

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 18, 1989

LB 18-34, 180, 190, 357

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning, as our Chaplain of the day, Evangelist Tim Woodroof of the Church of Christ in Lincoln. Would you please rise.

REVEREND TIM WOODROOF: (Prayer offered.)

PRESIDENT: Thank you, Reverend Woodroof, appreciate it. Roll call, please.

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

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: This would be a good day to have some. Do you have any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 18 and find the same correctly Engrossed; LB 19, LB 20, LB 21, LB 22, LB 23, LB 24, LB 25, LB 26, LB 27, LB 28, LB 29, LB 30, LB 31, LB 32, LB 33, and LB 34, all reported correctly Engrossed, all signed by Senator Lindsay as Chair.

Mr. President, your Committee on Education, whose Chair is Senator Withem, to whom was referred LB 180, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File, and LB 190 to General File, both signed by Senator Withem as Chair.

Mr. President, hearing notices from the Revenue Committee for Wednesday, January 25; Judiciary for January 27; Government Committee for Wednesday, January 25; and the Nebraska Retirement Systems Committee for Wednesday, January 25, all signed by their respective Chairs.

Mr. President, Senator Crosby would like to add her name to LB 357 as co-introducer.

PRESIDENT: No objections, so ordered. We will stand at ease

PRESIDENT: Any further discussion? If not, the question is the adoption of the withdrawal of LB 235. All those in favor of withdrawing it vote aye, opposed nay. Ladies and gentlemen, I need a little help. We're voting on the withdrawal of LB 235. Thank you. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to withdraw LB 235.

PRESIDENT: It is withdrawn. We will move on to General File, LB 180, number one this year. Senator McFarland, please.

CLERK: Mr. President, LB 180 was a bill offered by Senator McFarland. (Read title.) The bill was introduced on January 5, Mr. President, referred to the Education Committee, advanced to General File. I have no amendments pending at this time.

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. It's a pleasure to have the opportunity to be the first person to appear in support of a bill that's going to be debated this session. This is an excellent bill. It's a bill that was advanced out of the Education Committee on a unanimous vote. It was a bill that was introduced last year and introduced...passed out of Education Committee on a unanimous vote as well. Because of the short session last year, it did not make it through the Legislature because we just didn't have enough time for it. It was not placed on consent calendar and I didn't make an issue out of it because I knew I could introduce it again this year and I trust that I will have the support of the body on it this year. You have a packet of materials that has been distributed to each of the desks. It talks about the benefits of the bill and on the front is an editorial from the Daily Nebraskan that shows that they are supportive of the bill and also there is a copy of my position statement on the bill. Specifically, the bill allows for the persons 60 years of age or older to enroll in classes at the university, state colleges, technical community colleges on a tuition-free, noncredit basis. Space would have to be available for these senior citizen students and they would also have to have permission of the instructor. This is a bill that was suggested to me by one of the professors at the University of Nebraska because he had done his graduate work at Ohio State University and the State of Ohio had similar legislation.

Several states have free or reduced...

PRESIDENT: Senator McFarland, excuse me a moment. (Gavel.) We are too noisy, would you hold it down so we can hear the speakers. Thank you, ladies and gentlemen. Thank you, Senator McFarland.

SENATOR MCFARLAND: Thank you very much, Mr. President. Several states have such free or reduced provisions...tuition provisions in their state schools and a survey conducted in 1985 by the American Association of Retired Persons showed that 25 states had passed similar legislation. Ten states have an administrative policy allowing free or reduced tuition for senior citizens. In the remainder of the states, individual institutions have enacted such tuition policies and in Nebraska, for example, the surveys showed that only five colleges offer such programs, however, those being Chadron State, Grace College of the Bible, Metro Tech, Nebraska Wesleyan and Southeast Community College. This LB 180, if passed, would allow senior citizens of Nebraska the opportunity to attend classes tuition-free. It would be an excellent opportunity for senior citizens to expand their horizons and perhaps continue a previously interrupted college education or begin a new one. Although the classes would be on a noncredit basis, they could still provide a stimulating academic experience for those who always wanted, but perhaps could not afford, to attend college. Senior citizens could also be beneficial to the educational process of other students in the class since they would be bringing their knowledge and experience into the classroom. I have taken graduate courses at the university and I can tell you that senior citizens who attend those classes have been very helpful in stimulating class discussion, in providing their experiences and knowledge to that classroom setting and they facilitate the educational process. This has been particularly true in some of the education classes that I have taken because when you get teachers who have taught a number of years in school, they can bring to the classroom anecdotes and experiences that they have and those experiences and anecdotes give depth and understanding to the theories you are discussing in those particular education classes. I think the same thing applies, for example, to business classes. If you had people who have served in business who can come into those classes, relate their experiences in Business Administration classes, it would be very helpful not only for the students but also for the instructor teaching those classes. Last year I took a class in

creative writing at the university and I audited it and there were several students in that class who had taken the class just for the purpose of learning how to write. They were trying to get articles published, books published and it was a very stimulating experience. And many of these people were senior citizens who were able to relate their lifelong experiences and bring an understanding and a depth to the entire class. If you look at the editorial that's on the front of the packet that I handed out, I thought there was an interesting comment made by the editor of the Daily Nebraskan, and he said, these senior citizens could bring a new perspective to many classes because of their experience. And he relates, for example, creating a semester project in Korean war history with a Korean war veteran would add a perspective not found in text or from the instructors. I think this is an excellent bill. It's an excellent opportunity. I think we need to make a statement of public policy to encourage our senior citizens to attend classes on a tuition-free, noncredit basis. It would be beneficial for our state, for the institutions that they attend and for the students and faculty who are at these particular educational colleges and universities. Therefore, I would humbly ask for your support for this bill. As I said, last year it advanced unanimously out of the committee. It, inadvertently, because of the time crunch, was not put on consent calendar, but I trust that you will approve it this session and I would ask for your support. Thank you.

PRESIDENT: Thank you. Senator Withem, then Senator Lamb, please.

SENATOR WITHEM: Mr. President and members of the body, the Education Committee heard this bill. I believe it was the first bill that we heard this year. The committee, as Senator McFarland indicated, did advance the bill unanimously to the floor. I just wanted to kind of reiterate maybe some of the things Senator McFarland said because whenever you see a bill with a one-liner providing free tuition, it tends to raise the concerns of some members that it's going to be a significant financial impact. It is not. The way Senator McFarland has written the bill, it would apply only to senior citizens wishing to take a course for a noncredit basis only if there is room in the classroom and only with the permission of the instructor, I think. Somebody like Senator McFarland might wish to argue that it might even be too restrictive from an ideal sort of situation, but it is written in such a fashion as there will

be...should be absolutely no financial impact on the state or on the university. It's merely a statement by the Legislature, I think, encouraging senior citizens that have an interest in taking classes for noncredit basis when room is available and encouraging the university to make this opportunity available for them. The only potential financial impact would be if a senior citizen were currently paying to audit a class that they would no longer be paying that but I think the numbers of those people that are paying to audit for a noncredit basis are so insignificant that it wouldn't make much of an impact at all. The committee felt it was a good bill and would urge you to support it.

PRESIDENT: Thank you. Senator Lamb, please.

SENATOR LAMB: Mr. President and members, I hesitate to get up here to express reservations about the first bill that comes before the Legislature, particularly since it's introduced by my friend, Senator McFarland. But I look at the situation of Senator Hefner here. Who is more able to pay to audit a course than Senator Hefner? He is over 60 and here we're going to give him free tuition to a college. You know, that's the sort of thing that gives me reservations about this bill, because there are a lot of people in his situation who can more...are more able to pay for the college courses than somebody that's 35 years old with five kids. And, you know, to make it...while we're continually going toward...we older people are getting more and more advantages that we don't really deserve. And while this probably is a very innocuous bill, there are some increased costs...or decreased expenditures or revenues from the bill, but since we would like to have a kinder, gentler session this time, I am not going to make a big thing of it.

PRESIDENT: Thank you. Senator Landis, then Senator Hannibal.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, there is a nub of philosophy at the heart of this issue that I think is worth talking about and Senator Lamb may be reluctant to and I guess I have a reluctance because Senator McFarland is, I think, not only a person that I share a lot of ideological points of view with but a friend, but this amounts to the granting of an entitlement on the basis of status. You are entitled to this entitlement because you are a certain age, not because you need it, not because you can't afford it, but because you are a certain age. And, unfortunately, in our

society we are moving away from need-based analysis in our governmental services, in our governmental programs and approaching things much more on the basis of the status of the individual. Are they of a certain age? We have senior citizen discounts. We have senior citizen services. We have programs that are available only because somebody has reached a certain age and that burgeoning political clout, by the way, is now being used, it seems to me, to continue entitlement programs when there are grayer public agendas out there than continuing to foster the political clout of senior citizens. Now, that's not present in this case. This is not a Social Security issue in which the federal Congress can't attack the deficit because you can't attack a sacred cow. But the sacred cow has come about because we have started to see groups of our population as having an elevated status. And if you listened to the opening argument, you heard that elevation of one group of people from another based on what I think is the illusory status of age. If it's wisdom, I don't think that's contained by the arbitrariness of age. If it's experience, I don't think it's contained by the arbitrariness of age. And certainly need is not contained in the arbitrariness of age. We have some programs, for example, that we regularly fund and have had difficulty taking out of our code which gave tax breaks to people, not because they were veterans of foreign wars who fought and had disabilities, not because they had the status of an injury obtained in the service of the country, but because they at one time had been a veteran and had an injury outside of their veteran services without any regard as to whether or not they could pay for it, in other words, a status-based tax exemption.

PRESIDENT: Excuse me, Senator Landis. (Gavel.) Can we have it a little quieter, please, so we can hear the speakers. Thank you, Senator Landis.

SENATOR LANDIS: I understand that the proponents of this bill have created a bill that has as little public cost as possible, but there is a public cost in expanding the size of classrooms. Any teacher will tell you that it's easier to teach 15 than it is to teach 25 and that what they hand out to the other...to the students is reduced proportionally. Secondly, it seems to me that there is a reduced cost by letting out of responsibility those who are able to pay who share in a public benefit, even if the cost of that public benefit doesn't go up. If the numbers of people who are enjoying it go up and don't participate in sharing in the cost of that, I think there has been a cost

transfer of the responsibility of education. And if you have the ability to pay for education, you ought to pay for it.

PRESIDENT: One minute.

SENATOR LANDIS: I am concerned about a variation from that principle. Lastly, I just want to reiterate my basic philosophical point here and that is we should address government services and programs whenever possible on the basis of need, proven, demonstrated need. We should move away from and I think encourage a dangerous situation when we simply allow the basis of governmental services or tax credits or the provision of special Handi-Vans, or whatever, on a basis of status and not need. That's, to me, a way to keep the boundary of government sensible, rational and without being so elastic that government starts providing services to anyone and everyone. Even as I say this, I recognize that public education under the higher education system from K to 12 is provided free of charge to every kid. We don't charge for public education K through 12, admittedly. That has a different social goal. We're talking about college education, they will be regularly charged, anybody and everybody who goes to school who can pay for it. That's I think the standard that we should apply.

PRESIDENT: Thank you. Senator Hannibal, then Senator Hefner, please.

SENATOR HANNIBAL: Mr. President, I raise my body also with some reticence as to whether I want to speak against this bill because, on the surface, the bill, obviously, is one of an issue of home, mom and apple pie, and to speak against senior citizens would be construed by some as being anti-patriotic. And I don't do that and I am not going to be able to add too much to what Senator Landis and what Senator Lamb have already said, but, I, too, have had some of the same reservations that my colleagues have already expressed to you on the floor. It appears to me that the need-base idea has probably the most credence in an argument. Nothing in this bill is going to deal with the fact that this senior citizen, this person 60 years or older could afford or not afford to go to school. I would be interested in finding out if Senator McFarland has some documentation that suggests that there is a large body of people that fall in this category that would like to attend higher education classroom courses that do not do so only because of the financial burden it would place upon them. My suspicion is that the number of

people involved is quite small that would take advantage of this program. My suspicion is the number of people that would change because of it being free versus paying an auditing fee would be extremely small. So I will agree that we probably are not talking about an issue of major financial significance. But I don't think that's quite as important an issue as Senator Landis has said, it's a philosophy here that we are granting to a group based on a relatively arbitrary issue, that of being a certain age. We have a lot of groups in our society that are a group based on something that is a common denominator and my question would be, if we do this to this group, being 60 years old or older, why should we not allow this to be available to other groups, groups such as the veterans, regardless of where they served, groups that have handicaps, groups of women who are considered in some cases minorities or their rights have been suppressed, minority groups of all kinds of ethnic backgrounds and such? I am concerned with the philosophical issue, realizing it's not a major significant financial thing, although most of you are aware that higher education is under-funded in this state. We have significant plant and facility deficiencies. We have significant deficiencies in our student to faculty ratios. We have deficiencies in the facilities themselves with regard to parking, for example, at the University of Nebraska at Omaha, which has been a major issue ever since I attended that university and I'm just about able to be qualified for this new bill. These are real issues. I realize that it's a laudable goal. It's a nice statement to make to show reverence to this class, but without having some kind of need-based program involved by saying, I would like to do this, I can't afford it, without having some kind of provision in that, I am afraid I cannot support the bill.

PRESIDENT: Thank you. Senator Hefner, please, then Senator McFarland.

SENATOR HEFNER: Mr. President and members of the body, I wasn't going to talk on this bill but since my name was mentioned by my good friend, Senator Lamb, I thought I should defend myself. And, Senator McFarland, thanks for trying to help me, but, no thanks, too. I see in the paper the other day where Senator McFarland and I were getting a little closer together. Our thoughts were beginning to blend a little more. But I, too, have reservations about this bill. Why do we need to keep helping the senior citizens more than we help some other people? And I guess, by the definition, I'm a senior citizen and I

belong to the AARP. But I don't think the need is there. I think if we believe the need is there, well, then we should allow the younger generation, that young couple that's struggling to raise a family and one or the other needs a little more education. I think if we're going to give a break, we should give it to these...the break to these people rather than to the senior citizens. Also, Senator McFarland, if I voted for this bill, wouldn't I have a conflict of interest on this? And wouldn't others on this floor have a conflict of interest? I think it's getting something for nothing. I noticed in the fiscal note that there was no dollar amount there but I can't help but believe that there would be a dollar amount. I don't know what it would be but maybe Senator McFarland could address that when he talks. I see that he is the next person up. And so right at this time I certainly have reservations about this bill.

PRESIDENT: Thank you. Senator McFarland, then Senator Crosby.

SENATOR MCFARLAND: Thank you very much, Mr. President. Thank you, Senator Hefner. I appreciate your questions. I don't think you have a conflict of interest. With regard to the expense, that's the beautiful thing with the bill, there really is no expense. The only expense might be as far as just administrative costs of computing in the...like the university that they have additional students attending classes. But there would be no fees associated with it. There would be no significant expense whatsoever. It would just be a change in record keeping is all. And that's one thing I would like to address because I think there is some confusion here and some misstatements being made on the floor about the cost. Just because someone can attend a class and audit it, in effect, on a noncredit basis, and not have to pay tuition and everybody assumes that there's some kind of cost, there are lots of classes at the universities, at the state colleges, at the technical community colleges where the enrollment is, for example, 25...is limited to 25 people, but only 15 people register for the course.

PRESIDENT: Senator McFarland, I'm sorry to interrupt you again, but (gavel) it gets difficult to hear and we do want to hear what you have to say. Ladies and gentlemen, let's please hold it down if you must talk. Thank you, Senator McFarland.

SENATOR MCFARLAND: So you have a class, for example, with a

maximum enrollment of 25 but only 15 people enroll, there are 10 available spaces there. There is no...the instructor is still going to have to teach it, teach the course. The spaces are available for students to be there and participate. You're not going to get any more money by not having those spaces occupied. And so it seems to me particularly appropriate that with the instructor's permission, and, remember, the instructor, like Senator Landis, he teaches at Doane College, he would have to give his permission to allow a person in the class, he would have that discretion, that senior citizen can come in, ask to participate in that class and with the instructor's permission, with the space available, could in effect audit that class without paying tuition. As a matter of fact, in addressing some of the concerns about what about veterans, what about other people? Other people can do the same thing. As a matter of fact, when I took the creative writing class, I did exactly that. I went to the professor, said, look, I would like to do some writing. I'm thinking of writing some short stories, some newspaper articles and things, would you mind if I audited it at no expense? And with his permission I was able to do that. But I...and the senior citizens, anybody can do it, but I think with respect to people who have experience and knowledge in business, educational, economic, any type of affair, that they should...that we should make a policy statement that this is to be encouraged, because I think we can take an advantage of that knowledge and experience. And I think that's clearly stated in the editorial that I passed around to you. I mean, the university...these are university students who say the bill would benefit all. They would benefit from it, faculty would benefit, everyone. The need for it, I think, is that there are...and I don't have any specific documentation that Senator Hannibal asked. I can tell you that there were students in the creative writing class that I took who wanted to be able to write a book or an article or a short story and they did not have the funds to pay tuition to get that assistance. They had retired or they had...were working part time...

PRESIDENT: One minute.

SENATOR MCFARLAND: ...they wanted to do this type of activity. And had it not been for the ability to audit a class and them seeking permission to go to the class, and they were like me, they would not have been able to participate in that class. And some of them, quite frankly, wrote excellent short stories. Some of them were starting on the road toward writing a book and

I think that type of activity needs to be encouraged. They added to the class at no expense to the university whatsoever. If, in fact, a person, you know, like Senator Hefner, wanted to take a class, he could get credit if he paid the tuition, and, of course, there is no prohibition against that. I mean, you can take a class, pay the tuition, get the credit. But if you just want to audit the class for noncredit, space available, professor's permission, no additional cost to the university, then I think you should have that opportunity. It is...I didn't think it would be a controversial bill at all. As a matter of fact, I am not up here to debate discounts for senior citizens or bus passes for senior citizens or the whole philosophical basis of government entitlements. I am here to talk about a specific bill that has been approved in 25 other states, that's been implemented in 10 other states, that's been implemented in a lot of...in five educational institutions in our own state already. I think it should be put in statute to foster a good public policy to encourage education, particularly for senior citizens, an opportunity to participate in that process and to lend their knowledge and experience to the classroom setting.

PRESIDENT: Thank you. Senator Crosby, then Senator Landis, please.

SENATOR CROSBY: Mr. Chairman and colleagues, thank you. When I voted on this in the Education Committee I had reservations about it because of some of the very things that Senator Landis and Senator Hefner and Senator Lamb have voiced. However, as I have personal experience as a nontraditional student at the University of Nebraska, I am sure I was the most nontraditional student in the class of 1987. But, from my personal experience, that's the only thing I am going to talk about, really, is that I think that most of the professors, 99.1 percent of them have a grasp as to who is who and I think they would be extremely careful not to crowd the classes with students who are the over-60 people who are auditing only. I went...I wrote all the papers and paid full tuition so I think I can speak to this with some intelligence and I guess that's what I think that the professors do know and they are careful. There is a financial impact because a person is there and that uses up some of the energy of the class and of the professor. And if they are writing the papers, and so on, he has...he or she has to grade them. The other thing, I have no idea how many people might take advantage of this across the state, but it does take time and energy. And I think when some of them who think, well, this

sounds like a great idea, I will go down there and take a class, when they go down and find out that it takes time to go and register and then you have to go and see the professor and get his permission or not, and then you have to go to that class every day in the summer or three times a week or whatever during the winter semester, so I, just from that point of view, I don't think it will have a tremendous impact. And if there are people who would like to take advantage of it, then I hope perhaps we can help them. Thank you.

PRESIDENT: Thank you. Senator Landis, then Senator McFarland.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I listened carefully to Jim's argument last time around and I thought there was some very good material in that argument. And I was struck by something that I felt some sympathy for it. He said, you know, if there are people that have business knowledge, if they have experience, if they have information that can make the classroom better, they ought to have availability to the classroom. It would be good to have them in there. There is no cost. You've got the professor's choice. This is an asset that's otherwise going to waste. There are empty chairs. And if you go that far, I guess Jim's persuaded me, that would be all right, but that's not what the bill says. And it's the difference between what that concept that was just stated is and what's in the bill that gives me trouble, because Jim doesn't aim this bill at those people with business knowledge, those people with a broad range of experiences or information that can be brought to the classroom. That's not the fact that it trips whether or not you can use this. Your age trips that factor and that alone. It doesn't mean that you've got a record of business experience or information or whatever that especially entitles you, or a hunger to learn. Now wouldn't that be something, a status that's pretty darn important? A hunger to learn? That's a status that I could recognize. And if you had to persuade me that there was a status to give recognition for, I guess that would be one that I would be more inclined to recognize. But age and age alone is an irrational status unrelated to the goal of education. I can't say that the people over 65 want education and learning more than people younger. And there's no guarantee that their knowledge is any better or their experience is any deeper. It may possibly be so but certainly there is no absolute requirement that that's the case. The status based on age is not tied to the concept of improving the classroom as far as I'm

concerned. If you say the concept is one of experience and information, knowledge and personal credentials, if you say it's a desire to learn, those things can move around, as far as I'm concerned, a 23-year-old person might be able to meet that standard. And if that's the case and we have a no-cost public asset that's going to waste, I guess I'm prepared to extend it. But this bill does not do that. By the way, we have got a bill...we have got a statute now that says people of a certain age get free hunting licenses, whether they need them or not, whether they can afford them or not, on the theory that if you get that old and you've put in your money that long, you ought to be able to go out and hunt and fish without paying for it, which is that same idea of status-based privilege given by law, not need based but status based. And if we're going to recognize status, then I would say the statuses we should recognize should have to do with improving the educational context of the classroom and the desire of the student to learn and I don't think that's limited by the age of the recipient.

PRESIDENT: Thank you. Senator McFarland, please, and then Senator Haberman.

SENATOR MCFARLAND: I will pass and let Senator Haberman.

PRESIDENT: All right, thank you. Senator Haberman, please.

SENATOR HABERMAN: Mr. President and members of the body, in listening to the debate I feel that we should give Senator McFarland an opportunity, more than he's getting on this floor, to examine, to examine and work out some of the problems from some of the opposition to his legislation. I don't, personally, think that it's bad legislation. Sure, there are some questions about full-time students. There are some questions about classes. There are...a lot of questions have been raised that I think Senator McFarland could either get an answer to or neutralize some of that opposition. And I would suggest to this body that when it comes time to vote and to advance this legislation that we advance it and that will give Senator McFarland an opportunity to work on some of this opposition and then at that time, on Select File, would be the time to have the battle, if there is going to be one. So I would like to ask this body to advance the legislation, give him an opportunity and give the opposition an opportunity to work together and see if they can work out some of the problems. Thank you, Mr. President.

PRESIDENT: Thank you. Senator McFarland, do you wish to have this be your closing? There are no other lights on.

SENATOR MCFARLAND: Yes, I would be glad to.

PRESIDENT: All right.

SENATOR MCFARLAND: I was going to call the question anyway.

PRESIDENT: Okay, thank you.

SENATOR MCFARLAND: To address Senator Landis's concern, I mean, we make certain presumptions about classes of people whenever we pass legislation. The tax incentive programs come to mind. I mean, we make certain assumptions that certain businesses should be given tax advantages or certain groups of people. We shouldn't have a tax on food, for example. That doesn't mean that not everybody cannot afford not to pay the tax on food. But you promote it as a social good. And I think the presumption is that persons over 60 years of age have more experience than others. They have a general more wisdom than other people. They have been...they have had careers in employment and in professional areas. There is an implicit assumption that they would contribute to the classroom. And the great thing about this bill is I think it alleviates any concern Senator Landis may have about any persons coming into the classroom who are maybe there without that hunger for learning, as he calls it, or without the experience necessary. The provision that would eliminate his concern is that the instructor has the individual discretion whether or not to allow that person into class. So each instructor in each class, when that person comes to him and says, I would like to take this class, I am over 60 years of age, there is a statute there that allows me to do it on a nontuition, noncredit basis, with your permission would you allow me? The instructor can then say, why are you interested in the class? What are your reasons for taking it? What's your background? What's your experience? That individual teacher has that discretion and can certainly exercise it. And if, in fact, that instructor believes that a person is not there, and would not serve to contribute to the class, that instructor does not have to give his permission in order for that person to attend. And, in fact, I...so I don't think that's a problem at all. And as far as whether it's extended to other groups, in certain cases it can be informally

extended as in the case of when I audited a class. If any person in this Legislature wanted to go to a university or state college system and ask to audit a class from a professor and there was space available and it would be on the noncredit basis, they could do it. The thing I think we need to promote is the philosophy that there are senior citizens in our society who have a lot to offer. They have a lot of knowledge. They have a lot of skills. They will have a lot of experiences. They have a lot of wisdom that they can impart to the classroom setting. And I think, as a philosophical basis, that this should be put in status to...or in statute or encourage it. I think senior citizens ought to be made aware that there is an opportunity for them in colleges and in whether they be technical community colleges or state colleges or university systems that there is a provision there that encourages them to attend. And I think it can only have positive, beneficial effects to it. I would ask for your support on it. I think we need to make a statement to the senior citizens of our communities and of our state that you are a valuable resource and you can make a valuable contribution to the entire educational process of our higher education. And I would respectfully ask for a vote of support on it. Thank you.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor vote aye, opposed nay. Senator McFarland.

SENATOR MCFARLAND: Mr. Speaker, just to speed up the process, I notice there are a lot of people that are not voting or are off the floor, maybe we could just have a call of the house and I don't need a roll call vote. A machine vote would be appropriate. So I would ask for a call of the house.

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

CLERK: 8 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. All those not in the Chamber, please return to the Chamber. Sergeant at Arms, would you please contact those who are not in the Chamber. And those that are in the Chamber, please return to your seat so that we may see who is here and know who to call, and record your presence, please. Please record your presence. Senator Dierks, would you like to record

your presence, please. Thank you. Senator Labedz, would you record your presence, please. Senator Robak, record your presence, please. Senator Bernard-Stevens. Senator Chambers, would you record your presence, please. Thanks. We're looking for Senator Lynch, Senator Owen Elmer, Senator Peterson, Senator Pirsch. Senator Kristensen, record your presence, please. Thank you. Okay, we're looking for Senator Bernard-Stevens is all. Senator McFarland, shall we go ahead with your roll call vote?

SENATOR MCFARLAND: That would be fine.

PRESIDENT: All right. The question is the advancement of the bill. Mr. Clerk, please.

CLERK: (Roll call vote taken. See page 297 of the Legislative Journal.) 21 ayes, 25 nays, Mr. President, on the advancement.

PRESIDENT: LB 180 fails to advance. Mr. Clerk, do you have anything for the record, please?

CLERK: Yes, Mr. President, I do.

PRESIDENT: The call is raised.

CLERK: Mr. President, new bills. (Read by title for the first time LBs 600-647. See pages 298-308 of the Legislative Journal.)

Mr. President, in addition to those items, I have hearing notice from the Natural Resources Committee, signed by Senator Schmit. Notice of hearing from the Revenue Committee. That is signed by Senator Hall. Notice of hearing from the Government Committee. That's signed by Senator Baack.

Mr. President, that's all that I have at this time.

PRESIDENT: We will progress on to LB 190.

CLERK: Mr. President, LB 190 was a bill that was introduced Senator Withem. (Read title.) The bill was introduced on January 9, referred to Education, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: (Gavel.) Senator Withem, just a moment, maybe we

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LB 63, 94, 123, 180, 193, 341, 395
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with various statutory duties, both state and federal, in carrying out those duties on occasion requiring to act contrary to what the city perceives as in the best interests and protection of its citizens. The city may find itself in an untenable position that it could not escape potential liability because of not carrying insurance. I ask for adoption of this E clause to help maybe not only Norfolk, but some other cities that may run into a problem. Thank you.

SPEAKER BARRETT: Any discussion? If not, those in favor of the adoption of the amendment offered by Senator Peterson vote aye, opposed nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Peterson's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Nothing further, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 123 be advanced.

SPEAKER BARRETT: You've heard the motion to advance the bill, as amended. Those in favor say aye. Opposed nay. Carried. The bill is advanced. Any messages, Mr. Clerk?

CLERK: Mr. President, I do. Senator McFarland would like to print amendments to LB 180; Senator Landis to LB 94. (See page 402 of the Legislative Journal.)

Mr. President, your Committee on Education whose Chair is Senator Withem offers notice of hearing. Signed by Senator Withem.

Mr. President, Senator Pirsch would move to rerefer LB 341. That will be laid over.

Mr. President, a series of adds; Senator Korshoj to LB 672; Senator Moore to LB 63; Senator Hartnett to LB 193; and Senator Lowell Johnson to LB 395.

One last announcement, Mr. President. A Reference Committee meeting at one o'clock today; Reference Committee at one o'clock

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LB 1-6, 8-12, 14-17, 35, 36, 38, 53
57, 67, 71, 79, 103, 123, 133
158, 180, 181, 190, 223, 236, 255
257, 277, 295, 297

LB 255 to General File, LB 257 to General File with amendments, LB 223 as indefinitely postponed. Banking, Commerce and Insurance Committee, whose Chair is Senator Landis, reports LB 295 to General File and LB 297 as indefinitely postponed. Your Committee on Revenue, whose Chair is Senator Hall, reports LB 133 to General File, LB 277 General File, LB 236 General File with amendments, LB 67 indefinitely postponed, LB 71, LB 103 and LB 181 all indefinitely postponed, all signed by respective Chairs. (See pages 413-14 of the Legislative Journal.)

Mr. President, I have notice of hearing from the Urban Affairs Committee, that is signed by Senator Hartnett; from the Education Committee signed by Senator Withem and from the Retirement Systems Committee signed by Senator Haberman.

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 35 and find the same correctly Engrossed, LB 36, LB 38, LB 53, LB 57, LB 79, LB 123, LB 158 and LB 190 all correctly Engrossed. (See pages 415-16 of the Legislative Journal.)

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication re: LBs 1-6, LBs 8-12, LBs 14-17. See page 416 of the Legislative Journal.) Mr. President, that is all that I have at this time.

SPEAKER BARRETT: Thank you. Proceeding then to General File discussion, LB 180.

CLERK: Mr. President, 180 is a bill introduced by Senator McFarland. (Title read.) The bill was introduced on January 5, referred to Education. The bill was considered on the floor, Mr. President, on January 19. I now have pending an amendment from Senator McFarland. Senator, I understand the amendment you had printed on page 402 you want to withdraw that amendment.

SENATOR MCFARLAND: I'd like to withdraw that, Mr. Clerk.

CLERK: Mr. President, Senator McFarland would move to amend the bill and, if I may, Senator, I'll read the language.

SENATOR MCFARLAND: Please.

CLERK: (Read McFarland amendment. See page 417 of the Legislative Journal.)

SPEAKER BARRETT: Senator McFarland, please, on the amendment.

SENATOR MCFARLAND: Thank you, Mr. President. To refresh your memory, we debated this bill last week. This is the bill that would allow senior citizens over the age of 60 to participate in courses offered at the university, state colleges, technical community colleges on a noncredit, nontuition basis with the instructor's permission. In effect, it would allow them to audit classes without having to pay on the assumption that they would be able to contribute with their skills and their knowledge and be a positive influence on the class, only if space is available in that class for them to audit such a class. When we had the debate last week, a number of senators expressed objections. We have read the debate, a transcript of the debate last week, and the primary objection was that this was an entitlement being given solely on the basis of age, and that that was not proper because there might be students who could afford to pay for the class, who may be working full-time. I think the example that was used was, what about Senator Hefner, what if he wants to take a class? Should we allow him to take it on a nontuition, noncredit basis when he can afford to pay for it, he would benefit from it, and so on? So you might call this amendment the "keep Senator Hefner out of class" amendment, particularly Senator Landis's class, because the amendment that we have drafted, you can find it on your Journal on page 402, the last page, and I had drafted two sections to the amendment and we have decided to delete the second section because it places too much of a burden on the instructor. But the first section that it requires is to address the problem for someone who has the skills, has the knowledge, but could afford to take the class, would, therefore, have to pay for the class, and so we have limited it to persons who are actually retired, who derive the majority of their income from retirement benefits, and do not hold full-time employment. In that way, Senator Hefner would not be able to take Senator Landis's class because I am assuming he derives a substantial part of his lucrative income from the ongoing businesses that he has. This is for people who have...are either working part-time or who are retired but who want to contribute to the class, who want to improve their skills and knowledge in particular areas like I mentioned last week about the creative writing class that I took where people wanted to write some articles, to write some books and those kind of things. This language is drafted from a Maryland statutes. It is the same type of law that they have in

Maryland. As I said in the floor debate last week, there are 25 states who have this type of legislation already in the books. We did delete the second portion of the amendment that is found on page 402. The reason we did that is I visited with Senator Landis, and, as you know, he is a professor. He teaches at Doane College and various other courses...he teaches various other courses in the state, and he thought that that might put too much of a burden on the instructor as far as considering all those kind of criteria, and since the instructor still retains absolute discretion on whether to admit or reject a senior citizen from the class, that that discretion should be enough, and that we don't need to list a lot of criteria. So, therefore, we are addressing the problem of the student who can afford to take a class, and if that person can, in fact, afford to take a class, then they should pay for it. I do think that it will be a good amendment. I think it will address a bill that is a good bill, philosophically, because I think there are senior citizens in our state who have knowledge, skill, occupational experience that they can lend to the classroom setting, that they can actually improve the education received, not only by them, but also by the students in the class, and you might note, I passed around again the editorial that appeared in the Daily Nebraskan, and if you assume, and I know you can't always make the assumption that the Daily Nebraskan does reflect the views of the students at the university, you will see that the Daily Nebraskan is supportive of it, and the reason that they are supportive is because they, as young students, would benefit from the information and knowledge that a senior citizen would be able to impart to the class. I think this amendment will address most of the objections that were raised on General File. We did receive 21 votes to advance on General File. We were only one short. I trust that this amendment...that this amendment will assuage the reservations that at least four of the senators had on this bill, and that we will have the necessary votes to advance it. I do think, philosophically, it is a good bill because I think our senior citizens are a valuable resource. I think particularly those that are retired still have a lot to contribute to our state, and I think that one of the ways they can contribute to our state is by being able to go into a classroom setting on a noncredit, nontuition basis and participate in that class, benefit the instructor that is teaching it, benefit the students that are taking it, and get some benefit out of it themselves. I see it as a "no lose" situation. Everybody wins in that type of situation and I would urge you to adopt the amendment and then advance the bill to

Select File. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the amendment offered by Senator McFarland. Senator Haberman, followed by Senators Landis and Lamb.

SENATOR HABERMAN: Well, Mr. President and members of the body, it was stated here on the floor and I heard it in other places that why should a senior citizen be entitled to some sort of a benefit. The statement was also said that they are the ones that usually have all the money anyway. Well, there are a lot of senior citizens who do not have a lot of money, but I would like to call to the attention of this body some of the reasons, in my opinion, that senior citizens are entitled to whatever discount education break that they can receive. Now the senior citizens paid for and built the interstate. The senior citizens paid for and built the sidewalks that go by your homes. This was all done back when they were your age. I do not know how many K through 12 classes have turned over in the high schools that the senior citizens paid for. There must be dozens of them and they are still paying for education, and the vast majority of them do not have any students in the schools. They are now paying for, you might say, their grandchildren and your children. They are paying their share through their taxes, but they have already paid one share. Now they are asked to pay another share. You do not hear them complaining about this. I don't know how many new state office buildings or state buildings they have built. I don't know how many they have remodeled on the campuses of the schools. I don't know how much money they have contributed for this, but you had better believe it is a lot of money. Now these senior citizens, when they used to change the diapers of their youngsters, they didn't have disposable diapers. They did it the hard way, and they did their share of that. Also, there were not day care centers to take care of their children. They stayed home and took care of them. Now I fully realize that times have changed and possibly we do need day care centers, but they didn't have it in their day and age. Now let's look at one more example here, let's go to World War II. Basically, the majority of these senior citizens served in World War II. A lot of them died, a lot of them were wounded, but the majority of them came home, but what did they give up in World War II? They gave up three to four years of their freedom, three to four years of their freedom where somebody told them where to go and what to do and how to do it. They lost their income. Some of them lost their

businesses. Some of them lost their farms. So they have paid for every bit of whatever discount through the school systems, or through restaurants, or clothing stores that they get. I feel they are entitled to it. Furthermore, on this particular issue, they are not going to pack a bus...

SENATOR HANNIBAL PRESIDING

SENATOR HANNIBAL: One minute.

SENATOR HABERMAN: ...and 34 of them rush right down to the voc-tech school and the university and all enroll in classes. They are not going to do that. There won't be that many that want to do that. So I don't see any harm in this bill. I think it is a good bill and I would suggest that you advance the legislation. Thank you, Mr. President.

SENATOR HANNIBAL: Thank you, Senator Haberman. Next, Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I raised the issue before on General File debate. Senator McFarland's bill, basically, gave a benefit to a class of people, to a status, if you will, without any indication that there was need present in all members of that class. At this point, Senator McFarland has narrowed his point to indicate that he is talking about retired people who, basically, live on retirement benefits and are not full-time employees. That is good enough for me. I get a feeling of need out of that. That is close enough to the mark. We are away now from status orientation and we are certainly into the area of at least an analysis of need and special conditions that might warrant special treatment. In this situation, I am prepared to accept the amendment and vote for the bill.

SENATOR HANNIBAL: Thank you, Senator Landis. Senator Lamb, please.

SENATOR LAMB: Well, Mr. President and members, I appreciate Senator McFarland's efforts with this amendment. However, still we have the issue of what kind of a mechanism are we going to set up here? What kind of a mechanism are we going to set up to determine whether or not a majority of the income of this individual comes from retirement? What sort of a can of worms will that lead to in the future? Is this going to be a

voluntary statement that we take it on face value, or are we going to have some other sort of expensive mechanism to decide who is eligible to attend these classes? I think we are going to put more burden on these postsecondary institutions than most people realize, that while the instructor and the institution may have some control over who attends, they are going to be under great pressure. They are going to be under great pressure from these people not to exclude anybody and I think that will result in greater costs. So those are some of the objections that I have to the bill and I just don't think it is a needed bill. It is not that much of a burden on the people that would be interested in attending these classes to pay the relatively small amount that it takes to audit these classes.

SENATOR HANNIBAL: Thank you, Senator Lamb. Senator Hefner, next, followed by Senator McFarland.

SENATOR HEFNER: Mr. President and members of the body, Senator McFarland, I commend you for trying to make a bad bill, I am not going to say worse, but I don't think it is that much better. I have a problem with some of the definitions and maybe you could answer some of these in your closing, but what do we mean about the majority of his or her income? Do we mean 60 percent, 70 percent, 90 percent? Also, you say that receive his or her income from retirement benefits. Okay, some of these retirement benefits are fairly good. In fact, they are real good. When you go down the list, some of these retired people are drawing good social security benefits, or if they worked for the railroad, they have good retirement benefits. I know that our judges have a good retirement plan. Some private businesses have good retirement plans, and so I am kind of wondering about that. Also, what do we consider full-time employment? What if a person would work 25 or 30 hours a week, is that full-time employment? Also when you talk to some of these college professors, they say that from time to time they do have problems when these retirement people or these elderly people are attending some of the classes. And so I guess right at this time, I am going to oppose the amendment and oppose the bill.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Senator McFarland, followed by Senator Hannibal.

SENATOR MCFARLAND: I would just call the question at this time

and I will answer the questions in the closing, if that is all right with you. Call the question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Record, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Motion prevails. Senator McFarland, you are entitled to a close.

SENATOR MCFARLAND: Thank you, Mr. Speaker. The questions raised by Senator Lamb and Senator Hefner are valid ones, but I think we have addressed them and that is why I want to just...I think I can deal with them very shortly in the closing that I have. There were questions about how do we define terms, what do we consider full-time employment? What kind of a mechanism do you put in place to establish this evaluation? And I think the bill, itself, takes care of that because in line 13 of the bill as it is drafted, it says, "Each university or college shall issue rules for determining the availability of the classroom space and may issue such other rules as it considers necessary to implement this section." My thought is and my understanding is that in other states, such as Maryland where this statute has been in effect for a number of years, is that the individual colleges will set up their own rules on determining what is full-time employment, for example. I suppose colleges might vary. Some might consider 35 hours full-time. Some might consider 40 hours full-time. But it would give the college and university the discretion to see that the system is not abused so that too many full-time employed people are taking advantage of it. The same way with a majority of income, I think...my assumption would be 50 percent or more. The other parts of the bill I think would be taken care of by the individual colleges and universities. I can tell you that 25 other states have this type of legislation. To my knowledge, no other state has had any problem with administering it, and while there might be questions that you could raise about individual cases about the system being abused, the fact of the matter is that to my knowledge it has never been abused in any of the 25 states that have this legislation, and it has never been abused in the 10 additional states where they have, in effect, put it in without having it passed in statute. I think it would be a good piece of legislation for our state. I think

this amendment addresses Senator Landis's concern about the need basis. These will be people who are retired, who are not full-time employees, and by that mechanism, we can make sure, generally, that these people that are taking these classes are the ones that really couldn't afford to pay the tuition for the class, itself, and maybe who do not really want the credits, they just want the knowledge. Again, the overall intent of the bill I think is positive. I think our senior citizens have something to offer us. I think that when they retire we should not just say to them, you know, go spend your time in idleness. I think they have talents and abilities they can contribute to our state and this is just one of them. And I think the students at the University of Nebraska recognize it as evidenced by the editorial that appeared in the Daily Nebraskan newspaper. I would ask that this amendment be approved, and then I would ask that we advance the bill. Thank you.

SPEAKER BARRETT: Thank you. The question then is the adoption of the amendment offered by Senator McFarland to LB 180. All in favor vote aye, opposed nay. Have you all voted on the adoption of the amendment?

SENATOR MCFARLAND: Mr. Speaker, I do see the last few have been positive votes. We do have enough up there to get the amendment if we'd call the house. I would ask for a call of the house.

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 11 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is now under call. All members, please return to your seats. Unauthorized personnel, please leave the floor. Members will please record their presence.

SENATOR MCFARLAND: Mr. Speaker, could I have a roll call vote on this as well.

SPEAKER BARRETT: Certainly. A roll call vote has been requested. Please record your presence. Those outside the Chamber, please return. Senator Robak, record your presence, please. Senators Chambers and Schmit, Ashford, please return to the Chamber. Senators Ashford, Schmit, and Chambers, the house is under call. Senator Chambers, would you please check in. Senator McFarland.

SENATOR McFARLAND: Mr. Speaker, we can start with the roll call vote, and then Senator Schmit, he is the only that is missing, right?

SPEAKER BARRETT: Correct.

SENATOR McFARLAND: And if he gets here, he can vote. If he doesn't, I don't think one vote will make the difference. As I recall, we shall see. That will be fine.

SPEAKER BARRETT: Thank you. Mr. Clerk, proceed with the roll call vote.

CLERK: (Roll call vote taken. See page 417 of the Legislative Journal.) 22 ayes, 18 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: Motion fails. The call is raised. Motion on the desk.

CLERK: Mr. President, I have a motion. Senator Lamb would move to indefinitely postpone LB 180. That would lay it over unless the introducer agrees to take it up at this time.

SPEAKER BARRETT: Senator McFarland, what are your wishes?

SENATOR McFARLAND: I would just as soon lay it over, Mr. Speaker, thank you. I would be glad to work with people on amending it and addressing their concerns. Thanks.

SPEAKER BARRETT: Thank you, sir. The bill is laid over. Anything for the record, Mr. Clerk?

CLERK: Yes, sir. Mr. President, notice of hearing from the Education Committee, that is signed by Senator Withem as Chair; Government Committee, whose Chair is Senator Baack, reports LB 256 to General File with amendments attached, that is signed by Senator Baack as Chair.

Mr. President, we have two gubernatorial appointments to the Board of Trustees for the Nebraska State Colleges, and a Reference Report referring those appointees. That is all that I have at this time, Mr. President.