 which I introduced because, in fact, I would appreciate a public hearing and the input that can be attained from that and have the Revenue Committee of the Legislature reviewing that proposal. As Senator Hall has pointed out, it has in part, at least, been considered before, and not knowing how things are going to go this morning, rather than offer an amendment, I'd assume that this is not going to pass, but if it does, then I will still come back and ask to have LB 7 excluded because I would very much appreciate a hearing on that bill by the Revenue Committee.

SPEAKER BARRETT: Thank you. Any other discussion on the motion? Senator Schmit, would you care to close?

SENATOR SCHMIT: Well, Mr. President and members, the idea of a public hearing is, of course, a very laudable one and a very desirable one. I always support that idea. My concern is, as I have expressed earlier, that this will not, in fact, be a true public hearing. We will hear again from, number one, the cities, number two, the counties, number three, the school boards; number four, we are going to hear from Mr. John Boehm. I, myself, will be most interested, Senator Warner, listening to Mr. Boehm come in and testify in support of LB 7 this time because he testified against LB 497 when I introduced the bill during the regular session. And I recognize that conditions change, and I recognize that situations change, and, therefore, of course, we have to sometimes change our position, but I would want to just remind you that Senator Hall doesn't even have the proposed rewrite of LB 1. I would suggest how can the public possibly be prepared to testify on such a bill when they do not have it in their possession even a few hours prior to their coming to the legislative arena. In addition to that, I want to suggest to you that the entire public hearing process ought to be once in awhile for the benefit of the public, so that the citizen, the taxpayer, the individual who has to pay the bill can come in and sit down and tell the Revenue Committee why they want a bill, do not want it. We have many reasons why, of course, the cities and the counties and the schools need to maintain their cash flow. I do not in any way condemn those entities for their interest. They have an obligation and a responsibility to the entities they represent to do so in a manner which maintains to the best of their ability the cash flow necessary to sustain those subdivisions of government. At this point in time, we ought to be listening to the taxpayer to determine if the taxpayer believes that all of the expenditures we have been making and intend to make and will commit to make are necessary and, in fact, ought to be a part of the obligation of the taxpayer. I think we would find it to be substantially different. I would like to ask just in conclusion, how do you propose, how do you propose that western Nebraska, even central Nebraska, can possibly get here to testify on these bills, present their point of view, when they will not have that information before them tomorrow morning. It is not going to work. We are going to listen, we are going to all get together, the same little groups, the same little group of lobbyists, the same narrow point of views will get together in the hearing room, exchange ideas and conversation and quips and jokes, and we will recess. I would just want to suggest, I don't want anyone to take any offense by it, but it will be very, very

strange, Senator Hall, if those bills introduced by Schmit and Haberman reach the floor tomorrow. If they don't reach the floor, it is very difficult for this body, as a group, to have any input on those. That is the only way that the additional 41 members, and therein the people they represent, can express their point of view on something other than the bills which have been proposed, which today almost everyone wants to distance themselves from. Governor Orr has worked very diligently, very sincerely, and very dedicatedly to try to resolve the problem from her point of view. We have an obligation to give to her our point of view, another point of view, another solution,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...because as she has said, we should work together. The very groups whom she mentioned who have supported her, worked with her on the drafting of the two bills, have in two instances told me they did not even see the bills before they were presented to the body, and certainly were attempting to distance themselves from them. I would suggest, ladies and gentlemen, that the best possible hearing for these bills is a full and open debate before the legislative floor. However, I am a realist. I know it is not going to happen. Mr. Chairman, with your permission, I ask that the resolution be withdrawn.

SPEAKER BARRETT: Thank you. The motion is withdrawn. For the record, Mr. Clerk.

CLERK: Mr. President, I have a series of hearing notices from various Standing Committees regarding scheduling of confirmation hearings. Pursuant to the filing of those hearing notices, Mr. president, I have a motion to suspend Rule 9, Section 3 to permit the committees to conduct confirmation hearings on gubernatorial appointments more than five calendar days following the referral of such appointments by the Reference Committee.

SPEAKER BARRETT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I move to suspend the rules, Rule 9, Section 3, to permit committees to conduct confirmation hearings on gubernatorial appointments more than five calendar days following the referral of such appointments by the Reference Committee. Thank you.

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PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. Would you please rise for the invocation by Senator Hefner, please.

SENATOR HEFNER: (Prayer offered.)

PRESIDENT: Thank you, Senator Hefner. May we have the roll call, please.

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

PRESIDENT: Thank you. Do you have any corrections to the Journal today?

CLERK: I have no corrections, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 2 and LR 3. Do you have some things to read in, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Revenue, whose Chair is Senator Hall, to whom was referred LB 4, instructs me to report the same back to the Legislature with the recommendation it be indefinitely postponed; LB 5 indefinitely postponed; LB 6 indefinitely postponed; LB 8 indefinitely postponed and LB 9 indefinitely postponed, all signed by Senator Hall as chair of the committee.

Mr. President, I have a reference report referring a certain gubernatorial appointee to the Agriculture Committee for a confirmation hearing. I have a report of registered lobbyists for May, 1989 through November 14, '89. (See pages 94-96 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Warner regarding LB 7. (See pages 96-97 of the Legislative Journal.)

Mr. President, I have a communication from the Secretary of State. Mr. President, I have a hearing notice from the Retirement Committee, confirmation hearing notice, signed by Senator Haberman as Chair.

And, Mr. President, two new resolutions, LR 4 by Senator

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a question for Senator Schmit.

PRESIDENT: Senator Schmit, would you respond, please.

SENATOR SCHMIT: Yes, Senator, I will respond.

SENATOR HEFNER: Senator Schmit, I don't have a copy of that amendment on my desk. Is that the same as LB 8?

SENATOR SCHMIT: It is a combination, Senator, of LB 8 and LB 9.

SENATOR HEFNER: Okay, and I understand that LB 8 removes exemption provided to religious, educational, and charitable organizations, and cemetery real property holdings. Is that included in this amendment?

SENATOR SCHMIT: Except that property, Senator, which is exempted by the federal and state Constitution, which is the churches.

SENATOR HEFNER: Which is for churches?

SENATOR SCHMIT: Yes.

SENATOR HEFNER: Okay. What is your definition then for religious organizations?

SENATOR SCHMIT: Whatever has been considered religious in the past. I guess it is a much broader term, Senator, than it was 150 years ago.

SENATOR HEFNER: Okay, well, how come we say that it exempts some religious organizations? What part of the religious organizations does it exempt?

SENATOR SCHMIT: It exempts that which is exempted by the two Constitutions, Senator. That is the way I told the bill drafter to draft it.

SENATOR HEFNER: Okay, but there is still some exemptions that would go to religious organizations then?

SENATOR SCHMIT: Churches, per se, would be exempt, yes.

SENATOR HEFNER: Okay. How about the religious schools?

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Schmit amendment. Record, Mr. Clerk, please.

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Schmit, would you like to close, please, but before you do, (gavel), let's hold the conversation down so we can hear Senator Schmit, please. Thank you.

SENATOR SCHMIT: Mr. President, and members, LB 8 and LB 9 have been printed just as long as has been LB 1, LB 2, and LB 7. Senator Haberman, you are a member the Revenue Committee, how did you vote on the motion to kill LB 8 and LB 9?

PRESIDENT: Senator, are you asking Senator Haberman?

SENATOR SCHMIT: Haberman, yes. I won't waste any time. I will ask him when he gets back on the floor.

PRESIDENT: All right.

SENATOR SCHMIT: Do you know, Senator Haberman, I have had to hop off this floor several times with my foot in my mouth. It is not too bad if you can negotiate the steps. After that it is pretty easy. The point is this, Senator Haberman, if you voted to kill those bills without reading them, then you were voting irresponsibility. If you read them and voted to kill them, then you know what is in them, because this amendment is identical to LB 8 and LB 9. So don't tell me, you don't need to read the book to me, Senator, I have been here awhile. The amendments that have been offered for LB 1 and LB 2 have been much more extensive than what I am proposing. There is no new material in my amendment. It is LB 8 and LB 9 compiled. Now I can tell you one more thing, Senator, I will answer any question you want me to answer on LB 8, on this amendment. That is more than I can say for those of you who have proposed the amendments, many of them at least, to LB 1. We have a disagreement between members of the committee as to whether or not an irrigation pump is real or personal property. I think before you do anything else, we ought to call a recess and decide that little issue right there. There are some other issues we can decide as we go along but, first of all, the committee, themselves, ought to know. There may well be and there probably is a difference in the way the equipment is being handled between the counties. What I am suggesting to you is this, ladies and gentlemen, I am suggesting

a major step and I agree it is a major step, but I am suggesting to you that it is a step in the right direction. It removes the personal property problem once and for all. Number two, it places back on the tax rolls property which, some of the favorite words we use around here, it was never intended to be exempt. Number three, it then clears the way for us to do those things which need to be done relative to individual situations, relative to the raising of money, relative to the financing of the schools, relative to the financing of the local subdivisions. But unless the people know where they are at, under LB 1, you are going to have a complete new line of work out there, ladies and gentlemen, for the assessors in those counties, and I suggest it is going to be almost impossible for them to do it. They are going to be faced, shortly after the first of next month, you are going to get the new appraisals on farmland. If you like the appraisal you get on farmland, ladies and gentlemen, you are going to love LB 1. I would suggest you take a good look at it. I suggest that you not summarily dismiss this amendment. You are making a serious mistake. You can be critical of me, personally, if you wish. You can criticize me, personally, for introducing the bill in this manner. It was not my desire to do so. I do so only because I think I know that you are going to have serious problems if you proceed in the direction you have laid out. I would hope that you would not kill this amendment. I would hope that you would adopt the amendment and proceed then to resolve the problems that we have created otherwise under LB 1. Ladies and gentlemen, again, I have not handed the amendment out. If you want to read the amendment, read LB 8 and LB 9. Those are the bills. The bill drafter has hundreds of them, and if you haven't checked them out and read them, it is not my fault. Specifically, Senator Haberman, a member of the Revenue Committee should have read those bills. There isn't anyway you could vote responsibly without having read the bills unless you have been committed to a preordained course of action, which happens, perhaps, once in awhile around this place but which is not good for the people of the State of Nebraska. Mr. President, and members, I ask you to vote affirmatively on my amendment to LB 1.

PRESIDENT: Thank you. The question is the adoption of the Schmit amendment to the committee amendments. All those in favor vote aye, opposed nay. A simple majority prevails. Have you all voted that care to?