

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

January 25, 1989

LB 51, 60, 94, 97, 175, 189, 207  
251, 261  
LR 20

**SPEAKER BARRETT PRESIDING**

**SPEAKER BARRETT:** Welcome to this the 14th legislative day in the First Session of the 91st Legislature. Our chaplain of the day, Pastor John Eilers, Southview Christian Church in Lincoln. Reverend Eilers.

**REVEREND EILERS:** (Prayer offered.)

**SPEAKER BARRETT:** Thank you, Reverend Eilers, we're glad to have you with us. Roll call.

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

**SPEAKER BARRETT:** Record, Mr. Clerk. Corrections to the Journal, please.

**CLERK:** No corrections, Mr. President.

**SPEAKER BARRETT:** Any reports, announcements or messages?

**CLERK:** Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 94 and recommend that same be placed on Select File; LB 97, LB 251 all on Select File, some of which have E & R amendments. (See pages 422-23 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 51 and find the same correctly engrossed; LB 60, LB 189, and LB 207 all correctly engrossed, all signed by Senator Lindsay as Chair.

Business and Labor, whose Chair is Senator Coordsen, reports LB 261 to General File, and LB 175 to General File with amendments. Those are signed by Senator Coordsen as Chair. (See page 423 of the Legislative Journal.)

Mr. President, new resolution. (Read LR 20 for first time. See page 424 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, hearing notices from Judiciary, signed by Senator Chizek as Chair; Revenue, signed by Senator Hall as Chair. Mr. President, a series of reports, two from the Lewis and Clark and the Middle Niobrara NRD districts regarding payment of

SPEAKER BARRETT: LB 256 is advanced. LB 175.

CLERK: Mr. President, LB 175 was a bill that was introduced by Senator McFarland. (Read title.) The bill was introduced on January 5 of this year, referred to the Business and Labor Committee. The bill was advanced to General File. I do have committee amendments pending by the Business and Labor Committee. (See page 423 of the Legislative Journal.)

SPEAKER BARRETT: Senator Coordsen, please, on the committee amendments.

SENATOR COORDSEN: Thank you, Mr. Speaker. Will you give me just a second here. My aide turned up sick today and I don't have the folder, isn't that wonderful.

SPEAKER BARRETT: Certainly.

SENATOR COORDSEN: Thank you for the indulgence, Mr. Speaker. The committee amendments simply change the amount of compensation from \$70, which is in the bill, down to \$50. The committee felt that this was in line with what several of the other boards and commissions of like responsibilities were receiving currently in the state. Simply a reduction in the amount from \$70, as provided for in the bill, to \$50, and with that, I would urge the adoption of the amendment.

SPEAKER BARRETT: Thank you. Discussion on the committee amendments to LB 175. If not, those in favor of the adoption of the committee amendments please vote aye, opposed nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER BARRETT: The amendments are adopted. To the bill, Senator McFarland, on LB 175 as amended.

SENATOR MCFARLAND: Thank you, Mr. Speaker, fellow senators. LB 175 is a bill to increase the per diem pay for members of the Nebraska Equal Opportunity Commission. With a great deal of caution, I have to say it was advanced unanimously out of the committee. I know that is not always a recommendation. The members of the Equal Opportunity Commission are currently paid

\$40 per day. This would increase it to \$50 per day during the time they actually sit and serve and hold hearings in the Equal Opportunity Commission. The financial impact of this is very insignificant. I think if you look in your bill books, the increase if it had been raised to \$70 would have been only a \$3,000 impact. So I am assuming increasing it only from \$40 to \$50 would have an impact of perhaps a little over \$1,000. Having, as an attorney, been before the Nebraska Equal Opportunity Commission and having cases before them, I can assure you that they do a lot of work in preparation for their meetings when they determine whether there is reasonable cause or not to proceed with a discrimination claim. They have to read a lot of investigatory reports, sometimes legal briefs, and they do all of this before they even get to the hearing, and, of course, they are not compensated directly for the time that they spend in preparation either. The last increase that they got was way back in 1977, when they had an increase to the \$40 per day. It has been 12 years now since they have had an increase. I think a \$10 increase is totally appropriate, and as Senator Coordsen said, it would increase it to an amount that is consistent with what we are paying board members in other types of similar positions. So I would just urge you to advance LB 175.

SPEAKER BARRETT: Thank you. Discussion on the advancement of the bill, Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, the amount we are discussing here is relatively insignificant and I understand that. However, since the comment was made that this amount is comparable to other boards, I want to pursue that a little bit because I can recall back in 1981 or two, when we were first experiencing problems with funds, one of the things that was done, and I do not recall the committee at the moment, was went back and reviewed all of the various commissions that are established and was looking at the wide range of per diem and expenses and the reimbursement that existed, and the number that sticks in my mind collectively was somewhere in the vicinity of \$465,000. And I think, if I remember correctly, a portion of that was General Fund and a portion of it was Cash Funds but, in any event, it was a significant amount. I know that sometime after that I can recall another legislator who made it a personal project, and I recall there was an interim study included to bring about some rationale between various boards. And I honestly do not recall the result of that effort

that he made, but I know he did extensive work over a long period of time. I raise the question only because if the comment is that this brings it into line with other boards, usually these things, if you do one, we get another 10 or 15 or 20 over the next year or two and, collectively, they can be significant, or while individually they are not, but more importantly, there is the broad public policy of whether or not and at what level people should be reimbursed that are asked to serve on a variety of these commissions, and that what is the criteria. In fact, in this case, as Senator McFarland has indicated, the individuals have to do substantial pre...substantial time in prior to a commission meeting of reading briefs and other areas, but I would have a concern that we pick out just one unless there is really, in fact, a significant imbalance in relation to boards as a whole. My tendency would be to vote no, not because it is an amount here that is significant, but because what it will, I suspect, inevitably lead to, and maybe a more appropriate, and perhaps the committee and, Senator Coordsen, you could respond, perhaps the committee based on your remarks did, in fact, have the opportunity to review all of reimbursements of all the boards that exist, and I don't know how many hundred there are, but there are several. And I think that we need to keep in mind that this is a precedent that we are dealing with, not a single issue that affects one agency, and I would appreciate, Senator Coordsen, if you could indicate some basis on which I assume the committee had information that showed comparisons with other agencies or other commissions and commissions with similar or like responsibilities.

SPEAKER BARRETT: Senator Coordsen, would you respond?

SENATOR COORDSEN: Yes, Senator Warner. No, we did not look at all of the compensated board members. We did have a list of, I believe it was six, of boards that the committee counsel felt were reasonably similar in nature and time involvement with the Equal Opportunity Employment Commission. We had the State Highway Commission. I think there was a Hospital Licensing Board, several others. The range of compensation that we had ranged from 20 to 50 dollars, plus, as is generally accepted, the actual expenses of...

SPEAKER BARRETT: One minute.

SENATOR COORDSEN: ...each board member. Thank you.

SPEAKER BARRETT: Thank you. Senator Warner.

SENATOR WARNER: Well, again, Mr. President, thank you, Senator Coordsen, as I recall, the last time this was looked at there was three or four boards that I can recall that were deemed to be significantly different, one of which was the Power Review Board, I can recall was one that was identified at that time because it had people, at least in theory, were put on that because of their expertise and particular abilities that was significant that we were trying to use. I think at that, well, there was two or three others and I don't recall them off the top of my head, but I still would express some concern about beginning to make some of these adjustments in isolation from the total issue. Perhaps the bill can be advanced, then we can look at a broader scope, Senator Coordsen, of this and what potentialwise for other expansion. I don't object to people being reimbursed but I do think it is important, though, to look at what future ramifications we may be incurring in that process.

SPEAKER BARRETT: Thank you. Senator McFarland, would you care to...

SENATOR MCFARLAND: Am I the only light on, Mr. Speaker?

SPEAKER BARRETT: It is, yes.

SENATOR MCFARLAND: Could I just close then?

SPEAKER BARRETT: Certainly.

SENATOR MCFARLAND: I think that the members of the Equal Opportunity Commission do have a high degree of expertise. These discrimination cases in employment get to be fairly complex and it is an ever-changing area of the law, and it is important to have very competent people on that because the whole process before the NEOC is to try and seek a resolution to these type of disputes without having to go to litigation and expense and, in fact, those individuals, by their determinations and by the conciliation procedures they have, can save the state a lot of money just in being able to resolve them or suggest solutions to these kind of ongoing disputes without having lawsuits brought against the State of Nebraska, because the state is sometimes a party in...as a defendant in these kind of

employment situations. Again, I think if Senator Coordsen is correct, the \$50 just brings it in line with some of the other boards. I think that is entirely consistent. As I said, it is a financial impact of \$1,000. I don't see that as very dramatic and I don't see it setting any precedent that we are exceeding an amount that other boards would then try to match. Apparently, already the \$50 limit has been reached on other boards and we would be just bringing them into line as far as payment for other boards. And, really quite honestly, I haven't really opposed the increase from 40 to 50 dollars, but in my view, the original bill which proposed \$70 had a real semblance of legitimacy to it in that if you take what \$40 was worth back in 1977 and you figure in inflation over the past 12 years, \$40 in 1977 is probably equal to about \$70 in 1989. So, but in any event, I have not made a big issue of that. I think \$50 for this year is appropriate, and maybe as Senator Warner says, we need to address and look at the whole broad picture. I would urge your advancement of LB 175.

SPEAKER BARRETT: Thank you, sir. The question is the advancement of LB 175 to E & R Initial. All in favor vote aye, oppose nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of 175.

SPEAKER BARRETT: The bill is advanced to E & R. LB 261.

CLERK: LB 261, Mr. President, was a bill introduced by Senator Kristensen and Senator Robak. (Read title.) The bill was introduced on January 9, referred to Business and Labor, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: The Chair recognizes the distinguished gentleman from Minden, Senator Doug Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. President, and I think I appreciate that. LB 261 amends Section 48-186 of our statutes and deals with the Workers' Compensation Court. As you all know, workers' compensation is a body of law that deals with employees and employers in injuries that employees suffer while they are on the job. This is a quite a busy area of law in the State of Nebraska. Right now when accidents occur by an employee on the job, the hearing and the dispute about that

January 27, 1989

LB 58, 115, 138, 142, 159, 175, 225  
256, 261, 283, 284  
LR 20

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber on Friday, January 27th. Chaplain of the day, Pastor Jerry McInnis of Trinity United Methodist Church in Lincoln. Reverend McInnis, please.

REVEREND McINNIS: (Prayer offered.)

SPEAKER BARRETT: Thank you, Reverend McInnis. We hope you will be able to come back again. Roll call, please.

CLERK: There is a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: (Read correction as found on page 458 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Any reports, messages, or announcements.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 256 and recommend that same be placed on Select File; LB 175, LB 261, LB 115, LB 283, LB 284, LB 58, and LB 142, all reported to Select File, some having E & R amendments attached. (See pages 458-60 of the Legislative Journal.)

Mr. President, your Committee on Judiciary, whose Chair is Senator Chizek, reports LB 159 to General File, and LB 138 to General File with amendments, both signed by Senator Chizek. (See page 460 of the Legislative Journal.)

Judiciary offers notice of hearing, Mr. President; and LR 20 is now ready for your signature, Mr. President. That is all that I have.

SPEAKER BARRETT: Thank you. And while the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 20. \*tem 5, Mr. Clerk.

CLERK: Mr. President, I have a motion from Senator McFarland to rerefer LB 225 from the Urban Affairs Committee to the Education Committee. Senator McFarland filed his motion yesterday. It is found on page 451 of the Journal.



February 1, 1989

LB 175, 256, 261

of Environmental Control pursuant to LB 445, passed last year by the Legislature. Reports on the Miscellaneous and Tort Claims paid this past year by the Office of Risk Management and the State Claims Board; and the last report, Mr. President, is the biennial report of the Nebraska Power Review Board. Those will be on file in my office. That's all that I have, Mr. President.

PRESIDENT: Senator Rod Johnson, would you like to help us on Select File. Senator Lindsay doesn't seem to be here, I can't see him. Would you like to do that for us, please?

SENATOR R. JOHNSON: Sure.

PRESIDENT: All right. We'll move on to Select File, Mr. Clerk.

CLERK: Mr. President, LB 256, Senator, the first bill, I have no amendments pending.

PRESIDENT: Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President, I move LB 256.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 175.

CLERK: LB 175, Senator, I have E & R pending.

PRESIDENT: Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President, I'd move the Legislature adopt the E & R amendments.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are adopted. Senator Rod Johnson.

CLERK: Nothing further, Senator.

SENATOR R. JOHNSON: Mr. President, I'd move the advancement of LB 175.

PRESIDENT: You've heard the motion. All in favor say aye. Oppose nay. It is advanced. LB 261.

CLERK: LB 261, Senator, I have no amendments to the bill.

February 2, 1989

LB 58, 70, 115, 119, 142, 156, 175  
256, 261, 283, 284, 286, 298, 502  
LR 23

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We're privileged to have a minister from Senator Bernard-Stevens' area and with us as our chaplain of the day, Reverend Patrick Skinner of the Wesleyan Church in North Platte. Would you please rise for the invocation.

REVEREND SKINNER: (Prayer offered.)

PRESIDENT: Thank you, Reverend Skinner. Please come back and see us again. Roll call, please.

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

PRESIDENT: Thank you. Do we have any corrections to be made in the Journal?

CLERK: No corrections this morning, Mr. President.

PRESIDENT: Do you have any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 298 and recommend that same be placed on Select File. That is signed by Senator Lindsay as Chair. Enrollment and Review reports LB 58, LB 70, LB 115, LB 142, LB 156, LB 175, LB 256, LB 261, LB 283, LB 284 all correctly Engrossed. Those also signed by Senator Lindsay as Chair. (See page 553 of the Legislative Journal.)

Mr. President, your Committee on Natural Resources, whose Chair is Senator Schmit, to whom was referred LB 502, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File, and LB 119 as indefinitely postponed, both those signed by Senator Schmit, and LB 286 as indefinitely postponed, that signed by Senator Schmit as well. (See page 554 of the Legislative Journal.)

Mr. President, new resolution by Senator Beyer and Senator Hefner. (Read brief description of LR 23. See page 555 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, confirmation report from the Education Committee. That is offered by Senator Withem as Chair.

May 2, 1989

LB 78, 175, 262, 588, 591, 591A, 606  
646, 681, 767, 814

having been complied with, the question is, shall LB 591 with the emergency clause attached become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. (See page 2023 of the Legislative Journal.) 42 ayes, 2 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 591E passes. And let the record show that Senator Moore had guests in the north balcony. They are just leaving at the present time, 9 students and 2 sponsors from the seventh and eighth grades in Waco, from St. John's in Waco. Thank you, folks, for coming. We appreciate it. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 606, LB 681, LB 78, LB 646, and LB 262. (See page 2024 of the Legislative Journal.) The call is raised. I'm sorry, we have an A bill. The call is not raised, I'm sorry. Mr. Clerk.

CLERK: (Read LB 591A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 591A with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 2024 of the Legislative Journal.) 41 ayes, 2 nays, 3 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 591AE passes. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign, LB 591 and LB 591A, and the call is raised. Anything for the record, Mr. Clerk?

CLERK: I have amendments to be printed by Senator Coordsen to LB 814, Senator McFarland to LB 175, Senator Conway to LB 767. That's all that I have, Mr. President. (See pages 2025-27 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Proceeding then to General File, senator priority bills, LB 588.

CLERK: Mr. President, 588 was a bill introduced by Senator Chambers. (Title read.) The bill was introduced on January 18.

advance bills from Select or return bills to Select and, of course, we have to wait for bills on Final to come down from E & R. That will be the late night. Final Reading bills will be read late in the day to facilitate a dinner hour. In terms of adjournment time for this week, I have not the faintest idea. It's entirely up to you; 11:30 p.m., that's fine, it's up to the body. You know the amount of work we have to do and we'll see how far we get. Next Monday, of course, Final Reading all day. We'll read a long bill or two during the dinner hour on Monday. Tuesday, the 23rd of May, Final Reading and veto overrides. Wednesday, legislative resolutions, Final Reading, overrides, closing ceremonies and whatever. That's the tentative agenda for the remaining eight days. I wanted to share it with you so there wouldn't be any major surprises, realizing that anything is subject to change. Any questions? Thank you. Mr. Clerk, proceed to LB 175.

CLERK: Mr. President, Senator McFarland would move to return LB 175 to Select File for a specific amendment. Senator McFarland's amendment is on page 2025 of the Journal.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker and fellow senators. This bill, LB 175, is a rather simple bill that raised the per diem paid to the NEOC officers and staff...or officers on the commission from \$40 per day to \$50 per day. It hasn't been that controversial at all. The NEOC has brought to me a problem that has occurred just recently, and for that reason they have asked me to introduce this amendment. The problem has to do with the investigative procedures being used by the NEOC. And it has to do primarily with their ability to issue interrogatories and request information from employer's concerning past hiring practices. The focus of this amendment, if you look on page 2026, the other parts were just technical changes and for matters of clarification, the purpose of the amendment can be found on line 23, on page 2026, where it says, in connection with any investigation of a charge filed under this section the commission or its authorizations may, at any time, after a complaint, and then we mark out complaint and replace it with the word "charge" is filed, issue or cause to be served interrogatories and shall have all times access to, for the purposes of examination, and the right to copy and so on. The problem that has occurred is that in all past years the NEOC has been able to issue interrogatories to the employer to

request hiring practice information. For example, if you have a sex discrimination claim and a woman is claiming that she has been discriminated against on the basis of sex, then the...after the charge is filed with the NEOC and they conduct their fact investigation, the practice for all the years has been to issue interrogatories and say, for example, how many women have you hired over the past 10 years? Can you tell me what their positions have been; what were their pay grade levels, just factual information. And always in the past that has been provided. Recently, however, a couple ingenious attorneys have said that because the word "complaint" is used instead of the word "charge" that the way the law reads they do not necessarily have to comply with providing the information requested in the interrogatories because they say technically a complaint is something you have to file with the court. It is like a federal court complaint or a, in state court we call it a petition. And it is not the charge that you file with the commission. As many of you know, when you file a charge the commission does a factual investigation before they determine whether reasonable cause exists to proceed with the case. The only change would be instead to make it clear you eliminate the word "complaint" and replace it with "charge" to put into statute what has always been the past practice of the NEOC with regard to their investigations. It is something that I suppose the NEOC could litigate, and I suspect they would probably win against these few lawyers who have recently said you don't have to provide the interrogatory information. But rather than have to go through a lawsuit and litigation in order to prove the thing, the simplest thought was that we would just strike the word "complaint", replace it with "charge", and that would make it absolutely clear that once a charge is filed, once the NEOC starts a factual investigation that they can request information about past hiring practices from the employer and, as in the past, the employer will just provide that factual information to them. So, for that reason, I would ask that the amendment be added at this time. Thank you.

SPEAKER BARRETT: Thank you. Any discussion on the motion to return? If not, the question is, shall the bill be returned to Select File? Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: The motion is adopted. The bill is returned. Senator McFarland.

SENATOR MCFARLAND: I would just move that the amendment be added at this time.

SPEAKER BARRETT: Is there discussion? If not, those in favor of the adoption of the amendment offered by Senator McFarland to 175 vote aye, opposed nay. Record, please.

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of the amendment as offered by Senator McFarland.

SPEAKER BARRETT: The motion is adopted. Senator McFarland, would you care to readvance.

SENATOR MCFARLAND: I would move to readvance, Mr. Speaker.

SPEAKER BARRETT: Thank you. Those in favor of readvancing the bill say aye. Opposed no. Carried, the bill is readvanced.

CLERK: Mr. President, Senator Hall would move to return the bill for a specific amendment. (The Hall amendment is on page 2324 of the Legislative Journal.)

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you, Mr. President, members. The amendment that I would like to adopt into Senator McFarland's LB 175 is one that I passed out to you this morning, and I apologize, I did not have time to have it printed. Prior to offering this amendment I'm going to ask for a rule suspension, because although it deals with an increase in salaries, and Senator McFarland's bill deals with an increase in per diem, it is the only bill that I could find that allows us to do this. What it does is it increases the Metro Area Transit's board of director's salaries from \$200 a month to the same level as OPPD or MUD, and that is \$500 a month for board members, and \$600 a month for the chairman. They have not had an increase, or they've been at \$200 since 1972. The board of directors is a five-member board, one of the five serves as the chairman at their election. They have a budget that is in the neighborhood of \$20 million that they oversee. They are appointed by the mayor. Many of these members have served more than one term. But the increase is one in their salary that they must come to

the Legislature for to have the authority to do that. It has been 17 years. I was asked if I would carry the amendment, and I have it before you, to Senator McFarland's bill. I don't want to injure his bill in any way, but I think that it's a very fair and appropriate amendment. I would ask first for a suspension of the rules, and then to return the bill to Select File.

SPEAKER BARRETT: Thank you. Any discussion on the rule...or the motion to suspend the rules? Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, may I ask Senator Hall a question, please.

SPEAKER BARRETT: Senator Hall.

SENATOR HABERMAN: Senator Hall, in the appropriations there is money appropriated for transit authorities and for bus lines, et cetera. Does this come underneath that, or is this money paid separate from what we...

SENATOR HALL: Good question, Senator Haberman. It would be separate, it would come out of their revenues that they generate themselves. So, it would not be...it is not a state funded appropriation.

SENATOR HABERMAN: Thank you very much, Mr. President.

SPEAKER BARRETT: Senator Pirsch.

SENATOR PIRSCH: Thank you. I also have a question for Senator Hall, if he'll yield.

SPEAKER BARRETT: Senator Hall.

SENATOR PIRSCH: Senator Hall, where is this now in the statutes for the authorization of the \$200 for the Metro Area Transit?

SENATOR HALL: Senator Pirsch, it is, as far as I know, and I'd have to look it up, I don't know. What I do here by putting this in statute is bringing them up to the same level as MUD and OPPD, so that their level of compensation as board members would be equal to that. They're...

SENATOR PIRSCH: I don't see you, though, eliminating it and any other, if indeed it is...

May 15, 1989

LB 175

SENATOR HALL: No, no, no...

SENATOR PIRSCH: ...in the statute, their per diem.

SENATOR HALL: No. I'm sorry if I stated that. In terms of coming to the Legislature for statutory authority, what I'm trying to do is bring them up to par with the MUD and OPPD boards. And I know that they have not had an increase for a number of years and had legislation in themselves to ask for an increase.

SENATOR PIRSCH: To ask for an increase of more than the 600 that they are authorized now in the statutes?

SENATOR HALL: I think, yes, I think it's eight and nine is what the legislation read.

SENATOR PIRSCH: I'm not really crazy about raising the Metro Area Transit, quite frankly, 150 percent at this time. But that is fine. Thank you.

SENATOR HALL: I understand. Thank you.

SENATOR PIRSCH: I do wonder where the statutory authority is that they have right now, since we are adding this, really, to metropolitan water district, or metropolitan utilities district. I think perhaps this is not the proper place, and I will oppose this amendment.

SPEAKER BARRETT: Senator Moore, would you care to discuss it? Followed by Senators Elmer and Hall.

SENATOR MOORE: Yes, if I may ask Senator Hall some questions, if he'd so yield.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Yes.

SENATOR MOORE: Senator Hall, I was not listing to your opening all that quickly, I was just trying to find this and read it. Now, was this introduced in a bill form and have a hearing as such?



May 15, 1989

LB 175

SENATOR HALL: No, Senator Moore, and I stated that, that it was...

SENATOR MOORE: Oh, I was...you did state that.

SENATOR HALL: I said that it was an amendment that I was asked to carry, I'm carrying it, and I do it basically on...purely on fairness because I think after 17 years at \$200 I don't think that increasing the compensation up to 500 a month and 600 is unfair by any stretch of the imagination, no matter what the percentage of the increase.

SENATOR MOORE: Yes, Senator Hall, I agree with you with the problem with the 17 years. But my concern is that it has been that way for 17 years, I'm a little concerned about doing it the last week of the session on a Final Reading bill. For that reason, I'll oppose it.

SENATOR HALL: Okay, thank you.

SPEAKER BARRETT: Senator Elmer.

SENATOR ELMER: Thank you, Mr. Speaker. Senator Hall, would you yield to a question?

SENATOR HALL: Sure.

SPEAKER BARRETT: Senator Hall.

SENATOR ELMER: Senator Hall, could you describe to us how often this board meets and what responsibilities the members might have compared to the other two boards you use as comparisons.

SENATOR HALL: Sure. Senator Elmer, the board meets on a monthly basis, and they determine the operations in the Metro Area Transit. As I stated, the...and as you know the budget is in the neighborhood of \$20 million, they must meet, apply and operate the Transit Authority. They have to work within the federal rules and regulations with the Department of Transportation in Washington regarding the Transit Authority, because a great portion of those funds come from the federal government. They are responsible for putting together the routes in the neighborhoods that are served within the metro area. They are responsible for the number of employees that are employed there, just the overall operation of one of the...well,

the largest transit operation in the State of Nebraska.

SENATOR ELMER: How often do they meet, Senator Hall?

SENATOR HALL: On a monthly basis.

SENATOR ELMER: Once a month.

SENATOR HALL: Just like MUD and OPPD. And they are open meetings, they are held down at the Transit Authority Building, which is on 20th and Cuming Street.

SENATOR ELMER: So, obviously, they are getting...they'd be getting paid \$500 per meeting, or something like that.

SENATOR HALL: Well, Senator Elmer, the...it's like, I guess, anything else. Even though you only have one formal meeting a month, there is much work and committees that they serve on. It's only a five-member board, and there is a lot of work that takes place outside those monthly public meetings.

SENATOR ELMER: Thank you, Senator Hall.

SENATOR HALL: Thank you.

SENATOR ELMER: If I have some time left, I'd yield to Senator Coordsen.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Thank you, Senator Elmer. Would Senator Hall answer a question, please?

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Um-huh.

SENATOR COORDSEN: Are the current \$200 a month, I think was the figure you mentioned, is that set in statute?

SENATOR HALL: It is, and I apologize, Senator Pirsch, because I didn't have that on the tip of my tongue, but it is in the statutes that deal with the Metro Transit Authority. And it currently says \$200 a month. What I do here is put them in the same statute as the utilities and the utility districts so that

they are at the same level.

SENATOR COORDSEN: Okay, so they can't increase it without this particular amendment, they can't.

SENATOR HALL: They cannot, that's correct, they cannot.

SENATOR COORDSEN: Okay, thank you.

SPEAKER BARRETT: Senator Hall, yours is the next light. Would you prefer to wait and close? Thank you. Senator Labedz, on the motion to suspend.

SENATOR LABEDZ: Thank you, Mr. President. I rise in support of Senator Hall's motion to suspend the rules. The Metro Area Transit not only meets once a month, but they do have emergency meetings, as Senator Hall mentioned, they are also in charge of the employees and the negotiations with the unions, and in the past few years they've had several problems. They also take complaints. I know I've had to call the directors when we need shelters for the elderly in front of the senior citizen centers or in the shopping centers in south Omaha. So, I strongly agree that their salary should be increased. I can recall years and years ago when the Legislature was only paid \$200 a month, and that was a total disgrace, and then we went to 400 for several years, and now we're at 1,000. I know that we meet and we have a lot of work to do, and we spend a lot of time, in the summertime, with committee hearings and work probably a lot longer than the Metro Area Transit directors. But they do meet in between that monthly meeting, sometimes once a week, and then when they do get an emergency, they go for two or three days. So it's not just once a month that they are meeting, they do have emergency meetings and they do go to the office quite a bit during the month, besides the monthly meeting. I know a couple of them personally and they do spend a lot of time away from their jobs, and their own expense, travel back and forth to the meetings. So I strongly believe that they should be increased and that is not asking too much. Thank you.

SPEAKER BARRETT: Thank you. Senator Schmit. Senator Schmit. Senator Hall, would you care to close. Excuse me, here is Senator Schmit, on the motion to return.

SENATOR SCHMIT: Well, Mr. President and members, I just want to say that I was approached by several individuals relative to

carrying this type of bill. And I just want to reiterate what Senator Hall and others have said, that is that there is a substantial amount of work that is involved with these boards that is in addition to the actual meeting. Administration of a substantial budget, a \$20 million budget, in my opinion, should not be a casual affair. It requires certain qualifications, certain amounts of ability. And more and more we find that the individuals who are called upon to serve on these boards find it very difficult to do so without incurring some financial sacrifice. I know there are those who are glad to serve, you always find someone who is willing to serve. But, very honestly, this is not the type of responsibility that ought to be done casually. And, as such, I believe the compensation is justified. And certainly the concern about handling it here the last few days of the session has some merit. But I would suggest that this body will directly or indirectly spend or obligate the taxpayers of this state by millions of times the amount of money involved here without even the amount of debate we're giving this issue at this time. So I would suggest that we support the Hall amendment...Hall motion and return the bill.

SPEAKER BARRETT: Senator Pirsch.

SENATOR PIRSCH: Yes, thank you, Mr. Speaker. I don't want to suggest that the members of the board are not fine and have great responsibility. But what bothers me is that this is in a statute dealing with the metropolitan water district and metropolitan utilities district. I guess, Senator Hall, I have another question for you.

SPEAKER BARRETT: Senator Hall.

SENATOR PIRSCH: Who drew this up for you in this section?

SENATOR HALL: I crafted this all by myself. And the reason for it, Senator Pirsch, is that what it does is it puts them on the same level, in my opinion, where they belong, because they make the same types of decisions.

SENATOR PIRSCH: But we have statutes that deal with the Metro Area Transit Authority. Why did you not put them in there?

SENATOR HALL: Because by placing them in this statute, that when the increases are looked at, they are looked at together and uniformly, because I think the three of them belong together

and they should be recognized for the responsibility that they have.

SENATOR PIRSCH: Okay, thank you, Senator Hall. Again, I think this is last minute, hastily drafted, and I don't see anything that is eliminated from the present authority of the Metro Area Transit. And I think this is in the wrong section, and I think this is last minute and should not be accepted. Thank you.

SPEAKER BARRETT: Senator Lynch. Question has been called. Do I see five hands? I do. Shall debate close? Those in favor vote aye, opposed nay. Record.

CLERK: 28 ayes, 0 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Hall, to close.

SENATOR HALL: Thank you, Mr. President and members. Again, the motion here is one to return to Select File. And I would just...suspend the rules, excuse me. And I would appreciate your support in doing that. I offer the amendment on behalf of the board of directors because I think that they clearly are very deserving of the increase. It is not something that I take lightly, nor should I think any of us take lightly, because it is a multi million dollar operation. The requirement for an increase is one that takes statutory change. It is a salary figure that they have had for 17 years. It is a large increase, I guess, percentagewise, but it is not very large when you...\$150 increase...150 percent increase. I sure didn't oppose the 300 percent increase that I received when our salaries went up. I would like to see this happen for those people because many of them work a considerable number of hours in making sure that Metro Area Transit operates as basically a fine business operation as best they can, because there is a very competitive nature for the number...limited number of federal dollars that are out there. I think they do a good job and they are something that the entire state has the ability to be very proud of. So I would urge the opportunity to suspend the rules so we could return the bill to Select File and adopt the amendment. Thank you, Mr. President.

SPEAKER BARRETT: Question is the suspension of the rules. Those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Hall.

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LB 175, 182

SENATOR HALL: Mr. President, could I have a call of the house and a roll call vote.

SPEAKER BARRETT: We are technically under call.

SENATOR HALL: Can we check in, please.

SPEAKER BARRETT: Members, please check in for roll call vote on the motion to suspend. Senator Lamb, please. Senator Lynch. Senator Landis. Senator Schimek, please. Senator Wehrbein, please check in. Members, return to your seats for roll call. Mr. Clerk, proceed with the roll call on the question of suspension of rules.

CLERK: (Roll call vote taken. See page 2325 of the Legislative Journal.) 25 ayes, 12 nays, Mr. President, on the motion to suspend the germaneness rule.

SPEAKER BARRETT: The motion fails. Anything further?

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

SPEAKER BARRETT: Next item.

CLERK: Mr. President, the next bill for consideration, LB 182. Senator Coordsen would move to return the bill for a specific amendment. Senator Coordsen's amendment is on page 2088 of the Journal.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker, members of the body. When this bill was amended on Select File with a compromise amendment with the adoption of a part of that it left some language in the bill referring to probation officers that was not applicable anymore since we had narrowed, again, the scope of the type of juvenile that could be assigned to the Department of Social Services as a ward of the state. So this amendment, wherever the word "probation officer" or "probation officer" or "probation officer's plan" appears in the bill, it strikes those words. So, with that, I would move to return the bill for the amendment.

SPEAKER BARRETT: Thank you. Discussion on the Coordsen motion to return the bill. Senator Haberman, your light is on. Any

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LB 175, 228, 312, 312A, 319, 323, 336  
340A, 357, 423, 744, 761, 813, 814  
815

PRESIDENT: We're still on the machine. Record, Mr. Clerk, please.

CLERK: 26 ayes, 8 nays, Mr. President, on adoption of Senator Lamb's amendment.

PRESIDENT: The Lamb amendment is adopted. Do have another one, please?

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

PRESIDENT: Yes, please.

CLERK: Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 319 and find the same correctly engrossed, LB 175, LB 228, LB 312, LB 312A, LB 323, LB 336, LB 340A, LB 423 and LB 744, all reported correctly engrossed.

I have amendments by Senator Warner to LB 813, Senator Schimek to LB 814, Senator Nelson to LB 357, Senator Smith to LB 815, Senator Warner to LB 814 and LB 813. That's all that I have, Mr. President. (See pages 2379-87 of the Legislative Journal.)

PRESIDENT: Okay, another amendment, please.

CLERK: Mr. President, Senator Scofield would move to amend the bill. (The Scofield amendment appears on pages 2387-88 of the Legislative Journal.)

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President, and members, I think this is a non...one of those rare noncontroversial amendments on this issue. You have a handout that's been circulated a little bit earlier. The purpose of this amendment is to put us...to slightly change our definition of low-level radioactive waste so that it conforms with what the current federal language is. Currently, our definition in the State of Nebraska we define low-level waste primarily by what it is not and the particular amendment that is being offered here would...if you will take a look at the handout, if you can find that under your materials there, under the Low-Level Radioactive Waste Policy Amendments Act of 1985 it specifically spells out

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LB 162A, 175, 175A, 182A, 182

and not voting, Mr. President.

Mr. President LB 162A passes. LB 175, please.

CLERK: (Read LB 175 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 175 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2466-67 of the Legislative Journal.) 35 ayes, 7 nays, 3 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 175 passes. LB 175A.

CLERK: (Read LB 175A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 175A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2467-68 of the Legislative Journal.) 38 ayes, 1 nays, 6 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 175A passes. LB 182, please.

ASSISTANT CLERK: (Read LB 182 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 182 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 2468-69 of the Legislative Journal.) The vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 182 passes. LB 182A.

ASSISTANT CLERK: (Read LB 182A on Final Reading.)



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LB 44, 44A, 49, 49A, 134, 137A, 158  
158A, 162, 162A, 175, 175A, 182, 182A  
198, 228, 228A, 305, 815, 816, 816A

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 228 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on pages 2473-74 of the Legislative Journal.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 228 passes. LB 228A.

ASSISTANT CLERK: (Read LB 228A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 228A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on page 2474 of the Legislative Journal.) The vote is 45 ayes, 1 nay, 2 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 228A passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 44, LB 44A, LB 49, LB 49A, LB 134 with the emergency clause attached, LB 158, LB 158A, LB 162, LB 162A, LB 175, LB 175A, LB 182, LB 182A, LB 198, LB 228, and LB 228A. Anything for the record, Mr. Clerk?

CLERK: Mr. President, yes, thank you. Your Committee on Enrollment and Review reports LB 305, LB 815, LB 816, and LB 816A as correctly engrossed, all signed by Senator Lindsay as Chair of Enrollment and Review. (See pages 2475-76 of the Journal.)

I have a confirmation hearing report from Health and Human Services Committee signed by Senator Wesely as Chair. That's all that I have, Mr. President.

PRESIDENT: We'll move on to LB 137A.

CLERK: Mr. President, 137A is a bill introduced by Senator Warner. (Read title.)

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LB 44, 44A, 49, 49A, 134, 158, 158A  
162, 162A, 175, 175A, 182, 182A, 198  
211, 228, 228A, 308, 309, 309A, 362  
377, 429  
LR 88

Mr. President, bills read on Final Reading today have been presented to the Governor. (Re: LB 44, LB 44A, LB 49, LB 49A, LB 134, LB 158, LB 158A, LB 162, LB 162A, LB 175, LB 175A, LB 182, LB 182A, LB 198, LB 228 and LB 228A. See page 2482 of the Legislative Journal.)

Mr. President, amendments to be printed, Senator Hall to LB 211, Senator Ashford to LB 362, Senator Weihing to LB 377, Senator Lynch to LB 377. (See pages 2482-88 of the Legislative Journal.)

Enrollment and Review reports LB 308 as correctly engrossed, LB 309 and LB 309A as correctly engrossed.

And, Mr. President, I have a communication from the Chair of the Reference Committee rereferring study resolution LR 88 from the Banking Committee to the General Affairs Committee. That is signed by Senator Labedz as Chair. And that is all that I have, Mr. President.

PRESIDENT: We'll go to Final Reading on number 9. We'll start with LB 429, but we need to get into our seats and get ready for Final Reading, please. Mr. Clerk, LB 429.

CLERK: The first motion...I have motions on 429, the first is by Senator Wesely. Senator Wesely would move to return the bill, the purpose being to strike the enacting clause.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: I will withdraw that amendment at this time.

PRESIDENT: All right, it is withdrawn.

CLERK: Mr. President, Senator Moore and Lindsay would move to return the bill for a specific amendment. (Moore-Lindsay amendment appears on page 2489 of the Journal.)

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Well, it's another one of those cows to the ring and see who bought her this time. This time it's one of my old rangy old cow. This one I believe in. This is the Bergan Mercy amendment. Now 429 is a bill dealing with certificate of need, 429 introduced by Senator Baack and the intention of this bill I

May 24, 1989 LB 95, 132, 134, 158, 158A, 175, 175A, 182, 182A  
183, 183A, 198, 228A, 228, 261, 261A, 280, 283  
285, 285A, 302, 303, 303A, 305, 309, 309A, 310  
312, 312A, 335, 335A, 340, 340A, 469, 525, 566  
588, 651, 651A, 695, 706, 727, 781, 816, 816A

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us on our closing day as our Chaplain, Reverend Harland Johnson. Would you please rise for the invocation.

REVEREND HARLAND JOHNSON: (Prayer offered.)

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

PRESIDENT: Do we have any corrections this morning?

CLERK: Mr. President, one small correction. (Read correction found on page 2719 of the Legislative Journal.)

PRESIDENT: Okay, do you have any messages, reports, or announcements today?

CLERK: Mr. President, I do. I have a series of communications from the Governor. First of all, Mr. President, the last few bills read on Final Reading yesterday afternoon have been presented to the Governor as of 2:48 p.m., yesterday. (Re: LB 525, LB 566, LB 588, LB 651, LB 651A, LB 695, LB 706, LB 781. See page 2720 of the Legislative Journal.)

Mr. President, a series of communications from the Governor. (Read. Re: LB 228A.) A second communication to the Clerk. (Read. Re: LB 134, LB 158, LB 158A, LB 175, LB 175A, LB 182, LB 182A, LB 198.) A third communication. (Read. Re: LB 95, LB 261, LB 261A, LB 280, LB 283, LB 303, LB 303A, LB 312, LB 312A.) A fourth communication, Mr. President, to Mr. President, and Senators. (Read. Re: LB 183, LB 183A.) A fourth, Mr. President, to the Clerk. (Read. Re: LB 132, LB 285, LB 285A, LB 302, LB 305, LB 309, LB 309A, LB 310, LB 335, LB 335A, LB 340, LB 340A, LB 469, LB 727, LB 816, LB 816A.) The last letter I have received, Mr. President, with respect to signing of bills. (Read. Re: LB 228. See pages 2720-22 of the Legislative Journal.)