

January 10, 1989

LB 313-323  
LR 5

Executive Board, Room 2102 for purposes of referencing, right now.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: More bill introductions.

CLERK: Mr. President, new bills. (Read LB 313-322 by title for the first time. See pages 167-69 of the Legislative Journal.)

Mr. President, in addition to those items, I have a Reference Report referring LB 238 through 279.

Mr. President, new resolution. (Read LR 5 for the first time. See pages 171-73 of the Legislative Journal.) Mr. President, that resolution will be laid over.

Mr. President, I have one last bill. (Read LB 323 by title for the first time. See page 173 of the Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. The Chair recognizes Senator Crosby.

SENATOR CROSBY: Mr. Chairman, there being no further business to come before this body at this time, I respectfully move that we adjourn until Wednesday morning, January 11th at nine o'clock. Thank you.

SPEAKER BARRETT: Thank you, Senator Crosby. You've heard the motion to adjourn. Those in favor say aye. Opposed no. Ayes have it, motion carried, we are adjourned.

Proofed by: Arleen McCrory  
Arleen McCrory

January 19, 1990

LB 87, 159, 163, 163A, 220, 240, 257  
313, 315, 397, 399, 486, 488, 488A  
756, 856, 911, 963, 1002, 1026, 1033  
1037, 1050, 1051, 1090, 1108, 1109, 1141  
1168, 1181, 1190  
LR 239, 240

PRESIDENT: Okay. Thank you. Senator Ashford, you are next, but may I introduce some guests under the south balcony, please. We have from District 22, which is Senator Robak's district, Dianne Foltz of Platte Center and Betty Grant of Columbus, Nebraska. With them are three AFS students, Jean/David Miquel of Paris, France, and Patty Cervantes from Bolivia, and Shane Walker from Australia. Would you folks please stand and be recognized. Mr. Clerk, you have something for the record?

CLERK: I do, Mr. President, very quickly. Enrollment and Review reports LB 163 to Select File, LB 163A to Select File, those signed by Senator Lindsay as Chair. Agriculture Committee, whose Chair is Senator Rod Johnson, reports LB 856 to General File. (See page 429 of the Legislative Journal.)

Mr. President, Senator Coordsen, as Chair of the Business and Labor Committee, has selected LB 313 and LB 315 as the committee priority bills for the year. And Enrollment and Review reports LB 87, LB 220, LB 240, LB 257, LB 397, LB 399, LB 486, LB 488, LB 488A, LB 756 all correctly engrossed. Those signed by Senator Lindsay as Chair. (See pages 430-33 of the Legislative Journal.)

Mr. President, notice of hearings from the Education Committee and from the Natural Resources Committee, signed by the respective chairs. (Re: LB 1190, LB 1181, LB 1168, LB 911, LB 1050, LB 1090, LB 1033, LB 1037, LB 963, LB 1026, LB 1108, LB 1109, LB 1141, LB 1002, LB 1051, LR 239 and LR 240.) And Senator Haberman has amendments to be printed to LB 163. That's all that I have, Mr. President. (See pages 433-34 of the Legislative Journal.)

PRESIDENT: Senator Ashford, did you wish to speak on the first set of Kristensen amendments?

SENATOR ASHFORD: I call the question.

PRESIDENT: Oh, you call the question. The question is, shall debate cease? All those in favor...Do I see five hands, first? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. What do you think, Senator Ashford? Record, Mr. Clerk.

CLERK: 16 ayes, 0 nays to cease debate, Mr. President.

February 7, 1990

LB 313, 663A, 863, 901, 986, 991, 1004  
1032, 1050, 1117, 1178

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Good morning, ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. Our Chaplain of the day is Pastor William Yeager of Westminster Presbyterian Church here in Lincoln. Will you please rise for the prayer.

PASTOR YEAGER: (Prayer offered.)

SPEAKER BARRETT: Thank you very much, Reverend Yeager. We hope you can come back again. Roll call.

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

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

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Any messages, reports or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 1050, LB 1004 and LB 863 to Select File, those signed by Senator Lindsay as Chair. (See pages 686-87 of the Legislative Journal.)

Government Committee reports LB 1032 to General File with amendments. That's signed by Senator Baack. Business and Labor reports LB 901 to General File, LB 1178 General File, LB 313 General File with amendments, LB 986 indefinitely postponed, LB 991 indefinitely postponed, LB 1117 indefinitely postponed, those signed by Senator Coordsen. (See pages 688-90 of the Legislative Journal.)

Mr. President, notice of hearing from the Revenue Committee. That is signed by Senator Hall and new A bill, Mr. President, LB 663A. It's a bill by Senator Scofield. (Read brief description. See page 690 of the Legislative Journal.)

Mr. President, I have received a request from the Nebraska State College System regarding approval required by the Legislature for a bond issue with respect to student housing at Kearney State College. That will be referred to Reference Committee.

Mr. President, finally, a report from the Department of Social Services filed pursuant to statute. That will be on file in my

CLERK:     Mr. President, the first bill for discussion by the Legislature is LB 313. It was introduced by Senator McFarland on January 10 of last year. (Read title.) The bill was introduced, as I say, on January 10 last year, referred to Business and Labor, was advanced to General File. I do have committee amendments pending by the Business and Labor Committee. (See page 688 of the Legislative Journal.)

PRESIDENT:   Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, and members of the body. I will address the committee amendments and I would ask if you would turn to LB 313 in your bill book if you are interested. LB 313, as originally introduced, contained an increase in workers' compensation weekly benefit from the current \$245 to \$290, which would have been effective this last fall. As many of you might remember, every time this issue and the concurrent unemployment increases come up, there is quite a large amount of difference between what those who are paying think is fair and those that are receiving think is fair. The committee amendment that we are addressing now contains two elements. One is a change in the weekly benefit from what is contained in 313 in that, bear in mind the current rate is 245, that on the effective date of this act, which would be in July of 1990, the weekly benefit rate would be raised to \$255, and on July 1, 1991, next year, the weekly rate would be raised another \$10 to \$265. Also included in the committee amendment is LB 986, which we heard in Business and Labor Committee. LB 986 is a bill that addresses a growing concern in the business community in that while the weekly compensation rates may be comparable to other states, across the United States the premium increases have been substantial to pay for the medical payment side in addition to the weekly benefit section. There were a number of people in the business community that felt that were they to be allowed a deductible on their workers' compensation insurance that the increases in premium might well be more bearable to them. So LB 986 with some further amendments that are contained within the committee amendment by the Workers' Compensation Court provides that for each workers' compensation policy that is issued in the State of Nebraska, they shall offer at the option of the employer a deductible in increments of \$500, beginning with a deductible of 500 and going to a deductible of 2,500. The committee was concerned that in doing this that there was no impact upon the coverage of employees,



there was no impact upon the coverage of the employees. So the wording is such that the insurer is liable for the full amount of medical coverage and that the deductible is an issue between the employer and his insurance carrier, that it does not impact what is due or incurred by an employee under workers' compensation plan. An insurance company is not required to offer this deductible if they find, upon investigation, that an employer might not be financially liable for that amount of deductible, that is that they wouldn't be able to come up with the 500, the 2,000, 2,500 dollars to pay their share of the medical cost of the employee. The person who is employed by a policyholder which chooses to exercise the option shall not be required to pay any of the deductible amount, and in no way shall the employee's coverage be impacted in any way by an employer's use of this deductible. So that, then, is the committee amendment. It provides for an increase in weekly compensation of \$10 this year, \$10 next year, and folds into 313 LB 986, which provides a deductible for employers to help them through the crisis of the drastically increased premiums. I would share with you that the business community and labor interests tended to their business and labored rather intensively over a period of some months to find a mutually agreeable ground that they could both support in 313. The business community wanted no increase. They felt with the increased medical costs, that those costs were all they could bear. The representative of labor wanted 313 as originally written with the \$290 maximum. This is a compromise proposal that was agreed upon by several people. No one gets what they want but it does allow coverage of a portion of the salary for those people who are unable to work because of work-related injuries. For a single worker, the committee amendments would provide that their weekly income would be about the same, their net take-home dollars would be about the same, for anyone single with no exemptions beyond that, that earn from a little less than 21,000, 20 thousand, 800 and some dollars back down the wage scale. Certainly, every employee would be affected differently depending upon his individual status. Sometimes mention is made of average weekly wage. The average weekly wage in Nebraska figures out to be about \$17,000, a little over that, per year on the most recently available information, which is something like \$327 a week, and when you deduct from that income tax, social security, the other deductions for a single employee, you will find that the committee amendments will almost replace what would be a normal take-home pay for those people. With that then, I would answer any questions. Thank

you, Mr. President.

PRESIDENT: Thank you. May I introduce a guest, please, of Senator Haberman. Under the south balcony, we have Mrs. Beverly Holzfaster, who is the mother of our Page, Amy. Mrs. Holzfaster, would you please stand and be recognized by the Legislature. Thank you for visiting us and we are appreciating the services of your daughter. Thank you. Mr. Clerk, I understand we have an amendment.

CLERK: Mr. President, Senator McFarland would move to amend the committee amendments. (See page 786 of the Legislative Journal.)

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. Fellow Senators, two years ago when I became familiar with this issue on unemployment, I was struck by how low we are in our unemployment maximum weekly benefits in comparison to our surrounding states, and in comparison to the states in the entire nation. We rank 43rd out of 50 states in what we pay as a maximum, that being \$245 per week for unemployment insurance benefits, or, excuse me, for workers' compensation benefits. I am sorry. If I said unemployment before, I meant workers' comp. The bill, itself, would have raised the maximum workers' comp benefits for a week from 245 to 290. It would have not dramatically improved our rank among the states or our surrounding states, but it would at least have boosted that amount. At the time it was introduced, and I passed around the World-Herald editorial, if you have a chance to look at it, it is not often that the World-Herald and I always agree on policy issues but their headline is the Injured, Jobless Workers Could Use an Increase, and reading from it in the second column, it says, "LB 313," this bill, "would raise the Nebraska maximum to \$290. Says, that amount, for a person whose working life is cut short by a job-related injury, is not excessive." They indicated their support of the bill. They conclude, "Recent improvements in Nebraska's business climate have provided more jobs and opportunities for workers. Improving the benefits for unemployed and injured workers should be the next step." That was written last year, February 6 of '89, a little over a year ago. That bill did not advance from committee. It stayed there all last year. There were apparently some negotiations that went on to which I was not a party, even though it was my bill. So the maximum benefits,

which was \$245 in 1988, continued through 1989 as well. No raise in those benefits occurred. Now the committee amendment comes out and says, well, it shouldn't be 290, as the World-Herald agreed would be reasonable. We are going to reduce it to 255 and 265. I think that is entirely inappropriate and just a real unfair situation with respect to what we would pay in workers' comp benefits or allow to be paid in workers' comp benefits to those employees who are injured on the job. I like the second part of the amendment. I commend Senator Coordsen and the committee for bringing the second part about the deductible. It was part of LB 986. I think that is an excellent idea. It is worthy of consideration and I plan to support that part of the amendment. What I, however, have proposed in this committee...amendment to the committee amendments is that, instead of just increasing it \$10 to 255 and 265 the following year, I propose to raise it to 275 and 285. That is not a significant increase. Take a look at the chart that I have passed around of the information on LB 313. It notes that we are 43rd out of the 50 states. Look at the bottom of it and it is a comparison of maximum weekly worker's comp benefits for our surrounding states: Iowa, \$660; Colorado, \$355, and now for 1990, it will be \$371; and 1990 for Iowa, \$684. They have raised their workers' comp benefits. Wyoming in 1989 was \$346 per week. I think in 1990 that has raised, we don't have the exact figures. South Dakota went from 281 to 289. Missouri went to 289.75. Kansas, the lowest one, is at \$271 already, what they are paying in maximum workers' comp benefits. What I am proposing is that we at least be near and competitive with Kansas, and not be so far behind our surrounding states. I think 275 for 1990, 285 for 1991 is completely fair and reasonable. As a matter of fact, I really think it should be quite more than that, but I realize the past history of this, so I am suggesting this amount as a reasonable change, at least at this time. And I think it is merited and warranted. The purpose of workers' comp, of course, is to provide an income for the injured employee, who may be injured on the job at no fault of his or her own, and to allow them a living wage at least until they are recovered from their injuries or rehabilitated so that they can get other employment. What happens often in those situations is that the family and the employee are devastated when an injury occurs on the job that may not be the fault of the employee at all. A young man and his family, if they are like most people in our state, they have house payments to meet, they have doctor bills to pay, they have car payments to meet. Usually you have a budget of some

sorts, whether formal or informal, that you try to meet every month. You structure your budget according to your wage and how much money you are going to bring in. You don't anticipate being hurt on the job, but then when you are hurt on the job, then all of a sudden, you are in desperate straits. How do you make the payments on the house? How do you make the payments on your car? How do you keep buying clothes for your children and keeping your health insurance up, and all those kind of things, paying your doctor and medical bills for your wife and children and family? We have one of the lowest weekly benefits in the entire country. I don't think that it is fair. I think we should be embarrassed by the low amount we provide in workers' comp benefits to the citizens of our state. I would ask you, what if you were a working person on the job and you were injured? Could you live on \$245 a week, or \$255 a week as it has been proposed in this particular legislation. If you are trying to support a family and support your wife and children or your husband and children, you have got some people that are dependent upon you, you have got payments and bills to meet, how can you possibly survive on that amount? What I am proposing in this amendment is a reasonable increase, at least at this time, and I hope it increases even beyond that in years past. It should be an embarrassment to our state that Iowa, for example, pays \$684 a month. A person is injured in Omaha, cannot work any longer, is injured, has to take time off, his maximum benefit, \$245. If he is injured and he works across the river in Council Bluffs, he is injured, cannot work, he can get a maximum benefit of \$684 per month. That is a tremendous contrast just between those two, our neighboring states, and that applies to all the others, too. While certainly the others are not as high as Colorado...or as Iowa in their benefits, take a look at Colorado and Wyoming and South Dakota and Missouri and Kansas, they are all above what we pay. What I am suggesting in this amendment to the committee amendments is that we at least come into a level where we are equal with Kansas, and not at the bottom of that whole area. Those states in our Midwest set a pattern that I think that we can compare for our purposes in what we should pay, as what we should permit as maximum workers' compensation benefits. I think they are fair. I think they are reasonable, and that they are appropriate. With respect to any agreement within the committee, I haven't talked with the people, with the AFL-CIO people about this amendment. I haven't talked with any working people. It is my own idea. I think it is so unfair, the committee amendment that came out of there, that I think something should be done about it. I think this is

an honest increase. I wish it were more. I think it should be more. And I don't think we buy off on any agreement. I think my suggestion, I mean that bill was held in committee for an entire year. I was told last year that one of the bills, either unemployment or workers' comp, was going to come out in 1989, and then the other bill would come out in 1990, so you alternated years. Neither bill came out of committee last year. When you are at an impasse like that in that particular committee and there are four votes against you, apparently, I think that compromise is a forced compromise. It is a compromise of coercion. It is not something that is voluntary and some kind of fair negotiations that are going on when you are faced with the prospect of not having the bill come out or at least making some concession. I would urge you to amend the committee amendments, retain the part that pertains to the deductible, retain the part about LB 986, I think that is fine idea.

PRESIDENT: Time has expired.

SENATOR McFARLAND: But increase the benefits from 255 to 275 and bring us in line with our surrounding states, and at least bring us to comparable to Kansas. Thank you.

PRESIDENT: Thank you. I have a couple of lights that were on prior to us skipping to the McFarland amendment. Please indicate if you do or don't want to talk about the McFarland. Senator Hefner, then Senator Morrissey.

SENATOR HEFNER: Mr. President, and members of the body, I rise to oppose the McFarland amendment because I feel that is going too far. Workmen's compensation premiums are going up by leaps and bounds and I just want to talk about the small business part of it. Small businesses in rural Nebraska are struggling to make a go of it, and if we raise this too far, it will certainly put a hardship on them. Right now the weekly benefit is \$245 a week, and under the committee amendment, it would go up \$10, 255, this year, and another \$10 a week the following year, so I think that is reasonable. And I also want to talk a little bit about the second part of the committee amendment. This is the deductible on workmen's comp. Since the premiums on workman's comp are going up by leaps and bounds, I thought it would be good to put a deductible on. We have deductibles on our fire insurance. We have deductibles on our...on some of our other insurance, like car insurance. Why not have it on workmen's

comp? And the employee isn't going to lose anything on this deductible because the insurance company would pay the full loss to start with, and then come back on the employer for the rest. But medical costs are going up. We know that in our group health policies or individual policies. Health costs are going up and they are going to keep going up. So I just feel that this deductible would be a good thing. But getting back to the other, to McFarland's amendment, I feel that he is going up a little bit too far. I even have trouble supporting the committee amendments part of it, going up \$10 this year, \$10 a week this year, and \$10 a week next year. We want to remember that carrying this insurance is a cost of doing business, and all you need to do is drive up and down main street in these small rural towns and see how many empty businesses there are. So you can see by putting a little more burden on them, all we are going to do is close a few more businesses, businesses that we vitally need in rural Nebraska, and as I understand it, some of the big businesses are having a tough time of it, too. So I would urge you to vote against the McFarland amendment.

PRESIDENT: Thank you. Senator Morrissey, did you wish to speak about the amendment? Okay.

SENATOR MORRISSEY: Thank you, Mr. President, and members. I agree, of course, with part of what Senator Hefner said. I think the deductible part of the committee amendments are a good move to help save the businesses some money on their workmen's comp, but I don't agree with him on what he said about \$10 a week, a buck-something a day, to help these injured workers is way out of line. I don't agree with that at all. I was thinking about this bill coming to work this morning, and coming down 17th Street, while I was thinking about it, I was kind of daydreaming, and I almost ran into the back of this white, brand new, white New Yorker that pulled out in front of me just down by South Street. It had the license plates of "SEN 19" on it. I am not sure who that was. I didn't recognize the old fellow driving it, but it was a nice car. Hopefully, the owner of that car wouldn't have to go on workmen's comp at the low rate that we now have, and the slightly, slightly increased rate that we are proposing at \$10 a week, because I think the car payments would be in trouble. Of course, a lot of these men and women working for wages in the state aren't driving New Yorkers but the car payment on the old Chevy can be in jeopardy just as well as the car payment on a New Yorker. I don't know how many of you have had to live on workmen's comp but I have for extended

periods of time and, simply, it is not easy. I draw a good wage on the railroad, and to go from that wage to workmen's comp, and on the railroad, it is different because it is a federal workmen's comp, and it is just slightly better than what Senator McFarland is offering or offering to us an amendment, and it is real tough, folks. It is real tough. There is no way you can survive without getting into your savings unless you are used to living at minimum wages, and we don't want our people to have to do that. The working people, the men and women in our state that are working for wages, are just as important to us as the people that are running the businesses. The men and women that are working for wages are the people that are going into these businesses and spending their money, and on workmen's comp, let alone, don't even think about the stress of being at home, being injured, the uncertainty of your future, uncertainty of your job, the stress of going in and out of the hospital for a work-related injury, then you also want to add on them the burden of just barely being able to scrape by on a very, very low workmen's comp wage. Senator McFarland pointed out where we stand in the Midwest with his facts and figures. Just lately, the Governor has been touting and it has been in the news many times that Nebraska is an island that is being very successful in the business area. These states that are paying this higher workmen's comp now are envious of our business climate in Nebraska, and they are envious of how well our businesses are doing in this state. That is what the figures have shown. If that is true, folks, if that is true, then let's get ourselves up there and give at least a minimum increase that Senator McFarland is asking for.

PRESIDENT: One minute.

SENATOR MORRISSEY: Four dollars a day increase. What can you buy for \$4 a day? Another gallon of milk for the kids, a couple more loaves of bread, four gallons of gas. You can spend four gallons of gas going back and forth to the hospital awfully easily getting all the tests that might need to be done when you are injured on the job. So I don't think what Senator McFarland is asking for is unreasonable at all. I have been there. I have lived on workmen's comp that was better than what Senator McFarland is proposing, and it is tough. You have heard from all your businesses in your area. Have you heard from any of your working men and women, the people that draw the wages? If you haven't, I suggest you call them up and ask them, talk to the people that have had to live on this very small subsidy to



get them by until they are able to go back to work. They didn't choose to be injured on the job.

PRESIDENT: Time.

SENATOR MORRISSEY: They did not choose to be injured on the job. Let's help them out as much as we can, because if we don't do it this year, next year they are going to go, gosh, we just addressed that last year, we can wait another five or ten before we address it again.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Coordsen, and Senator McFarland. Senator Wesely.

SENATOR WESELY: Thank you, Mr. President, and members. I, too, rise in support of the McFarland amendment to increase further the workmen's comp benefits. As Senator McFarland pointed out, we are low, nationally, one of the lowest in the country, but we are also having to recognize the inequities of the situation not only between our state and other states in how they care for our disabled, injured workers. We need to think also about how this state has progressed in the last few years, how we have had some economic success in the last few years, how individuals have gained employment and all the good news that some people are trying to tell us about Nebraska. And this success story in Nebraska has been shared by most of the country and other Midwestern states and around the nation. Our economy has been healthy. Well, as we move forward and are pleased with the successes of our economy, we have to also talk about and remember our failures, and some of those failures have to do with those workers that cannot have a job, that are unable to find work, that are unable to, because of injury find employment, and those are the people we are talking about here with workmen's comp. These individuals, through no fault of their own, have been hurt, are sitting home and unable to find employment. Perhaps their injuries are so great that they are unable to work at anything, and at this point, our reimbursement for these individuals is so low that it is so embarrassing that even the World-Herald has come out, as we have seen with an editorial that has been distributed here, and the World-Herald editorial, in fact, is an excellent piece talking about the fact that we need to recognize those that are unemployed, and those that are injured, and try to increase our workmen's comp and unemployment comp benefits in this state. And I think talking about just a paltry \$10 increase is inadequate, if not inhumane,



and talking about humaneness is exactly what the McFarland amendment does. These individuals, I think, deserve the dignity and respect that a higher level of compensation would provide to them. Now going up to the level that Senator McFarland talks about would still keep us among states bordering us at the bottom or very close to the bottom. It is not an excessive increase, and though it is I think \$20 beyond the \$10 that the committee talks about, it is still short of what we would optimally like to see, but as a compromise, it is a compromise. The present proposals in the committee amendments are not a compromise. They are capitulation on the part of the weaker individuals, politically, that are trying to adjust the changes that we want to see here versus the stronger political forces that want to maintain lower workmen's comp benefits. And so I recognize the impact on the business community and recognize the concern of the business organizations in this state, but they have to recognize the responsibility to these individuals and, hopefully, recognize that this change is not excessive and is warranted, and I hope all of you will share in that viewpoint and vote for the McFarland amendment to the committee amendments.

PRESIDENT: Senator Coordsen, please, followed by Senator McFarland.

SENATOR COORDSEN: Thank you, Mr. President, and members of the body. I think there might well be from some of the conversations a little bit of misunderstanding as to how the weekly benefits for workers' compensation work. I would share with you that these figures, or those that were distributed to the floor, are maximum benefits, and when you increase the maximum benefit, you don't increase the benefit for the lower income worker, those that are already covered. Their benefits stay the same as what they are entitled to. If we increase the benefits under this amendment to the amendment, or under the committee amendments, for the worker that was earning \$17,000 a year, for the worker that was earning \$19,000 a year at the time they were injured in the past or at the time they are injured in the future, those weekly benefits for that person will stay the same. This is typical of nearly all of the workers' compensation plans across the United States in that they attempt to replace about two-thirds of a worker's weekly wage. In Nebraska, we do not use the average weekly wage rate. Rather, we set a limit in law. I would refer you for just a second to the handout on what the surrounding states do, and these, by the

way, are accurate figures, but I would suggest to you that nearly all of these states base their payments upon the average weekly wage in the state, and this is the top payment, and then they pay a portion of that as a maximum that can be earned. So, in other words, if the average weekly wage was factored out to \$18,000 in the state, it is typical that two-thirds of that is earned as compensation for the injured party since that is, basically, what a person gets in take-home pay, and workers' compensation isn't taxed, that you would have a weekly payment rate on an \$18,000 salary of about \$250, no matter what state you were in, no matter what state you were in. Colorado figures their rate, and it keeps changing from year to year, on a basis of 80 percent of the average weekly wage. Iowa, which is a real exception in all of the 50 states, their top is 200 percent of the average weekly wage. Wyoming, 66-2/3; South Dakota, 100 percent; Missouri, 75 percent; Kansas, 75 percent, that is how they determine their cap. Now I would suggest to you that the \$265 contained in the committee amendment, while we don't have figures to come up with the exact current average weekly wage, if Nebraska were to use that system that is used in the other states, we would be replacing a figure somewhere between 75 and 80 percent of the average weekly wage. That would be our cap. What happens is that when you increase the premium, or increase the weekly payment,...

PRESIDENT: One minute.

SENATOR COORDSEN: ...as is indicated by Senator McFarland's amendment, then you bring, basically, two-thirds of the income for a higher paid group of people; 265 factors out to about \$20,800 annual salary. Our state average wage most recently available is between 17 and 18 thousand dollars. I don't know where 275 would put us, but it would put us probably above the take-home pay, which of the last average weekly wage rate in Nebraska was 327 gross, before deductions. So one of the factors, when you look at these peer comparisons, is to remember that our wage rates in Nebraska are a little different, that we are not going to increase the amount for the people who are being compensated at a lower weekly wage rate.

PRESIDENT: Time.

SENATOR COORDSEN: Those will not change. Thank you.

PRESIDENT: Thank you. Senator McFarland, please, followed by

Senator Hall, and Senator Chizek.

SENATOR McFARLAND: Mr. President, I would like to yield my time to Senator Chizek, please.

PRESIDENT: Senator Chizek.

SENATOR CHIZEK: Mr. President, and colleagues, I rise to support Senator McFarland's amendment to the committee amendments. We are looking at a two-year period since we have had an increase. Senator Hefner talked about the cost to the business community. We are talking about a minimal, a minimal cost. I happened to be one of the sponsors a few years ago of LB 270. This body passed and enacted legislation providing tax incentives from one end of this state to the other for certain categories of business. All we are asking is some equity, some equity for those men and women that provide the work corps, the work force in this state. All we are asking for is that piece of equity. You try, colleagues, sometimes some of us, maybe our age makes us forget, maybe our age makes us forget what it is like to be a young married person in this state with a couple of children and trying to live, trying to live, if you are at the maximum, on \$245 a week. Senator Hefner, I wonder how many law enforcement officers in this state that \$245 a week fits in line with. I can think of one a few years ago, a law enforcement officer that was arresting a drunk, had an altercation and rolled down a flight of stairs and injured his back and his leg, a young man with a family, and it was difficult to live with the amount that was paid. And I know, Senator, it was my son. I have another son who crushed a knee between a trailer and a dump truck. He is fortunate. He is at home. It is not quite as bad for him, Senator Hefner, but I want those of us who are older to remember what it is like to try and live from payday to payday. There were times, colleagues, when I didn't have a dollar in my pocket and I was drawing a full salary. What we are talking about is fairness and equity in a system. Two years, two years, and we want to provide the working men and women of this state \$10. That is an insult. It is an insult to the working men and women in this state. I urge you let your conscience dictate what is right here. Be fair, be equitable. If we are so concerned about inducing people into this state, various kinds of businesses, shouldn't we be concerned about having working conditions for the men and women in this state that are fair and equitable. I think we should. I urge your support of Senator McFarland's amendment.

PRESIDENT: Thank you. Senator Hall, please, followed by Senator Chizek and Senator Hefner.

SENATOR HALL: Thank you, Mr. President, and members. I rise in support of Senator McFarland's amendment as well and I clearly recognize the arguments that Senator Coordsen makes. He has a very thankless job in trying to negotiate this type of legislation through the Business and Labor Committee, working both with labor folks on one side, and the business interests on the other. It is extremely difficult to find a happy medium, if you will, that both sides can agree to. There are good arguments on both sides. I think that the McFarland amendment, although it increases the committee amendments, which I am guessing were agreed to or worked out, is one that is very much needed. I have served in the same capacity as Senator Coordsen did, and I know that some of the things that the committee amendments deal with in terms of the deductibility break new ground and are very much needed in this area, but so is the initial \$10 that Senator McFarland would appropriate to this bill for those individuals who find themselves through, in virtually all cases, not every, but all cases virtually, no fault of their own injured, unable to provide for their families and dependent on workers' compensation to live. There is probably no one, as the examples that Senator Chizek just gave, that wants to be on workers' comp. What is involved in that formula? First of all, you have to be injured. Nobody in their right mind wants to have that happen to them. Second of all, they only get a percentage of their wages as if they had been at work on a full-time basis. Nobody, none of us here, wants to take a cut in pay for any reason, let alone if part of it has to be the fact that they were injured to accomplish that end. Granted, the argument could be made that, well, those individuals are doing nothing but yet they are being paid. Well, you know, that is also a cost of doing business. A cost of doing business is to provide a healthy, safe environment for those individuals whenever possible. In some cases some industries, if you look at those individuals who traditionally testify against this type of legislation, they are not folks that work in many of the most dangerous industries in business today, that being the building and trades. It is a tough job. It is tough. They do things that are very dangerous to themselves and to others in that employ, but yet they have to do it, it is necessary. Those jobs have to be done. It is important to our business, our industry, our economic

environment, as is the fact that these individuals who are injured and apply and are eligible for workers' comp receive an additional benefit. Those benefits, those additional dollars that come out, they also help the economy. They also have that ripple effect, if you will, at least three to four, sometimes five times the effect of a roll over of a single dollar in terms of the economy, and let me tell you, those dollars are going to be spent. They aren't dollars that are going to be ratholed away at the tune of \$275 a week. They are going to have to be spent. They are going to be spent on necessities, food, shelter, clothing, what have you, medicine, and in many cases in these instances, doctor bills. They are going to be spent. They are going to be sent back into the economy. They are going to be used and I think that at this time even with the McFarland amendment, if you read the subhead on that World-Herald editorial, that still will hold true with the adoption of Senator McFarland's amendment. Nebraska, we will still have fallen behind...

PRESIDENT: One minute.

SENATOR HALL: ...even at \$275 a week. We will not have progressed. We will not have progressed. We will, basically, have held the line but we will not have broken any new ground by any stretch of the imagination in this area, and it clearly is time to afford these individuals who have been hurt on the job at least an honorable, if not a luxurious, far be it for any of us to suggest that, but clearly something that would allow them some standard of decency in order to maintain themselves so they can get back on the job, and that is clearly all workmen's comp is meant to do. It is a stopgap for those individuals who have been hurt until they can get back on the job, continue to be a very productive member of society. I would urge you to adopt Senator McFarland's amendment. it is a very reasonable one.

PRESIDENT: Thank you. Senator Chizek, please, followed by Senator Hefner and Senator Labedz.

SENATOR CHIZEK: Mr. President, I would respectfully call the question.

PRESIDENT: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Senator Chizek.

SENATOR CHIZEK: I hate to, but let's have a call of the house.

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

CLERK: 10 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber and record your presence. Please look up to see if you have recorded your presence. Senator Pirsch, Senator Robak, Senator Weihing, Senator Lowell Johnson, Senator Lynch, Senator Moore, Senator Landis, Senator Goodrich, Senator Labedz, Senator Rod Johnson, Senator Wesely. Senator Beck, would you record your presence, please. Thank you. Still looking for Senator Chambers, Senator Goodrich, and Senator Wesely. We are looking for Senator Chambers. Senator Chizek, would it be okay if we go ahead. Senator Chambers is the only one not here. All right.

SENATOR CHIZEK: I thought I said call in. I would like to have a roll call vote on the question.

PRESIDENT: You have requested a roll call vote.

SENATOR CHIZEK: I guess as long as we are here, yes.

PRESIDENT: Okay, and the question is, shall debate cease? Mr. Clerk.

CLERK: (Roll call vote taken. See page 787 of the Legislative Journal.) 26 ayes, 13 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator McFarland, would you like to close, please.

SENATOR MCFARLAND: Thank you very much, Mr. President, and thank the senators for being here just to cease debate. I think this debate has gone on about an hour now or little less than an hour. I think it has went on long enough. I would thank those senators for supporting my amendment and speaking on behalf of it, quite eloquently I might add, Senator Chizek and Senator Morrissey speaking from personal experience about what happens when you have to go on workers' comp benefits and how \$245 is totally inadequate to allow a person to try and still support a

family at a time when you are injured. Senator Conway made an interesting comment to me a little bit ago and he talked about, you know, if workers' comp has really benefited businesses, because if it were not for workers' comp, we would have a total liability system where employers would have to pay huge sums to have insurance to cover liability for their own negligence or for a fault if their employees are injured on the job. What we have done with the workers' comp system is allow for a mechanism whereby you get prompt and immediate coverage and you don't have to litigate, you don't have to worry about the negligence aspect of it, or proof of negligence, or whether who was at fault. If the accident occurs during the course of and arising out of the unemployment, or out of the employment I should say, then the employee is compensated at a reduced rate but the medicals are paid for and you try to give a living wage. The World-Herald article is quite instructive, and if you haven't followed this debate, take a look at the World-Herald article that is on your desk with regard to the costs. The first, the World-Herald said the Nebraska maximum in LB 13, LB 313 would be raised to 290. The World-Herald, which is, you know, a relatively conservative view on this issue, says that is not excessive; that that is acceptable. It talks about the improved business climate and the World-Herald recommends that the injured workers could use an increase and should use it. The committee amendments came out and only raised it from 245 to 255, only \$10 a week, and it hasn't been raised in two years. If you look at the chart, what I am suggesting with my amendment is to raise it to 275. It still places us at the bottom among our surrounding states. Look at what Iowa pays, 684. Look at what Colorado pays. South Dakota is at 289. Missouri is at 289. We would still be behind these other states but at least it would be more fair than what we have got now. I think it is a totally reasonable amendment. As I said, I think, I wish it were more. I think we need to have concern about the working people of our state. We have an improved economy. And I think that they should benefit as well. And I would yield the rest of my time to Senator Morrissey.

PRESIDENT: Senator Morrissey, if I may interrupt for a second. (Gavel.) We're quite noisy and I would remind you, members of the Legislature, we are under call and you should be in your seats. Senator Morrissey.

SENATOR MORRISSEY: Thank you, Mr. President and members. Thank you, Senator McFarland. Again, I would just say we can't have

it two ways, folks. Are we booming? Are we an island of business prosperity? And, if so, what Senator Coordsen referred to, our lower weekly wage compared to our surrounding states, if we're booming, why is that wage low? Whose getting the difference of the boom? Whose absorbing the boom? Same with workmen's comp. When I was injured on the job I didn't choose to be injured, it happened. I was working in a fairly hazardous job.

PRESIDENT: One minute.

SENATOR MORRISSEY: I got hurt, I went home, I had to draw workmen's comp. and as a result of that I had to cut into my savings that I'd been working on for quite some time, cut into them drastically, all because of something that wasn't my fault whatsoever. If we're doing good, if we're being prosperous across the whole state, not just urban and rural, the Governor, in a meeting with me the other night, said the whole state is being prosperous. Let's share that prosperity and especially with these folks that are hurt, many due to no fault of their own. If an employer is at fault and a worker has to go home, that employer should feel lucky that they are not paying the total wage. If I employ some people and have an unsafe situation, and someone is hurt as a result of that, I feel lucky that I don't have to pay their complete wage while they're at home off work.

PRESIDENT: Time.

SENATOR MORRISSEY: They had nothing to do with it. This is simply fair and just. If we're booming, as everyone says, let's share the prosperity with these folks that are injured and help them bridge that gap, because I'm telling you, and I ain't lying, it's not easy, it's not easy to get by on workmen's comp with a wife, three kids, cars, house payments and on and on. I'd urge you, this is only fair and just, please support Senator McFarland's amendment.

PRESIDENT: Thank you. The question is the adoption of the McFarland amendment to the amendment. All those in favor vote aye, opposed nay. All right, we're still rounding up one or two members. I think they're all here now. And the question is the adoption of the McFarland amendment to the amendment. Roll call vote, Mr. Clerk, please.



CLERK: (Roll call vote taken. See pages 787-88 of the Legislative Journal.) 21 ayes, 23 nays, Mr. President, on adoption of the McFarland amendment to the committee amendments.

PRESIDENT: The amendment to the amendment fails. We're back on, what, the committee amendments?

CLERK: Mr. President, I have another amendment to the committee amendments. Mr. President, Senator Hall would move to amend the committee amendments. (Read Hall amendment as found on page 788 of the Legislative Journal.)

PRESIDENT: The call is raised. Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, members. It is clear that a majority of the body does not want to increase the maximum benefit allowable outside of the committee amendment that would increase it by \$10. So what I have done is offered an amendment that would increase the minimum benefit that one would be able to receive in a workmen comp situation. The current language is 49. Forty-nine represents two-thirds of what someone is making in terms of their weekly wage, my rough mathematics means that they are making approximately \$75 a week in terms of benefits. All I do by amending it to 88, striking 49 and increasing it to \$88, is to bring that minimum up to two-thirds of a minimum wage job, over 40-hour week. So you take 3.35, you times it by 40 hours that are worked in that week, you come up with approximately \$88 as two-thirds of that wage that an individual would make on a gross basis over a week's work. I just raise that up there so that there is clearly an understanding that this is two-thirds of at least what currently is recognized in the State of Nebraska as the minimum wage rate. I would urge its adoption. Thank you, Mr. President.

PRESIDENT: Thank you. May I introduce a guest of Senator Beck, please. Under the south balcony we have Esther Juzyk, who is the special guest of Senator Beck, and she's from Aurora, Nebraska. Ms. Juzyk, would you please stand and be recognized. Thank you for visiting us today. Senator Coordsen, please, on the Hall amendment, followed by Senator Hefner and Senator Morrissey.

SENATOR COORDSEN: Thank you, Mr. President. Senator Hall, would you respond to a question, please?

PRESIDENT: Senator Hall.

SENATOR COORDSEN: Senator Hall, as...

PRESIDENT: Senator Coordsen, I'm going to interrupt you a moment. (Gavel.) Let's hold it down. The speakers are having trouble hearing each other, and so am I. So, please, appreciate (inaudible).

SENATOR COORDSEN: I could use my hog calling voice, Mr. President, but I think I will not impact the ears of the members of the body at this time. Senator Hall, from your experience in this field, how are part-time employees covered?

SENATOR HALL: I'm sorry, I didn't heard you, Senator.

SENATOR COORDSEN: How are part-time employees covered under worker's compensation, part-time employee injured on the job, making whatever that amount would be, but certainly perhaps less than an average of \$125 a week, or whatever minimum wage figures out on 40 hours?

SENATOR HALL: Senator Coordsen, they would be allowed the minimum amount, if they should fall underneath that. So, if your question is basically, how would my amendment impact an individual who was not working a 40-hour week, they would benefit. That part-time individual would benefit from this amendment because it would increase their two-thirds portion up to that of a full-time employee, because... And my reason for doing that, my rationale, is that they're not injured part-time, they're injured full-time. And in this case, yes, you're absolutely right, they would benefit. The reason for the 49 was to allow for some leeway there for those part-time individuals, but also to have a ceiling that they could not...or, excuse me, a floor that they could not fall through. So, absolutely, the individual that is going to benefit from this provision is an individual who works on a part-time basis but is injured on the job and still eligible for worker's comp benefits.

SENATOR COORDSEN: Okay, thank you, because we generally cover two-thirds of what a person's take-home pay is, or the minimum and I have no idea how many years ago it's been that the \$49 was placed into statute as the floor. Eighty-eight dollars does not sound like very much, except that it's entirely possible, under

this amendment, as it would be, I suppose, under \$49, for a person to make...have a larger income under worker's compensation than what they might working in part-time employment. So I would ask the members of the body when they address this particular amendment to the amendment to keep that in consideration, that as the system works out and with the large number of part-time employees, we need a floor, we need a floor. I don't know that \$88 is a magic floor beyond the amendment. Thank you.

PRESIDENT: Thank you. Senator Hefner, please, followed by Senator Morrissey and Senator Chizek.

SENATOR HEFNER: Mr. President and members of the body, I would rise to oppose this amendment. This....an amendment like this was never brought up at the committee hearing. I believe what this would do, this would certainly increase the premium on workmen's comp, especially those people that hire part-time employees, because here we're saying, if you only work one day a week and say you'd earned \$50 a week, this employer, or the carrier whose carrying the workmen's comp for this employer, would have to pay \$88 a week. And that looks to me like that would be real excessive. I know that that \$49 minimum was put in there for a purpose, but I believe here...if we go up to 88....Senator Hall, I'd like to ask you a question. Senator Hall, where did you pick up the figure \$88?

SENATOR HALL: Senator Hefner, as I explained in my opening, there was...my rationale for it was I took the minimum wage, which is currently the state minimum wage is \$3.35, took it over a 40-hour work week, divided it by two-thirds, and that is where the 88, actually the \$88 is a little less, I rounded it down, and it would be two-thirds of a minimum wage job.

SENATOR HEFNER: Okay, okay, what about the employer that hires quite a few part-time people, and say that he only hired this employee for one day a week, then if this employee got injured on the job then he'd be liable for that \$88?

SENATOR HALL: That's correct. Clearly, as I mentioned to Senator Coordsen, the individual who was a part-time...on a part-time basis would....I guess if you can get injured and be benefitted, if that's possible, that would happen in this case. Clearly, an employer hires part-time people because they don't then have to pay benefits for that individual in terms of health

care and other things. Yes, they have to pay worker's comp, but I can't remember the last time that the 49...it hasn't been increased in the six years I've been here. You've been here at least twice as long as I've been around, and I don't know...

SENATOR HEFNER: Thank you.

SENATOR HALL: ..nobody else on the floor I think can remember when 49 was done, and I know this is your time. Go ahead.

SENATOR HEFNER: Thank you, Senator Hall. Just a few other remarks. I don't think we know enough about this. I know the Business and Labor Committee didn't discuss this. However, we did discuss a compromise and that was raising it on the maximum, \$10 one year, and \$10 the next year, and that was a compromise. And, if I knew that this bill was going to try to be amended on and on and on, I certainly wouldn't have voted it out of committee. But here's another thing we've got to remember, there is no income tax, no federal income tax, no state income tax, no social security paid on these benefits. So you can see that therefore the employee is getting the full benefit of whatever that insurance company pays. And so I just think that we ought to vote this amendment down and hopefully Senator Hall will even withdraw it, because until we know just a little bit more about this.

PRESIDENT: Thank you. Senator Morrissey, please.

SENATOR MORRISSEY: Thank you, Mr. President and members. Senator Hefner and Senator Coordsen are making some good arguments. This might not be reasonable. But whose being reasonable here? The people are not asking to get hurt. I ask you to consider that, they're being injured. You want to go to proof of fault, I'll support that type of system. You ask the people behind the glass if they want to go to proof of fault, I'll guarantee you what the answer will be. I think what Senator McFarland offered was a very reasonable amendment. But we've decided we didn't have to be reasonable, in my opinion. So I'm going to support Senator Hall's amendment, because I think it's a good amendment. I'm not too concerned about someone making out like a bandit that has been injured. That doesn't concern me. I don't think people are going to say, hey, I've got a \$50 a week part-time job. If I go get hurt, I can get 80 a week; I'm going to do that. I'm going to stick my hand in this door and slam it. I'm going to wrench my knee so maybe

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I can go to the hospital, even...and have them stick a knife in my body and work on it. I don't think people are going to do that. And, if they're injured, I don't think they're just going to be lapping up all this cream that we're so concerned about. There are times when you're drawing workmen's comp when you can be taxed by the federal government. In certain situations, if you are on a light duty status, where you can't make it on the existing workmen's comp, and the employer says, well, come back, we'll give you light duty and we'll give you a little bit of a wage, not your total wage, and then your workmen's comp makes up what your total wage would have been, then that is all balled into a wage, and that is taxed. You can check it out if you'd like. So there are times it is taxed on the federal level, when you can't make it and are forced to go back to work, often times after further aggravating your injuries, but you just can't make it. So that's what...that's how light duty came into existence, because of poor workmen's comp. We know you're injured but...and we know you can't make it, so come on back and we'll give you a little bit to do a little bit. It might further aggravate your injury, might make things worse in the long-run, but we know you can't make it, so come on back, you'll help us out at a cheap rate. And, oh, by the way, you will be taxed on your workmen's comp, too. They probably leave that part out. But I don't think we're going to have people, part-time employees, rushing out to injure themselves so they can draw this extra 20 bucks a week, or whatever it is. I don't think we have a big concern about that and I would support Senator Hall's amendment.

PRESIDENT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 254, and LR 255. Mr. Clerk, do you have something to read in?

CLERK: Mr. President, Education Committee reports LB 618 to General File; and LB 1051 to General File, those signed by Senator Withem. New A bills. (Read LB 1059A and LB 313A by title for the first time.) Senator Smith has amendments to LB 662. I have a motion for introduction of a new bill that will be laid over, that's offered by Senator Coordsen. And, Mr. President, LB 602, LB 858, LB 875, LB 891, LB 906, LB 907, and LB 1013 are reported correctly engrossed. That's all that I have, Mr. President. (See pages 788-91 of the Legislative Journal.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Back to a discussion of the Hall amendment to the committee amendments. Senator Chizek. Senator Ashford, would you care to discuss the amendment to the amendment?

SENATOR ASHFORD: Thank you, Mr. President and Mr. Speaker and members. Just very briefly, I did not vote for the first amendment and I will not vote for this amendment, but let me say that in my mind it does not necessarily mean that the increases are not justified, but I will tell you that I think that a vote for the amendment at this point, after there has been a compromise struck between the two groups that classically meet head-on in the Labor Committee, Business and Labor Committee carries great weight with me. I know two years ago on our tort bill we thought we had an agreement with what I thought was an agreement with the insurance industry on that bill. And when it came time to...for that bill to come to the floor, all of a sudden we didn't have an agreement. And even though I feel that Senator Hall and Senator McFarland are making some good points certainly in the area of workmen's compensation, which is different in nature than unemployment compensation in my view, I still believe that when the two parties get together and reach a compromise that both can agree on for this session, I think that, at least to me, carries great weight. I wish that we could do...continue to comply with those types of agreements on other bills. But I certainly understand the frustration Senator Hall, and Senator McFarland and Senator Chizek have voiced, but I also give great weight to what has been agreed upon by the parties. So, with that explanation, I'm going to vote against the amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Hall, would you care to discuss your amendment?

SENATOR HALL: Yes, thank you, Mr. President, members. We checked back with folks who had served either on the committee or as counsel to the committee, and as one of my esteemed colleagues once said about the type of automobile that he drove, he said that he never drove an automobile in the same decade in which he happened to be living and that was manufactured in the same decade that he happened to be living. This change in the statutes was not done in the past decade, it never happened in 1980, because the folks who served the committee as counsel are

still working in the Legislature in some fashion, and they can't remember when the change to \$49 was made. Now, granted, there is a good reason to have a lower amount. You don't want to have the maximum and minimum the same. You don't want to have them too close together. But to say an injured individual is not entitled to at least two-thirds of a minimum wage job over a 40-hour week, I think is only fair. Look at the bene...look at what's happened in the industry, business. Look what has taken place across the country. I'm...my background is in personnel. And individuals who work in these types of jobs that traditionally have to do...have to apply for worker's comp because it's a dangerous area, and as hard as the employers work to try to make it a safe environment it doesn't always work out that way. But what's happened is folks are going to part-time employees, they're going to more and more part-time employees, and they're doing that because there are benefits they derive from it. They don't have to pay insurance. They don't have to pay health insurance for a part-time employee under 32 hours a week, they don't have to. They can get by with a number of different types of benefits, if they reduce their work force to part-time status. There have even been laws that have been introduced to move away from that so that an employer cannot get around the issue of basically having two work forces that are part-time, yet they do a full-time job. None of them have been passed yet.

SPEAKER BARRETT: One minute.

SENATOR HALL: But clearly it deals with the issue of where do our priorities lie. That individual who is probably working two part-time jobs gets injured on one, is still so injured that they can't be employed in that other job. They ought to be entitled to at least two-thirds of a minimum wage salary. That's all this proposal does. It raises it to \$352 a month, \$352 a month. The current provision of \$49 is \$196 a month. That is not enough to support anyone. And, ladies and gentlemen, they are not partially hurt when they're injured and incapable of working. They're hurt all the way around. They ought to be entitled to at least two-thirds of a minimum wage position. It clearly has not been changed, it needs to be changed, it needs to be brought up to a minimum level. I would urge the adoption of the amendment.

SPEAKER BARRETT: Thank you. Senator Coordsen, further discussion, followed by Senators McFarland and Chambers.



SENATOR COORDSEN: Thank you, Mr. Speaker, members of the body. When we talk about this particular amendment to the amendment one thing we need to be aware of again is that the intent of worker's compensation, not only in Nebraska but in the rest of the states, is to provide for injured people who cannot work two-thirds of their compensation up to a cap. And I would assume, I've never looked this up, in most cases there is a bottom limit. I'm going to assume also that Senator Hall's calculations on the \$88 are right in that person working at 3.35 an hour for 40 hours a week would, if they were injured, not able to work, have a weekly benefit of \$88. I'm going to assume those are correct. So the question here is whether we cover at the minimum wage rate part-time people who are injured in work in which two-thirds of their wages would be, under the current system, something less than \$88 down to the current floor of \$49. I don't know what the magic formula \$49 is, but it is an interesting concept that if you work for whatever amount, 1 hour, 5 hours, 39 hours a week as a part-time employee, and if you're injured that you will be compensated for an amount almost as much, equal to or greater than what your take-home pay is, and maybe in some cases even your gross pay before deductions. If we were interested in being equitable, I suppose we would go two-thirds of salary, which would get us down to, for some people, almost nonexistent weekly benefits. But I think we're asking our system to bear quite a burden if we're asking that all people who work part-time, if they're injured, be covered with the same amount of money as if they were working full-time, minimum wage. So I think is something that may well be the topic for another bill. But we shouldn't adopt it as part of the committee amendments this morning. Thank you.

SPEAKER BARRETT: Thank you. Senator McFarland, on the amendment to the amendment.

SENATOR MCFARLAND: Thank you very much. I'm in favor of Senator Hall's amendment. It's a different aspect of the problem. And he makes several good points about it and how it has not been changed. I certainly support it, going to vote for it, think it's good. Philosophically, this bill is very interesting, it is very interesting the reaction that we've had to it on the floor today. We're dealing with a bill that affects working people. And it affects them at a very crucial time when they are injured on the job. I'm reviewing the vote



on the amendment that was just defeated on a vote of 21 to 23. What strikes me very interestingly is the partisan division on that vote. It is almost totally along partisan lines. Almost every Republican in this body voted against the amendment, Republicans who voted. Almost every Democrat in this body voted for the...for my amendment. There were only two Democrats who voted no against my amendment. There were, thankfully, there were only...there were at least four Republican's who voted yes on the amendment, and I appreciate their support. It's unfortunate that things get broken along partisan lines because what you have is you have, what, 19 Democrats, all 19 Democrat...excuse me, 19...17 Democrats voting for the thing, and you have 21 Republicans voting against, very partisan division. And it's unfortunate that we have this view in the state that somehow if you are with one particular party you are for the business interests to the exclusion of working people, and on the other hand I suppose there is a perception the other way that somehow if you are a member of the party to which I happen to belong, that you favor the working people over business. The problem with that type of partisan analysis, and sometimes it gets oversimplified and overused, is that you don't realize there is a mutually beneficial way in which business and working people can both benefit under legislation or under economic conditions, that what is good for working people is often good for employers, and what is good for employers is often good for working people. This is one of these issues where it seems to me we try to have our political philosophy dictate the decision on this issue without really looking at it and saying what is fair, what's reasonable, what would benefit our state as a whole. Our worker's comp benefits are so minimal in comparison to other states, particularly surrounding states, we're not competing in any way. The only thing we're competing for is to be the lowest. If we wanted to.... Some of the arguments, I mean I heard on the floor we should abolish worker's comp altogether, and then we'd have a great business climate. That's not going to happen. I mean the worker's compensation system was set and established to help both working people get immediate and necessary relief and get their medical expenses paid, get them back to work, get them rehabilitated, give them some kind of way to survive during that...

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: ...time. And help employers as well to get these people active and to have some kind of continuity in their

employment situation so these people aren't destitute and left without recourse, and provide some protection against liability suits and those kind of things. The fact that the agreement was reached out of the Labor Committee just doesn't have any merit with me at all. I mean when you've got a gun at your head and you're with the AFL-CIO and labor groups and you're saying, you count the votes and you can't get it out of committee, it should have come out last year. It's been sitting there for two years now. That is no agreement, and I think that's disingenuous when someone says we've got an agreement, so therefore don't change it. I mean the agreement was coerced and unconscionable, in my view. I don't think that the AFL-CIO...

SPEAKER BARRETT: Time.

SENATOR McFARLAND: ...should have to be forced to accept the few jelly beans that were thrown on the table by the committee. Thank you.

SPEAKER BARRETT: Senator Chambers, please, followed by Senators Nelson and Morrissey.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the people who are affected by this bill, Senator Hefner, do the kind of jobs that can be described as the four D's. They are dirty, difficult, dangerous and dead end. The worse a job is, the worse the conditions the lower the pay the individual gets who has that job. If you can come to work with polished, manicured fingernails, a dress suit, necktie, white shirt, more or less clean, then you'll make more money than somebody who has to grub for a living and literally earn bread by the sweat of his or her face. Based on what some religious people say, that's the way God intended everybody to make a living, by the sweat of his or her face. But it seems like that kind of labor has fallen into contempt and the people who must do that kind of labor share in that attitude of contempt. I think it's regrettable and unfortunate. Senator Coordsen may be correct when he said that, under Senator Hall's amendment, somebody injured on one of these "quadruple D" jobs would take home a greater amount, or almost as much, if they were injured, as they would take home were they there to do the slave work. I say a take-home wage which is that minuscule is unfair, it is unconscionable, there should be laws to prevent an amount of money that low being considered adequate wage. So, if a person is on one of these "quadruple D" jobs and gets injured, that is

almost like adding insult because the work is very difficult. In some of these jobs there is a likelihood a person will be injured. And to me \$88 a week is not a lot of money. A society should blush with shame to argue against allowing a person who is working, taking the only job made available, maybe hating that job every day that he or she reports to it, hating himself or herself for being reduced to that level, but trying to live up to the demand that society places that everybody work. Yet those who impose those kind of restrictions and standards, if that's what they can be called, would not dare to do such menial work themselves. This raise, from \$49 to \$88, is not going to defeat any fund. It is not going to break any employer, it is not going to make wealthy an injured worker. All it's going to do is make us a little less unethical in terms of exploiting people who are healthy enough to work and then carrying it over to a continued exploitation of those who are injured while working. Politicians regularly will say, I'm going to take my campaign to the coffee shops, to the working man, they should say working persons, but to the working people. And that sounds good. But when we have an opportunity to do something which really is just token in nature to help a person who has worked and been injured while working, this little we won't even do.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: I have a difficult time conceptualizing how I, as a member of this Legislature, can be bound by an unconscionable agreement made by some people whose identity I don't even know. I'm not bound to vote the way some people who have a self-interest in exploiting working people would arrive at. I'm going to support Senator Hall's amendment, and I hope enough others will do so. Eighty-eight dollars, as Senator Coordsen even acknowledged, is not a lot of money. We're not raising the amount by \$88, we're raising the amount to \$88. So I hope there will be enough support for this amendment.

SPEAKER BARRETT: Thank you. Senator Nelson.

SENATOR NELSON: Mr. Speaker, members of the body, I have not participated in this debate. But I want to tell you an actual incident that happened yesterday without, I believe it's public information and so on, or without revealing a business and so on. A horse trainer, Grand Island, Nebraska. As many of you know, a lady was very severely injured last year, or a year ago, year and a half ago, fell out of the saddle, caught her foot in

the stirrup, drug along the rails, the rail line. Then we become back to our liability issue and Senator Conway's LB 159, then third party and even the maker of the rails and so on. But what I'm saying is the final word, and the word was said to me yesterday if that horse trainer had had workmen's comp, as he is supposed to have had and did not have, Arlene, you must enforce that or do something about it. It, frankly, would have or could have wiped, since it went back then to, well I just as well say it, Fonner Park, back to their workmen's comp and their insurance and so on, it could have wiped Fonner Park out entirely. So I want to tell you, workmen's comp is not necessarily an issue just for the working people, it is a benefit to the business people. And I'm just using that as an exact example what could happen or could happen to many. And that workmen's comp is also, I don't care whether it's construction industry or whatever, it works both ways. And so I'm just offering that to you that it is not only just working people, it is to an advantage of the business people, too.

SPEAKER BARRETT: Senator Morrissey, please.

SENATOR MORRISSEY: Question.

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

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

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

SENATOR HALL: Thank you, Mr. President and members. Nineteen seventy-three, 1973 was the last time that the floor was changed on this proposal. And it was changed by 20 percent, it went from \$40 to \$49. In 1973 I was a junior in high school. Senator Hefner was a young man. (Laughter.) Senator Haberman had his hearing (laughter), and Senator Warner was only ten years in the body. That's a long time ago, ladies and gentlemen. That's a long time ago. Lot of things have changed since then. Also, in 1973 the state's minimum wage was \$1.50, \$1.50, and \$49 was well above two-thirds of the state's minimum wage. All this amendment does is bring us to slightly under two-thirds of the state's minimum wage. It takes what was in law 17 years ago and it puts it into effect, makes it applicable

in 1990. It is unconscionable not to increase this floor to two-thirds of a minimum wage job. Look back on the history of worker's comp. Ladies and gentlemen, as Senator Nelson pointed out, it was the first tort reform ever enacted, and it was enacted because it was a pro-business enterprise. It exempted the huge recoveries that were taking place at that time for folks who were injured on the job, and labor agreed to it, labor said yes, because then we're guaranteed that these individuals who work for a living are at least going to be able to support their families, pay their bills until they are able to get back to work. It's a part-time, it's a temporary situation. And it also protects us so that we don't have these huge suits so we go out of business, and nobody is any better off because there are no jobs then at that point in time. It was a good move then, it's a good move now. But it also has to be at a point or level where these individuals can sustain themselves at what would be the state's minimum wage, two-thirds of that. That's all this amendment does, \$88 a week, because if that individual is hurt at a part-time job they are not hurt on a part-time basis. It is very likely, if not completely true, that they can't work at any other job as well. And you all know the benefits, the movement in the business world to part-time staffs, because benefits are derived, costs are reduced and in the case of the workmen's comp and the injured employee health care benefits are denied. This is really one of the chief reasons when we're looking at 20 and 30 percent increases in the cost of insurance for staffs that business has looked this direction. This amendment is a modest proposal after 17 years to basically bring us back up and not quite even there to the level at which we were in 1973, so that two-thirds of a minimum wage job is available to those individuals, whether they be part-time or full-time. Because there was no provisions at that time in 1973 on the part-time basis, period. It was \$49, and the state's minimum wage was \$1.50. Mr. President, I would urge the adoption of the amendment to the committee amendments.

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the adoption of the Hall amendment to the committee amendment to LB 313. Those in favor vote aye, opposed nay. Have you all voted?

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

SPEAKER BARRETT: Certainly, request for a call of the house.

Those in favor of the house going under call, please vote aye, opposed nay. Record.

CLERK: 23 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: Motion prevails and the house is under call. Members please record your presence. Those outside the Chamber, please return and check in. Senator Smith, please. Senator Haberman, Senator Morrissey. Senator Moore. Senator Nelson, please record your presence. Senator Pirsch. Senators Kristensen, Rod Johnson and Labedz, the house is under call. Senator Johnson, the house is under call. Members, please return to your seats for roll call vote.

SENATOR HALL: Who are we waiting on?

SPEAKER BARRETT: Senator Johnson is on his way. The question is the adoption of the amendment to the amendment. (Gavel.) Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See page 792 of the Legislative Journal.) 17 ayes, 29 nays, Mr. President.

SPEAKER BARRETT: Motion is defeated. The call is raised. Mr. Clerk, next item.

CLERK: I have nothing further to the....Mr. President, I have a priority motion. Senator McFarland would move to reconsider the vote just taken on the Hall amendment to the committee amendments.

SPEAKER BARRETT: The Chair recognizes Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker. The whole tenor of this debate has been rather frustrating for me, as I'm sure it has been for many of you. And I'd like to address a couple of things, because I think that vote on that amendment, if I get the results back, was even a more partisan kind of split. Senator Hall makes a very good argument, we haven't increased that minimum level since 1973. It seems like, if I heard the debate, most of the people spoke in favor of that idea, and that what would be fair, considering what has happened over a period of years, would be to approve that amendment. But yet we have a solid block that votes against it, for I'm not sure what reasons other than a kind of litmus test of their political affiliation

or of their political philosophy. I'd like to just question a couple of things that have been discussed in the debate and bring your attention to them. The first thing is the assertion that there was some kind of disagreement that came out of the Labor...Business and Labor Committee is somehow kind of "sacrosanct" and that once some kind of compromise occurs between interested parties who are before that committee that that is not subject to change in the Legislature. And who are we, as mere state senators, to express a different view than what the interest groups before that committee agree to? That has always bothered me in this Legislature. I don't think that we, as a legislative body, should feel bound by any kind of particular agreement between parties. I even remember Senator Landis talking about his aspiration to be Banking Committee Chairman, and he said one of the things that he wanted to address was that a lot of Banking Committee bills came out, and the parties before that committee had signed off on them and said that they were acceptable, and so the Legislature approved them, only to discover later that these bills weren't good for the citizens of our state as a whole. Seems we have a responsibility to act independently of interest groups in the Legislature. Certainly they can bring their points of view to bear, certainly we should be aware of them, certainly we should consider them, certainly they are sometimes...the interest groups are in the best position to understand the issues and can provide information or perspectives that we may not consider. But when competing interest groups decide and resolve something that shouldn't mean that we just unilaterally adopt it and say, okay, we're just here as kind of a perfunctory body to approve whatever you've agreed to. That's not how the system should work. We should be independent of it, we should be concerned with people that come before this Legislature, but we should, in the final analysis, make the decision on our own independent judgment on what's best for our entire state as a whole. One thing that troubles me about the agreement, and I don't know how often it happens in here, this was my bill, I presented it two years ago to the committee. These negotiations took place and I was never a part of them. I never heard what was going on as far as figures or dollar amounts or anything like that. The only communication I got from the committee was once, as I recall last year, the first communication I got was, well, either the unemployment bill is going to come out, or the worker's comp bill is going to come out in '89, and then the other bill will be considered in 1990 so that we have kind of a staggered situation where we increase worker's comp benefits one

year, and then increase unemployment then the next year, according to what seems fair and reasonable at that time. That sounded fine to me. I said that's great. The next thing I find out happens is that some kind of discussion has occurred among the people on the Labor Committee and some of the interest groups involved in this legislation and I get an apology because I wasn't invited. And I say, well, I would have liked to have been invited, but I understand that maybe it was an oversight, so I didn't raise the issue. The next thing I heard was that neither bill was coming out of committee that year, that they were both going to stay in committee in '89. And, contrary to what I'd been told before, neither bill comes out. The next thing I heard was this year saying that both bills were going to be advanced out of committee. To my knowledge that may be happening. I'm not sure where the unemployment bill is. But they come out, and I'm not aware what the committee amendment does, or anything like that. And it gets to the floor and I'm told, here, it's your bill, but the agreement has been reached and the people on the committee reached it, so sign off on it, don't raise any concerns about it. It seems to me if I'm the sponsor of the bill I have a legitimate right to raise concerns about the bill, because it is unfair the way it's being implemented and the way it's being proposed. I'd like to read one comment from the World-Herald, and, gee, I think the editor makes a nice statement. He says here, and I'll just read it because it is so nicely phrased. He says, as low as the Nebraska payments are, some people don't want them to raise. And then he mentions the spokesperson for the Associated General Contractors says that the jobless benefit is too high. And he said it's difficult for employers to add another increase to a \$10 a week increase in each of the past two years. Then he says something, I think I find it very interesting, the editorial says, these modest increases were made, however, without raising employers contribution. The rate at which employers pay into the unemployment compensation is the same this year as it was in '87 and '88, and state officials projected in November that even without increasing the payments the fund would grow from 100 million to 107 million in 1989. That's with respect to unemployment. There is no additional increase necessary to fund that particular issue. Then of course it concludes, recent improvements in Nebraska's business climate have provided more jobs and opportunities for workers and injured workers and improving the benefits for unemployment and injured workers should be the next step. Totally agree with it. I think it reflects a nice view, a reasonable view. It talks about the



\$290 being a fair rate, not excessive. Senator Hall proposed what I thought was fairly reasonable. In response to the point raised by the Chairman of the committee, he said, okay, if you're worried about the maximum amount and it's a two-third bene...two-third weekly...of the weekly benefit for all employees, what we should do is really, if the maximum is deemed to be sufficient or a minimal increase in the maximum is deemed to be sufficient, what about the employees who are earning minimum wages? What about the people who are in the lower edge of the spectrum? We have a minimum built in here, too, that minimum is \$49 per week, and it's been there since 1973, 17 years ago. It seems to me it's time for a change.

SPEAKER BARRETT: One minute.

SENATOR MCFARLAND: The amendment by Senator Hall was perfectly reasonable, it should have been approved overwhelmingly. But yet because so many people are wedded to some kind of litmus test on these type of labor-employer issues, it doesn't seem to be any reasonable discussion on what's best for the people of our state. I don't know how to....I argue it in figures of dollars and cents, and compare it to other states and things like that. I think we make perfectly reasonable arguments. We have a fairly conservative newspaper saying, yeah, this is reasonable. I think it should be even more, but I go with what I think is reasonable enough to pass, to get 25 senator's support. And yet people turn their backs, don't listen, say, well I know where I stand on this issue, and this is how I'm going to vote, and don't confuse me with statistics or data or facts or anything, that is totally unfair and it was unfair to Senator Hall in consideration of his...

SPEAKER BARRETT: Time.

SENATOR MCFARLAND: ...particular bill, or particular amendment I should say. Thank you.

SPEAKER BARRETT: Thank you. Senator Morrissey, on the motion to reconsider, followed by Senators Hefner and Ashford.

SENATOR MORRISSEY: Mr. Speaker, members, I would support Senator McFarland in this effort. And I just want to quickly address two of the things that have been brought up, what Senator McFarland discussed. The compromise, if you will, if you want to call it a compromise, when you think of a compromise

in the regular sense of the word, you've got two people, two groups of folks starting in the middle, and then starting out on the edges and moving towards the middle. I wasn't directly involved with any of the compromises that took place with these bills, I was on the fringes of those compromises, so-called compromises. And it's not your typical definition of compromise. When you start out compromising and you're backed into the corner, from the beginning there is no place to go. The original bill, on this workmen's comp increase, asked for a \$50 increase, the compromise was \$10. You want 50, we'll give you ten. That's one heck of a compromise. And I must tell you, as I listened to the reports of how these negotiations went forward, I was disgusted, I was disgusted. I told the parties, I don't know if I can support the compromise, because the so-called compromise is so bad. And that's what we have here with the original bill. As for 50, we'll compromise, we'll give you 10. Well, that's real generous, real generous. It's not my kind of compromise and it's not my kind of fair deal. In addressing the partisanship of this vote I've spoke out many times in public, to the groups I address, on how pleased I am at this Legislature being pretty much nonpartisan, for the most part. It does come down to partisan votes in many cases, such as these where money for the working people versus money for the large business community is at question. I heard a speaker the other day that said, he told us how simple it was in Washington compared to Lincoln. Washington, it's all partisan, a Democrat introduces a bill, you vote for it; Republican introduces a bill, you vote against it, or vice versa. That sure is simple. Back here you've just got all kinds of considerations. And that kind of made me mad because I think partisan politics is really, really bad for the nation as a whole. To me it boils down to what is right, what is wrong. To me the issue, as originally brought, was right. The so-called compromise was wrong. What Senator Hall has, and brought back by Senator McFarland, are requesting is right. The people that vote, the working men and women in this state, it's good for them, it can help them out in a time of severe, severe stress. As I said, they didn't ask for the injury, it happened. It puts the entire family in a tense situation, uncertain of their future. What Senator Hall offered, what Senator McFarland is bringing back,...

SPEAKER BARRETT: One minute.

SENATOR MORRISSEY: ...regardless of your party affiliation, throw that out the door, is it right or is it wrong. In my

estimation this is right, the original amendment brought by Senator McFarland was right. Think about it, think about the people you are representing, the majority of the people you are representing and vote for what is right.

SPEAKER BARRETT: Thank you. Senator Hefner, would you care to discuss the motion to reconsider?

SENATOR HEFNER: Mr. President and members of the body, I oppose the reconsideration motion. Looked to me like the previous motion lost fair and square. Senator Morrissey said he was disgusted at the compromise that was made. Well, Senator Morrissey, you're no more disgusted than I am, because if I knew that we were going to have a battle like this on the floor I wouldn't have voted to advance the bill. It's that simple. And then you talked about the party affiliation. I can't see that it was party...the vote was a party affiliation. But the Hall amendment is a bad amendment, and I want to tell you why. If you would hire a person for one hour, for one hour, Mr. President, could I have the gavel?

SPEAKER BARRETT: Yes, sir. (Gavel.)

SENATOR HEFNER: But getting back to Senator Hall's amendment, if you'd hire an employee for one hour, and say you paid he or she \$10, you could be liable for many months, many weeks and many months, even into years, if this person got injured on the job, because you would be stuck with the \$88 per week deal. And that's going to drive up workmen's comp premiums, it's just that simple. And he gave the example like on a minimum wage, I think the minimum wage right now is 3.35, it goes up to 3.85, I believe. But I just took 3.50 an hour for 40 hours is \$140 a week, you take two-thirds of that which would be \$74. This person would get that \$74, but with the Hall amendment they would get a little bit more, they'd get the \$88. But back again to that person that just worked an hour or two for you, you would be on the line to pay \$88 a week for however long they were...that they worked. Senator Hall also said this would have a ripple effect, it would help the economy. Well, I would hate to see that we'd have to enhance our economy with something like this. Also, we got to remember that employers create jobs. If we put the burden too hard on them, there just won't be that many jobs out there. So I would urge you to vote against the reconsideration motion.

February 14, 1990      LB 42, 159, 313, 642, 851, 856, 857  
874, 893, 901A, 957, 960, 964-966, 984  
997, 1044, 1064, 1080, 1090, 1161, 1184  
1193, 1232  
LR 11

SPEAKER BARRETT: Thank you. Mr. Clerk, you have a motion?

CLERK: Mr. President, I have a priority motion by Senator Langford, that's to adjourn the body until February 15, 1990. I assume that's nine o'clock, Senator. I do have some items.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Yes, I do, Mr. President. I have amendments to be printed to LB 42 by Senator Baack. (See pages 793-94 of the Legislative Journal.)

Mr. President, Enrollment and Review reports LB 1064 to Select File with Enrollment and Review amendments. LB 851, LB 856, LB 857, LB 874, LB 893, LB 957, LB 964, LB 966, LB 984, and LB 997 are all reported correctly engrossed. Those are signed by Senator Lindsay as E & R Chair. Banking Committee reports LB 1161 to General File with amendments, and LB 1193 as indefinitely postponed, those signed by Senator Landis as Chair of the Banking Committee. (See pages 794-96 of the Legislative Journal.)

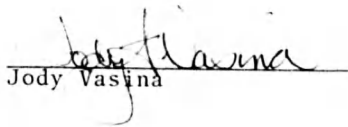
I have a new A bill, Mr. President. (Read LB 901A by title for the first time. See page 796 of the Legislative Journal.)

Mr. President, I have a confirmation report from the Health and Human Services Committee, that is signed by Senator Wesely as Chair. I have a series of priority bill designations. Senator Schellpeper selects LB 1080; Senator Crosby, LB 965; Senator Scofield, LB 1184; Senator Richard Peterson, LR 11CA; and Senator Withem, Education Committee priorities are LB 960 and LB 1090.

Mr. President, Senator Abboud would like to add his name to LB 1044, Senator Crosby and Chambers to LB 642, Senator Elmer and Peterson to LB 159 and AM2372, and Senator Morrissey to LB 1232. I believe that's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The motion before the house is one to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Ayes have it, carried, we are adjourned. (Gavel.)

Proofed by:

  
Jody Vasina

Mr. President, I have a series of amendments to be printed. Senator Peterson has amendments to LB 1064, Senator Lamb to LB 980. That's all that I have, Mr. President. (See pages 821-22 of the Legislative Journal.)

PRESIDENT: Thank you. May I introduce some guests, please, of Speaker Barrett. Under the south balcony is Larry Langer of Kearney and Chuck Lindsay of Holdrege. Will you gentlemen please stand and be recognized? Thank you for visiting us today. Move on to LB 313.

CLERK: Mr. President, 313 was a bill originally introduced by Senator McFarland. (Read title.) The bill was discussed yesterday by the Legislature, Mr. President. Committee amendments were offered by the Business and Labor Committee, Chaired by Senator Coordsen. There was amendments to those offered by Senators McFarland and Hall. Both of those failed. Senator McFarland moved to reconsider the vote on the Hall amendment. That motion is now pending, Mr. President.

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. If permissible, I would like to withdraw the motion to reconsider and take up an amendment that I have submitted and is being passed around and should be received by all the senators and take that up at this time.

PRESIDENT: You wanted to substitute the present one for the one that you had before?

SENATOR MCFARLAND: Yes.

PRESIDENT. All right. Any objection? If not, proceed. (McFarland substitute amendment appears on page 822 of the Legislative Journal.)

SENATOR MCFARLAND: Can I proceed? Thank you, Mr. President. Fellow senators, you may look at the materials that are being distributed to you and this is a committee amendment. You may recall yesterday that I had proposed an amendment which would have increased our unemployment, or excuse me, our workers' compensation maximum weekly benefit to \$275 per week. This would have put us at the very bottom of the states in the Midlands, including our surrounding states. It would have put

us equal to Kansas. We would have still been significantly behind Iowa and South Dakota and Colorado, Wyoming, Missouri. This amendment I am proposing here is just slightly different and I think, in all fairness, is reasonable and acceptable. You might take a look...it's perhaps best explained by the handout that says Maximum Weekly Benefits. In Nebraska, you'll note that in the past in 1985 the maximum weekly benefit was \$200. Then in '86, '87, and '88 it was bumped \$10 from '86 to '87 and 10 more dollars from '87 to '88. That practice of increasing it \$10 each year had been somewhat of a formality. Last year when this bill was introduced in 1989 it was my understanding from the Labor Committee that this bill would get out, that it would...that the recommendation would be to increase it \$10 in '89 and \$10 in '90. Well, the fact of the matter is, is that that bill was not advanced out of committee. It was held for an entire year in that committee and so what should have been an increase to \$255 in 1989 did not take place. Now we are in the 1990 session and I think, had that bill got out last year, it would have had a \$255 increase in '89 and 265 in '90. So what I am proposing is just continue that trend of \$10 increases and even taking into...and even not trying to remedy the fact that in 1989 there was no increase at all, what I believe at a minimum should have been an increase to 255, the logical sequence would be to have the maximum benefit in 1990 to be 265 and in 1991 to be 275. You'll recall the materials that were passed around yesterday, all of the other states in surrounding us have higher workers' comp benefits than this. As I recall, Missouri's was at \$290 a week, South Dakota's was \$289 a week, Wyoming's was \$346 a week, Iowa's was 680 some dollars a week, Colorado's was 300 and some dollars. This amendment would continue, in effect, what should have been a \$10 per year increase in the maximum benefits. Had this bill got out of committee in 1989, had it been enacted, we would have had a \$255 maximum in '89, so this, in effect, this amendment would increase it to...continue a \$10 a year increase, put it at 265 in '90 and 275 in '91. It is not very significantly different from the committee amendments that had been introduced. We were close to the recommendation that I had yesterday as far as the amendments. This is even less than that. This still keeps us at the bottom, I might add. This still puts us behind Kansas, Missouri, Iowa, South Dakota, Wyoming, Colorado and all our surrounding states. I think it is a fair amendment. It would make this bill less unconscionable if these committee amendments are added. So I would urge you to adopt them.

PRESIDENT: Thank you. Senator Coordsen, please, followed by Senator Hefner.

SENATOR COORDSEN: Thank you, Mr. President, and members of the body, a certain amount of conversation has taken place on the floor comparing one part of workers' compensation coverage and that is the weekly benefit and what that weekly benefit should be. And certainly...you have to forgive me a little bit, certainly the pure figures would compare, as Senator McFarland indicates. But I would suggest to you that the committee amendments are in line with not only the surrounding states, with the exception of Iowa, but with most of the rest of the United States, and that we do compare on a total program quite well. Twenty-three states, most of which have higher maximum weekly benefits than Nebraska, either limit the amount that can be collected or require offsets of Social Security payments or other compensation that an injured party might receive from that maximum earned weekly benefit. Nebraska has no limit on the amount that can be collected by a disabled worker, nor do we have any reductions in that amount. It is simply, as is the case in 48 of the other states, two-thirds of the income of a person who is disabled up to, as in current law, \$245, or as proposed in the committee amendments, up by 1991, \$265 a week. This is the way in nearly all of the states the benefits are computed. We share that with the rest of the states. Nebraska has a lower wage rate structure than many of the other states with higher weekly benefits. Quite probably, although I didn't research this, we cover an equal percentage of the workers at 100 percent or thereabouts of their weekly income. I think the committee amendments are fair. I would reiterate what I said yesterday with regard to the committee amendments on 313. The business community, because of the tremendous increases in premiums on the medical payment side, were opposed to any weekly benefit increase.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR COORDSEN: The labor community wanted what was in the bill. This bill would not be here before us if I had not selected it as a committee priority bill. I don't think there were probably the votes in committee to advance it. It is here because I felt that we needed to maintain an increase in workers' compensation that at least kept up with the inflation



factor, that we wouldn't lose ground. I think the committee amendments are fair. They are comparable when you look at all of the other issues that are involved in workers' compensation and the McFarland amendment should be rejected at this time. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Additional discussion, Senator Hefner, followed by Senator McFarland.

SENATOR HEFNER: Mr. President and members of the body, I rise to oppose this amendment and I think that Senator Coordsen, Chairman of the Business and Labor Committee, expressed it very well. Senator McFarland, Nebraska has no limitation, no limitation on their workman's comp benefits, don't have no limitation on medical benefits or of time and this is a strong plus for the employees, and I think they should have it. I don't think there should be any limitations on it, but let's keep that weekly benefit reasonable. I wouldn't have supported to advance it out of committee if I knew that we were going to increase it more than \$10 a week, but I feel that the \$10 per week this year is fair. I feel that the \$10 next year is fair, and I want to be as open-minded and as fair about this as I can. If we don't pass this bill this year, they will go another year without any increase at all and I don't think that is fair. That is why I voted to advance this bill. Another thing we must remember, there is no social security tax on this, no social security tax, no federal income tax, no state income tax, and I just want to bring that to your attention. And while we're talking about Iowa here, Nebraska has a less average weekly wage than Iowa does. Again, I want to talk about the small businesses in the small rural communities. They are fighting for their existence. Another, if we increase this too much, that's going to increase the premiums that you pay for workman's comp and it's going to be another straw that will break the camel's back. So I would urge you to vote against this amendment.

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

SENATOR MCFARLAND: I'd like to yield my time to Senator Chizek, Mr. Speaker.

SPEAKER BARRETT: Senator Chizek, please.



SENATOR CHIZEK: Well, I just gathered some figures yesterday after we had the discussion on the floor. I see the...from '87 to '88 the premiums went down, '87 from about 120 mill to '88 about 119.4 million. You have about the number of companies that would be writing, about 100,000 of comp would be about 123. The number of employees or employers carrying comp insurance is about 43,388; private self-insured, about 52 and public self-insured about 9. Now who benefits? Who benefits from the structure that we have set up today? You heard Senator Hefner get up and talk about the problems and the struggles of small business. I would agree and I would concur. He mentioned that there is no tax paid. When we talked yesterday we compared apples to apples. We compared the take-home pay from somebody that was working after tax to versus what they get with workmen's compensation. That's what we talked about yesterday, apples to apples, Senator, and if we're going to compare them, compare apples to apples and not apples to oranges. If it is so costly, maybe one of the things we should do is get rid of it. Maybe we should get rid of the entire workmen's comp system and just think of the money that would save them. The good companies would stay in business and we would have no problem at all. Those companies where there are problems and end up getting sued and probably go out of business. Senator Hefner, fair is fair and we are not being fair. Two years without an increase. This will probably be the third, according to Senator Hefner, three years without an increase. I think maybe we should take a long, hard look at the entire system if that is the attitude that we're going to have in the State of Nebraska towards the working men and women. If we're not going to be fair, then let's do away with it. Why play games? Why play a facade? And I don't represent labor and I don't represent a company. I'm talking about people that work in my district, whether they're in management, whether they're in a union and it is interesting how we work it around to management-union confrontation. I happen to be in management. A number of years ago I was in labor, but one thing, Senator Hefner, I can say is I'm not on one side or the other, I'm fair and I think we should be. I urge your support for Senator McFarland's amendment.

SPEAKER BARRETT: Thank you. Senator Coordsen, additional discussion, followed by Senators McFarland and Morrissey.

SENATOR COORDSEN: Only to...thank you, Mr. Speaker, only to add just a little bit to what I said before, and that is that the body is aware, I think, that when the weekly benefits are

increased, they are not increased for those people who are already covered. What happens is that you provide for coverage of people who are a little more highly paid. You add on on the top end in the recovery. The single employee with no payroll deductions beyond themselves, making around \$19,000 will get, under the current plan, \$245. Under whatever amendments we will put on, that particular person will still get \$245. The person that is working 40 hours a week at minimum wage, under the current plan, would get about \$89. They'll still get \$89. It's just added on on the top end. That's a decision that this body has to make. I think that what we're doing is reasonable and fair. I'm not an employer nor an employee and will never benefit. It was my opinion that we needed to increase workers' compensation. The amount in the committee amendment sounded fair to me. It was a compromise. No one gets what they want. Again, this amendment increases the recovery for some people that are making...that will have a gross income of up to about \$23,000, 22,000 something. The committee amendments take it up to 20,500 and something. And bear in mind that for individual people that percentage of recovery certainly differs depending upon the personal deductions that they might have. Thank you.

SPEAKER BARRETT: Thank you. Senator Chizek, you are next. Your light was inadvertently removed. Proceed.

SENATOR CHIZEK: Thank you. One of the things that I wanted to point out, there was some discussion yesterday about the weekly benefit amount versus all it has done towards retraining and so on. I'll tell you a story about a guy that called me last night who got injured at a chemical plant and his lungs were injured and he was retrained; went on and graduated from college with a degree in chemical engineering. The amazing thing about it is, now that he is retrained, nobody will hire him because he is a walking time bomb, he is a walking time bomb. So we spent money to train him, but he can't get a job. How do you answer somebody like that, Senator? Senator Hefner has an employee that was injured. How do you answer these people when you have these permanent injuries? Do we say, oh, we'll retrain him, they will do something else? No. Now is the time to be fair. Over five years, I've watched the games that this body has played on workmen's compensation and I won't be a part of it anymore. I can't, in good conscience, be a part of it anymore and I will tell you that I will be able to stand up in the morning when I shave and look in the mirror and when I get down on my knees and pray to my Maker, I'll be able to say I did what

is right. I'll be able to say I did what was fair, what was equitable for the working men and women in this state. I hope you do too.

SPEAKER BARRETT: Thank you. Senator Morrissey, please.

SENATOR MORRISSEY: Thank you, Mr. Speaker and members, I said just about all I could say yesterday on fairness and what is right and not worrying about the people that can necessarily finance a new campaign your next time around, but worry about the people that are going to end up voting, the majority of the people in your district, the working people in your district. It affects them all. It affects them all. The railroad is separate and distinct, as I said yesterday, under our federal act, but all their spouses are affected by this, most of their spouses. And, as has been said over and over, it's simply fair and just. The railroad law was enacted, it is called the Federal Employer Liability Act, because the railroad industry was such a hazardous industry to work in. And under that we have the right to sue because if they were negligent and caused us to be injured, we can take them to court and sue for damages, punitive damages. The railroads, every year, every single year, this year included, and there is a plan right now in effect trying, just to try it out with Amtrak, just Amtrak. Take away FELA, take away FELA, it's unfair, and it has been beat year after year after year because the case has been proven in Congress that the damages that can result from negligence in the safety, or safety in the work arena are definitely deterrents for these companies. And the railroads come back every year and say, get rid of it, we'd rather go to the state workmen's comp system, it's much fairer, much more fair for the working people. And that argument gets blown out of the water every year because the state systems are not more fair, and this is a perfect example of why the railroaders in Nebraska refuse to buy that argument because they see how this argument takes place in the Nebraska Legislature. They see the generosity in this compromise of \$10 a week. And if we don't adopt Senator McFarland's amendment, I'm considering offering an amendment of my own when we get back to the regular 10, the big, generous \$10 a week we're going to offer, because I'm afraid that they won't notice it. So I'm going to offer an amendment that that \$10 will be issued in a separate check to each of these injured workers because they probably might miss it. If they go out and buy two gallons of milk and two boxes of breakfast food to feed their children, they just blew that \$10, they just blew it and

they won't realize the generosity of this body and the business community in giving them that \$10. So I think we must write a separate check every time they get their check to remind them of how generous we were to give them the extra \$10. I think it's...those of us who would be up for reelection, it would be just a constant reminder that what we've done for those folks, here's your 10 bucks again, folks. But you're helping me out in my election because I've got a lot of working class people, a lot of blue collar people down in my district. I support Senator McFarland's amendment. It's less fair than his original amendment, but it's much, much more fair than a measly \$10 per week. Thank you.

SPEAKER BARRETT: The Chair recognizes Senator McFarland, followed by Senator Haberman.

SENATOR MCFARLAND: I'd just call the question, Mr. Speaker.

SPEAKER BARRETT: Senator McFarland moves the previous question. Do I see five hands? I do. Shall debate now close? Those in favor vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate does cease. Senator McFarland, would you care to close?

SENATOR MCFARLAND: Thank you, Mr. Speaker. We have discussed this yesterday and a lot of the issues were discussed and it is hard not to be emotional and become angry about this issue and, believe me, I have restrained myself from becoming angry and try to deal with it on a reasonable and restrained type of manner. Once again, I think the committee people who ardently oppose any increase to workers' comp benefits try to confuse the issue and talk about these wages not being subject to social security tax and so on, my understanding that that, in reality, that's the case in most of the states. If I wanted to try and confuse the issue, I could tell you that there are other states who base their workers' comp maximum weekly benefits on the average weekly benefit of the entire state and give 100 percent. We only give...or that they give 100 percent of what the employee's weekly salary is. There are many states that do that. I think Iowa gives 200 percent of what the person's weekly benefit is. But the majority give two-thirds, like we do here in Nebraska, and likewise, the majority, as my understanding is, do not

subject that benefit to the other types of taxation because it is to compensate them in the fact for their injury and to try to give them some kind of income to sustain themselves until they are rehabilitated. The fact of the matter is that it doesn't and there are many, many people who earn over \$19,000 a year and who get injured and yet have house payments and doctor bills and car payments to meet just like we do and they have children to send to school and sometimes children in college and yet they are devastated when an injury occurs because they are restricted to the maximum amount that is allowed under Nebraska law. Teachers are subject to this law, for example, and there are a lot of teachers that aren't exorbitantly paid, but they are in the 25, \$30,000 area, supporting a wife, children. If they get injured on the job, and I've represented some teachers who have been injured on the job, one that slipped in a hallway and hit her head, that is a tremendous loss of income. This amendment does not make the system fair, in my view, but it makes it less troublesome than the committee amendments. I would like to just explain that last year when this bill was submitted to the committee, the Labor Committee, Business and Labor Committee, there were some assurances made to me about how this bill would be handled. Those assurances have not been kept. The first assurance I had was that this bill or the unemployment bill would come out in 1989 and then the other bill, the remaining bill of these two bills, either unemployment or workers' comp bills, would come out in 1990. That was my understanding. That was what I expected to happen. I trusted the committee with that particular assurance. Then I found out that some kind of meeting had been held to negotiate what would be an adequate increase in the weekly maximum benefits. Unfortunately, even though it was my bill, I was not invited to that negotiation. I don't think that is the customary procedure in this body.

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: I don't think that is the customary way we treat one another courteously. In any event, that meeting occurred and I was assured that the bill was going to come out. It didn't come out in 1989. And now here we are in the midst of the 1990 session and suddenly it comes out, but the increase, the usual \$10 per year increase is delayed one year and we pretend like 1990, 1989 went past and we don't have to even take that into account. This amendment simply would, in effect, make the law as if the bill had come out in 1989, as it assured, it would have had the usual \$10 per year increase that had been the

practice in past years. In 1989, it should have been \$255 if this bill had come out. I trust it would have been enacted in that form. It did not come out of the committee.

SPEAKER BARRETT: Time.

SENATOR MCFARLAND: It is out now. This amendment would merely continue that \$10 per year increase and make it 265 in 1990 and 275 in 1991, and if you look at the sheet, that is all it does. Thank you.

SPEAKER BARRETT: Time has expired. Thank you. You've heard the closing and the question is the adoption of the McFarland amendment to the committee amendments to LB 313. Those in favor of that motion vote aye, opposed nay. Voting on the amendment to the amendment.

SENATOR MCFARLAND: Mr. Speaker, since this is progressing rather slowly and there are a lot of nonvoters, could we just have a call of the house and a roll call vote?

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

CLERK: 18 ayes, 0 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Those members outside the Chamber, please return and record your presence. Senators Ashford, Langford, Baack, Lamb. Senators Bernard-Stevens, Chambers, Pirsch, the house is under call. Senators Goodrich, Scofield and Rod Johnson, the house is under call. While waiting for members to return, just a very brief announcement regarding next week's activities. Because there are no committee hearings scheduled for next Tuesday, the 20th of February, it is my hope that we can spend a couple of hours on the floor Tuesday afternoon. That is so we can get a little work done in, done Tuesday, the 20th for a couple of hours. Senators Goodrich and Johnson.

SENATOR MCFARLAND: I'd just as soon proceed.

SPEAKER BARRETT: Did you request a roll call?

SENATOR MCFARLAND: Yes, I did, Mr. Speaker.

SPEAKER BARRETT: Thank you, sir. Members, return to your seats for a roll call vote on the adoption of the McFarland amendment. Mr. Clerk, proceed.

CLERK: (Read roll call vote.) 20 ayes, 21 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: Motion failed. The call is raised. Mr. Clerk.

CLERK: Mr. President, I have nothing further to the committee amendments at this point.

SPEAKER BARRETT: Back to the committee amendments. Anything further, Senator Coordsen?

SENATOR COORDSEN: At this time, I would only move the adoption of the committee amendments, Mr. Speaker.

SPEAKER BARRETT: Thank you. Any discussion? Seeing none, those in favor of the adoption of the committee amendments to LB 313 please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 34 ayes, 5 nays, Mr. President, on adoption of the committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill, Senator Coordsen.

CLERK: Mr. President, may I make an announcement?

SPEAKER BARRETT: Excuse me, Senator Coordsen. Mr. Clerk.

CLERK: Mr. President, Banking Committee, chaired by Senator Landis, wants to have an Exec Session at eleven in the Senate Lounge, eleven o'clock for Banking Committee. Mr. President, may I read some items?

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, your Committee on Government reports LB 1216 to General File and LB 1056 indefinitely postponed, those signed by Senator Baack. Health Committee reports LB 1167

February 15, 1990      LB 313, 690, 903, 937, 988, 1020, 1113  
1173

to General File, that is signed by Senator Wesely. Transportation Committee reports LB 690 to General File, LB 937 General File with amendments, LB 988 General File with amendments, LB 1020 General File with amendments, 11...those are Transportation bills, those are signed by Senator Lamb. Business and Labor reports LB 1173 to General File with amendments. That is signed by Senator Coordsen. Judiciary reports LB 1113 to General File. That is signed by Senator Chizek. And Retirement Systems Committee reports LB 903 to General File. That is offered by Senator Haberman. (See pages 823-29 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker. I would move at this time for the advancement of LB 313 as amended.

SPEAKER BARRETT: Thank you. Senator McFarland, on the advancement of the bill, please.

SENATOR MCFARLAND: Begrudgingly, move for advancement, Mr. Speaker.

SPEAKER BARRETT: Thank you, discussion, further discussion? Senator Morrissey.

SENATOR MORRISSEY: Thank you, Mr. Speaker and members, I really...I don't know if I can begrudgingly move for advancement. I know the people that were part of the compromise are saying we need the 10, if we can get only 10, we'll take it. If that's the only crumb we're going to give them...I don't know, I just don't know whether I can vote for it or not. I agree they are in trouble when...you're really in trouble when you have to swallow what these folks are having to swallow and accept this \$10 amendment, or \$10 increase, a dollar something per day. And I'm still considering and I'd like to get some feedback from the body, I guess, on my amendment to issue this in a separate check. I really do think it would be good for all of us, politically, to let the folks know how generous we have been to them, let them know, because, like I said, these people are liable to blow that ten bucks, two gallons of milk, two boxes of corn flakes, ten bucks right down the drain, and they're liable to blow it and not realize that we gave them this increase, not realize that the Nebraska Legislature and the



business community in Nebraska that is thriving now were generous enough to give them this \$10 increase. I think they won't even realize it and I think we'd better remind them with a separate check, but since I don't want to take a lot of time on something that really isn't much, I won't offer that at this time unless you all come flocking over here and request me to and then I'll take it up there.

SPEAKER BARRETT: Thank you. Any other discussion on the advancement of the bill? Any closing, Senator McFarland?

SENATOR MCFARLAND: Yes, thank you. I share Senator Morrissey's frustration and anger. I share Senator Chizek's anger and frustration. I thought about this overnight. I had a motion to kill the bill up. I was thinking of moving to kill the bill and just lay it over so that the bill wouldn't be heard again this session, very tempted to do that. It would give me a degree of satisfaction to do it because it seemed to me that the working people of our state are not being represented well here in the Legislature or within the people who are associated with the Legislature and follow these processes. This bill, in its present form, should be an embarrassment to the Legislature and the people of our state. This bill, if passed, puts us last, dead last in the amount of benefits we allow as a maximum weekly benefit under the workers' compensation laws. We are not that poor a state. We are not a rich state. I don't want to make us number one in the nation in workers' comp benefits, but we are now forty-third in rank in the amount of weekly compensation benefits we make. I suspect that within the next couple years we will achieve a rank of forty-fourth, forty-fifth, forty-sixth because of this limited increase and the fact that there was no increase at all last year. We are competing with states like Arkansas, Georgia, Mississippi, states whose per capita income is substantially below Nebraska's per capita income. As I recall, I think we're in the mid-range of states as far as per capita income in Nebraska. We are not a wealthy state, we are not a poor state. It seems to me, if we look at per capita income, that we could at least be in the middle range as far as what we pay in workers' comp benefits, what we pay in unemployment benefits, what we pay in other types of social programs, but yet in this particular area, in workers' comp, we are ranked forty-third and going down. The make-up of the Labor Committee should not control this body. The fact that there are some antilabor people, blatantly antilabor people on that committee should not control the will of this body. We are

close. I mean, I appreciated every vote that we got. I am troubled, I am really troubled by the senators who did not vote and then at the end when it appeared the amendment would be added, then suddenly switched to a no vote. That, to me, does not show a degree of moral or ethical principle at all. It shows, to me, a very...Senator Morrissey says spineless, it's a good word, I wouldn't phrase it quite as...a fairly indecisive or really troublesome way to view things. I mean, if you can't take a stand on an issue, why did you ask to be elected as a senator? If you're going to...I appreciate Senator Hefner and Senator Coorsden...

SPEAKER BARRETT: One minute.

SENATOR MCFARLAND: ...for at least getting up and expressing exactly the way they feel. They are honest about it, they are open about it, but it's hard for me to accept senators who try to play both sides, who try to appease everyone, who try to duck out on votes, but always at the end coming back to scuttle something that someone has tried to do and tried to do in a very straightforward and honest manner. I hope that on Select File to kind of look at this and see if there are any changes. I don't like the bill in the form that it is in. I'm embarrassed to have my name on the bill, but rather than penalize people even further with a very unfair system, I would support advancement at this time with the understanding that I'm going to try to do some things on Select File to make this bill at least a less unconscionable bill than what it is right now. Thank you.

SPEAKER BARRETT: Thank you. You've heard the closing. The question is the advancement of LB 313 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 28 ayes, 4 nays, Mr. President, on the advancement of LB 313.

SPEAKER BARRETT: LB 313 is advanced. I'd like to announce that our doctor of the day, under the north balcony, is Dr. Stuart Embury from Holdrege, Nebraska. Dr. Embury, would you please stand and be recognized. Thank you. We're glad to have you back with us again. Mr. Clerk, for the record.

CLERK: Mr. President, I have nothing at this time.

February 16, 1990

LB 313, 663A, 799, 896A, 902A, 1004A, 1064A  
1136, 1219, 1241

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning our own Reverend Harland Johnson. Would you please rise for the invocation.

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: Thank you, Harland Johnson. We appreciate you again. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Do we have any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: How about messages, reports, or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 663A, LB 896A, LB 1004A, LB 1064A, and LB 902A to Select File, as well as LB 313 to Select File with E & R amendments attached. (See pages 838-39 of the Legislative Journal.)

Mr. President, I have received a series of priority bill designations; Senator Landis has selected for the Banking, Commerce, and Insurance Committee LB 1241; Senator Beyer, LB 799; and Senator Landis personal priority or LB 1136.

An Attorney General's Opinion addressed to Senator Lowell Johnson on LB 1219. (See pages 839-41 of the Legislative Journal.)

Two reports, Mr. President, the first from the Nebraska Energy Office, and a second, Mr. President, received from US Ecology regarding notice of final selection. Both of those will be on file in my office.

PRESIDENT: Is that all? Thank you. We will move on to the confirmation report of Senator Haberman's.

CLERK: Mr. President, your Retirement Systems Committee chaired by Senator Haberman offers a report found on page 833 for Ms. Connie Witt to the Public Employees Retirement Board.

February 22, 1990      LB 313, 579, 688, 830, 831, 834, 888  
917, 923, 932, 938, 946, 954, 978  
987, 987A, 994, 994A, 1037, 1067, 1077  
1080, 1080A, 1094, 1102, 1109, 1165, 1178  
1217  
LR 259

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning for our invocation, Reverend Dr. Norman E. Leach who is the Executive Director of the Lincoln Interfaith Forum. Would you please rise for the invocation?

REVEREND LEACH: (Prayer offered.)

PRESIDENT: Thank you, Dr. Leach, we appreciate your being here this morning. Please come back. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, Enrollment and Review respectfully reports they have carefully examined and reviewed LB 1080 and recommend that same be placed on Select File, LB 1080A, LB 1094, LB 688, LB 579, LB 994, LB 994A, LB 830, LB 938, LB 834, LB 987, LB 987A, LB 978, LB 888, LB 917, LB 946, LB 954, LB 1077, LB 1037, LB 1067, LB 831, LB 932, LB 1178, LB 1102, LB 1109, LB 1165 and LB 1217, all reported to Select File, some have E & R amendments attached. (See pages 904-08 of the Legislative Journal.)

Mr. President, amendments to be printed, Senator Crosby to LB 923, Senator Coordsen to LB 313. (See page 908 of the Legislative Journal.)

New resolution by Speaker Barrett. (Read brief description of LR 259. See pages 908-09 of the Legislative Journal.) That will be laid over.

A series of appointment letters from the Governor. Those will be referred to the Reference Committee for confirmation hearing.

Finally, Mr. President, a report from the Board of Public Roads Classifications and Standards. That will be on file in my

sitting there with a building, we've got to heat it, I've got to have some money to heat it, I think that's a reasonable request but certainly...and in line with what we have been saying, but we are not asking the state to restore this building, Senator Schellpeper.

SENATOR SCHELLPEPER: Okay, thank you. I think it's a building that needs to be restored too and I think it's very important to Nebraska. And I guess I would support the \$50,000 at this time, with the understanding that they will not be back for any more. Thank you.

PRESIDENT: Senator Ashford, would you like to close, please.

SENATOR ASHFORD: I think we have said it all, Mr. President. I would just urge that the body pass LB 164A. Thank you.

PRESIDENT: The question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 164A.

PRESIDENT: LB 164A is advanced. LB 313A.

CLERK: Mr. President, 313A was a bill introduced by Senator McFarland. (Read title.)

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. LB 313 is the bill that we debated I think earlier this week dealing with the increase in Workers' Comp benefits to employees that are injured on the job. The bill, itself, in its present form will increase the maximum weekly Workers' Comp benefits from \$255 to \$265 this year and then...or, excuse me, from \$245 to \$255 this year and then from \$255 this year to \$265 next year. There is an A bill that is attached to it. It calls for appropriating \$52,000 to the Workers' Compensation Claim Fund. That, as I understand it, has to do with making money available to the state because there are state employees who receive Workers' Comp benefits. And so, with that, I would just ask that you advance the A bill along, too, so it will accompany LB 313.

February 23, 1990      LB 313, 664, 666, 757, 869, 925, 948  
949, 956, 980A, 1068, 1089, 1111-1113, 1132  
1162, 1222, 1233

motor vehicles, motor vehicle driver program by 30,000 for Fiscal Year 1990-1991. With that, I would ask your adoption.

PRESIDENT: Thank you. Any further discussion? If not, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 980A.

PRESIDENT: LB 980A is advanced. Something for the record, Mr. Clerk, please.

CLERK: Mr. President, thank you. Senator Wesely has amendments to LB 1113 to be printed; Senator Hall to LB 313. Health and Human Services Committee reports the following: LB 1222 to General File with amendments and LB 664, LB 666, LB 757, LB 948, LB 1068, LB 1089, LB 1111, LB 1112, LB 1132, LB 1162, LB 869, LB 925, LB 949 and LB 1233, all of those reported indefinitely postponed. Signed by Senator Wesely as Chair of the committee, Mr. President. That's all that I have at this time. (See pages 968-74 of the Legislative Journal.)

PRESIDENT: We'll move on to LB 956, please.

CLERK: Mr. President, 956 is on Select File. The first order of business are adoption of the...or consideration, I should say, of Enrollment and Review amendments.

PRESIDENT: Senator Landis, can you handle that, please?

SENATOR LANDIS: I move the adoption of the E & R amendments.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. They are adopted.

CLERK: Mr. President, the first amendment I have to the bill is by Senator Conway. Senator, this is your amendment that is on page 569 of the Journal.

PRESIDENT: Senator Conway, please. Do you wish to have it withdrawn? It is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Wesely and Schmit. I have a note on here, Senator,

activity here in Lincoln. So that is why I am asking for the E clause. I would appreciate the E clause on this.

SPEAKER BARRETT: Thank you. Discussion on the adoption of the E clause? Seeing none, those in favor of its adoption please vote aye, opposed nay. Record, please.

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: I have nothing further on the bill, Mr. President.

SPEAKER BARRETT: Thank you. Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 965 as amended be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? If not, shall LB 965 be advanced? All in favor say aye. Opposed no. Carried. The bill is advanced. LB 313.

CLERK: Mr. President, LB 313, the first order of business are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 313.

SPEAKER BARRETT: Any discussion? If not, shall the E & R amendments to 313 be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, Senator Coordsen would move to amend the bill. (See AM2646 on page 908 of the Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker, and members of the body. This is 2646, right?

CLERK: Yes, sir.

SENATOR COORDSEN: This is the bill to address a problem that was brought to light by a Nebraska Supreme Court decision of, I believe the date was February 16 on that, that had an impact upon the operations of the Worker's Compensation Court. Traditionally, it has...the Worker's Compensation Court has operated under the...what they thought to be statutory authority that they had the responsibility and authority to settle all issues relative to Worker's Compensation Court cases that appeared before it, both in the amount of the compensation in disputes between the insurance carrier and the insured. And it had been held, and I am quoting now from the dissenting opinion on the courts that the Worker's Compensation Act is remedial in nature and its purpose is to do justice to workers without expensive litigation and unnecessary delay. The majority of the court felt that because of some of the wording in statute that the Worker's Compensation Court had the authority to decide some of the issues for the injured employee but couldn't make decisions on the part of the insurance company or the employer and settle disputes in those particular cases. And this amendment, then, would add into statute number 48-161 a refinement of the jurisdiction of the Worker's Compensation Court, and the language will be that...the added language would be "Such court shall have jurisdiction to decide any issue ancillary to the resolution of an employee's right to workers' compensation benefits." The Worker's Compensation Court felt that with this ruling there exists the possibility that a worker, before they could get final resolution in their case, might have to file suit to recover damages in district court or make other efforts to redress their problem. And the whole intent, as it has been explained to me, of the worker's compensation law is to make it as easy as possible, as inexpensive as possible for an injured worker to have access to Worker's Compensation Court to settle disagreements that might arise. So, with that, I would attempt to answer any questions but would move for the adoption of this amendment. It was brought to me by the Worker's Compensation Court in order to clarify an apparent existing problem in statute, an heretofore undiscovered problem, I might add. Thank you.

SPEAKER BARRETT: Thank you. Is there discussion on the amendment offered by Senator Coordsen? Senator Coordsen, anything further?

SENATOR COORDSEN: Adoption of this amendment, Mr. Speaker.



SPEAKER BARRETT: Thank you. The question is the adoption of the Coordsen amendment to LB 313. All in favor vote aye, opposed nay. Record, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Coordsen's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Hall would move to amend. Senator Hall's amendment is on page 968 of the Journal. I do have a motion from Senator Hall to suspend the germaneness rules, specifically, Rule 7, Section 3(d) to permit consideration of his amendment, Mr. President.

SPEAKER BARRETT: The Chair recognizes Senator Hall.

SENATOR HALL: Thank you, Mr. President, and members. The amendment that I would offer after the rule suspension is the bill that I introduced in the form of LB 901 to the Business and Labor Committee. It is a bill that had virtually no opposition. I think there was one individual that testified in opposition, but when he realized that he would not be impacted by the bill I think backed off on that opposing testimony and just talked about some of the issues in the bill. What it would do is it would increase the state minimum wage to match the federal minimum wage and the increases that have been put in place and that will be put in place for the next couple of years. If you remember, Congress passed that bill last year. If you remember back to 1987, this body passed, seven years later, the state minimum wage bill that mirrored the federal minimum wage. It took us seven years to, basically, catch up for the employers that we cover that don't fall under the...excuse me, that do fall under the federal floor. In other words, anybody who doesn't meet the federal requirements as an employer does not have to meet the minimum wage standards. Well, as you know, Nebraska has its own standards by which an employer qualifies so that there is a gap there from those people, because the state's is a lower floor, there is a gap for those employers who are at or below the state minimum and when the federal minimum would kick into place. What my amendment would do is take the contents of LB 901 and place it as new sections to LB 313, Senator McFarland's bill, and it would just have the State of Nebraska, those employers who fall within our minimum wage laws meet those same requirements that we ask...that the federal

government asks of employers within their purview. So, with that, the state minimum wage would increase from the 3.35 that we currently enjoy to \$3.80 on July 1, 1990, and then to 4.25 on April 1 of 1991. The minimum wage for tipped employees would be increased from the current level of 2.01 to \$2.09, that is right, an 8 cent increase, on July 1, 1990, and then there would be another 4 cents to \$2.13 on April 1, 1991. The amendment also includes the language that Congress put into statute that dealt with the training wage that would be allowed so that an employer would be allowed to pay a training wage to an individual, more than likely a student, for no more than the first 90 days of employment. And there also are requirements in there that an employer could not displace a full-time employee with a training wage individual, for example, so that there would not be any possible way an employer could, basically, roll through a training wage employee, eased to, basically, circumvent the law that we are trying to put in place here. And the training wage, as stated in the legislation, would be \$3.35 after July 1, 1990, and that would increase to \$3.60 on April 1, 1991. With that, Mr. President, I would urge the suspension of the rules because I am sure that there is a question with regard to the issue of germaneness, even with the changes in the rules. This bill, LB 313, was a bill that I felt was probably as close as any we would find this year to let this change in statute take place so that it would take place in line with the changes that are taking place effective July 1 of 1990. So in order for this to mirror the federal language, federal legislation, take place this year, coincide with that, it needed to pass this year, and with that, I would ask for suspension of the germaneness rules so the amendment could be before us. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. For discussion purposes on the rules, the motion to suspend the rules, Senator Hefner, followed by Senators Coordsen and Schellpeper.

SENATOR HEFNER: Mr. President, and members of the body, I rise to oppose the suspension of the rules so that the minimum wage bill can be added to this particular bill, LB 313. LB 313 is a workmen's comp bill and Senator Hall wants to suspend the rules to add the minimum wage. Well, if Senator Hall thought that the minimum wage bill was so important, he should have chose it as his priority bill, or perhaps got the committee to choose it as a priority bill, or maybe the Speaker's priority. I don't see any rush for passing this bill. It is true that the federal

minimum wage bill went through and that takes effect in April and that will cover the majority of those employers. So, at this time, I really don't see any necessity in suspending the rules and adding this onto a workmen's comp bill. The workmen's comp bill has quite a little in it already, and I think this would...there would be another subject in this bill and that would be the unemployment or the minimum wage bill to the workmen's comp bill. So I would urge you not to suspend the rules at this time.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker, and members of the body. Senator Hall, a question, please, if you would.

SPEAKER BARRETT: Senator Hall, would you respond?

SENATOR HALL: Yes.

SENATOR COORDSEN: In your opening on the germaneness ruling, did you address the grandfathering in the federal law? I was in a little extra conversation here.

SENATOR HALL: What grandfathering are you referring to?

SENATOR COORDSEN: In the federal law.

SENATOR HALL: You mean with regard to the...

SENATOR COORDSEN: One classification of employers.

SENATOR HALL: No.

SENATOR COORDSEN: Okay, thank you. I rise to oppose the germaneness motion. I think that the issue that we are talking about here, the state minimum wage, is a serious issue and it is one deserving the full attention of the body in a different situation than we have as an amendment on LB 313. During the process of hearing LB 901, the minimum wage increase, we found that the federal increase of the minimum wage statute had a rather unique feature and that was that the current law, federal minimum wage, takes effect at \$362,500 on up, and the current state minimum law takes effect for, based on the number of employees, up to a person that has gross sales in their business of \$362,500. The federal minimum wage law that was passed by

Congress begins at \$500,000 in gross sales and up for a business to come under the federal minimum wage law. And then Congress, in its infinite wisdom, created a situation where employers who have gross sales between \$362,500 and \$500,000 are grandfathered in at the old minimum wage, the 3.35, the 2.01 for tipped employees. So, then we have a situation presented to us here in Nebraska that if we would enact a state minimum wage law without a grandfathering, then we would have...our law would then affect all employers who had sales of less than \$500,000, which would be whatever the phase in is, the 4.00, 4.25 on up, but we would have then a class of employers in Nebraska who would be, in fact, paying a higher minimum wage under state law than would be required to...they would be required to pay under federal law. Then if we would enact a grandfather clause that would parallel the federal law, we would have employers, whose gross sales were less than \$362,500, having a four dollar and whatever the phase-in comes as it works through the system, and if we grandfathered in the same exemptions that are in federal law, then we would have a class of employers between 362,500 and 500,000 that would have a \$3.35 minimum wage law, and I guess that might explain my not voting to advance this particular bill. It is an issue I think that has great ramifications that we need to take a serious look at.

SPEAKER BARRETT: One minute.

SENATOR COORDSEN: And I would even suggest that in this issue an interim study might be of great value to see what the impact would be of the changes in the state minimum wage law because it is not going to be nearly as simple as what we used to do in the past. So I would suspend my support...I would oppose the rule suspension at this time. Thank you.

SPEAKER BARRETT: Senator Schellpeper. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker, and members. Senator Coordsen has totally confused me with all of his figures but I think he did answer some of my questions. I would like to ask Senator Hall a question, though. Senator Hall, what happens if we do nothing at the present time as far as the minimum wage in Nebraska?

SENATOR HALL: The minimum wage, Senator Schellpeper, will, for those employers who fall under the federal requirements, will increase January 1 of 1990 to \$3.80 from the current level of

3.35, and then again, in April 1 of 1991, they will top out at \$4.25. Those individuals who are under the provisions that we have in state statutes with regard to the \$362,000 figure that Senator Coordsen talked about, those individuals who fall under the state minimum wage law will remain at the current level which is \$3.35.

SENATOR SCHELLPEPER: So if we waited until next session, would we be too late to help those people?

SENATOR HALL: No, I mean, you know, I hate to say this but we waited seven years the last time we changed to go ahead and do this. My purpose for introducing the bill this year, after Congress acted last year, was to make sure that we did coincide, that our employers that we felt should follow the minimum wage standards should follow those that the federal government laid out, and that we shouldn't wait seven or eight years to implement it this time. Would anything happen? There would be a class of people, because they fell under the state requirement as opposed to the federal requirement, that would be able to pay their help less than other people would because they were over that federal threshold.

SENATOR SCHELLPEPER: Thank you, Senator Hall. I think if we would put this bill onto 313, I think 313 is probably pretty well weighted right now. I think I will not support the suspend at this time. Thank you.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Are there other lights?

SPEAKER BARRETT: One other.

SENATOR HALL: I will wait and close.

SPEAKER BARRETT: Senator McFarland, would you care to speak to the motion? Thank you. Senator Hall, it would appear to the Chair that you are closing.

SENATOR HALL: Thank you, Mr. President, and members. Senator Coordsen, the reason I didn't mention the grandfather clause is exactly what you laid out because I knew nobody would understand it, and I didn't want to mess up my motion to suspend the rules. Now you know me better than to think that I wouldn't address it

when we got to the amendment, but the issue is clearly one of do we go ahead and amend our statutes so that this takes effect for those employees, and that is who benefits from it, it is the employees who benefit from a raise of 3.35 to 3.80, a benefit of a whopping 45 cents an hour, because they happen to work for an employer who doesn't meet, because their payroll, or excuse me, their gross sales don't meet the federal requirement, or the number of employees they have are under the 10 that the federal government allows as the lowest number that has to apply to the federal standard. We ought to do this in conjunction with the federal change and that is in July 1 of 1990, was my reason for bringing the bill in this year. My reason for looking to place it on LB 313 is that it deals with a similar type of subject matter. It deals with employment and it deals with compensation for unemployment. But clearly the suspension of the rules, I think, is a very forthright way to deal with that. I would urge you to support it, and then we can talk about the issues in the bill. We dealt with a little other bill the other day that dealt with, I guess it was worker's comp, or is this the...the unemployment, and I remember putting things into that that dealt with drug testing and all kinds of other things that were at best loosely related to the topic in the bill. At that point in time, there were not arguments that it was necessarily not germane to the issue except maybe those that I raised, but...then all Senator Hefner would have had to do is stand up and say touche...but, in this case, I really think, and I know in talking to, listening to the folks in the committee, listening to the arguments just this afternoon on this issue, that this is something that, I think, folks feel needs to be done, but to say, let's go ahead and wait, and let's go ahead and study it doesn't do anything for the kids that are out there working this summer who are going to be able to be paid at a lesser wage because somebody happens to fall under the state minimum wage guidelines which currently mirror the federal guidelines, which currently mirror the federal guidelines, as they should, and they will change effective July 1. I think it makes good sense for this Legislature to take a stand and say, yeah, the minimum wage ought to be at the level that the federal government feels is appropriate across the country; we think that there is very little difference between those numbers of employers that we have a state minimum wage for and that the federal standards would apply to. So I would urge you to suspend the rules. Let's go ahead and adopt this amendment to Senator McFarland's bill because it is an appropriate measure to take. It does send the message that we feel the individuals in

the State of Nebraska are at least as entitled to the federal standards that we currently adopted a couple of years ago, and I don't think that a change in those standards is any point in time except the point in time to adopt the change for our own employees. I would urge adoption of this. I will deal with the issue that Senator Coordsen brought up when we have the amendment before us. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the suspension of the rules. All in favor of that motion please vote aye, opposed nay. Have you all voted? Senator Hall.

SENATOR HALL: Could I have a call of the house and a roll call vote?

SPEAKER BARRETT: Thank you. The question is, shall the house go under call? Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 14 ayes, 1 nay, Mr. President, to go under call.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Members outside the Chamber, please return and record your presence. The house is under call. Senator Byars, Senator Robak, Senators Ashford and Langford, Pirsch. Senator Pirsch, the house is under call. Senators Elmer and Schimek, please report. Senators Scofield, Kristensen, Smith. Senator Scofield, would you please check in. Senator Schimek. Senator Pirsch, the house is under call. Senator Pirsch is on her way, Senator Hall. Thank you. Members, please return to your seats for a roll call vote. The question is a suspension of the rules. A three-fifths majority of the elected members necessary to suspend. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See pages 1156-57 of the Legislative Journal.) 18 ayes, 17 nays, Mr. President, on adoption of the motion to suspend the germaneness rule.

SPEAKER BARRETT: The motion fails. The call is raised. Anything further?

CLERK: Mr. President, the next amendment I have to the bill is by Senator McFarland. (See AM2813 on page 1157 of the

Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker. Fellow senators, you have had distributed to you a handout explaining this amendment. It is similar to the amendment we voted upon on General File that was rejected on a vote of 20 to 21, with the exception that it decreases the amount of worker's comp in the second year from the 275 that I proposed in the amendment to 265, as indicated in this chart. What I have done is this, after the vote was taken last time, there was a convention of AFL-CIO people who met out at the Villager and I got to speak to their group later that afternoon, and they said, in speaking with a number of senators who attended their luncheon, some of the senators had indicated an inclination to support a general increase but not the one type of increase I had proposed. What I have done is this. This amendment says that instead of increasing LB 313 maximum weekly benefits to 255 in 1990 and 265 in 1991, what we would do is just increase them to 265 in 1990 and they would remain so in 1991 and thereafter unless another bill were introduced into the Business and Labor Committee. There is a logic for doing this, and the logic is that last year this bill was scheduled to come out of the committee. We had been going, generally, on a \$10 a year increase. When the bill did not get out of committee in 1989 as we anticipated, the maximum benefit remained at the 245 level, and had it been just the \$10 per year increase that had been somewhat a, oh, kind of a tradition or of sorts a tradition, the benefit would have increased to 259 in 1989, but since it did not, I am proposing to pretend like it did and, in effect, correct that problem by indicating it be 265 in 1990 and then if it changes thereafter...or would stay the same unless changed by another bill. The second thing is the...you will still notice in the previous handout that I gave you in comparing the weekly maximum worker's compensation benefit, we would still be at the bottom of our sister states in the region. Right now, Kansas ranks last at a \$271 per week figure, and, by raising ours to 265, we would at least be a little more compatible with them although we would still rank behind them, and we would certainly rank behind Missouri and South Dakota and Wyoming and far behind Colorado and Wyoming, and even farther behind Iowa, which really has a very high maximum benefit. So it is a fairly simple procedure, slightly different than what I offered before. I am hopeful that some of you would reconsider if you voted against the



previous amendment, this is slightly different, and I am hopeful that some of the people who were excused or absent the first time would be able to vote and vote this amendment on. Thank you.

SPEAKER BARRETT: Thank you. For purposes of discussion, Senators Hefner and Coordsen. Senator Hefner.

SENATOR HEFNER: Mr. President, and members of the body, I rise to oppose this amendment. This amendment is about the same that we discussed on first stage of debate, and that is increasing it to 265. I feel that the way the bill is now, it is a fair, fair increase, and, as I understand it, this increase was negotiated, negotiated by labor and by business and industry. But we must remember that workmen's comp is a cost of doing business and I just got a letter this morning from one businessman. He said my worker's comp insurance premium increased 34 percent from last year, and so he doesn't want me to support any increase. But I am willing to go along with a \$10 increase this coming year, and \$10 next year, and if we feather that in, then we probably can absorb the cost. Senator McFarland, I wish that you would come up to some of the towns in the 19th District and just see how many closed business places there are. And not only that, there is a lot of them just hanging on by a thread, and if we keep increasing the cost of doing business, we will see that there will be a lot less businesses on main street. It is just that simple. Now maybe you don't have that problem in Lincoln, I don't know, but I have heard that you have a little problem down here, too, because it looks to me like your downtown Lincoln is deteriorating pretty fast. So I think that we need to look at that, too. But I don't feel that right at this time small business can increase this too much. The expenses cannot be increased too much or they are just going to have to lock their doors, and this is just another cost to doing business. So I would urge that you'd vote against this.

SPEAKER BARRETT: Senator Coordsen, followed by Senator McFarland.

SENATOR COORDSEN: Thank you, Mr. Speaker, and members of the body. As the amendments on worker's compensation and a lot of the information that has been presented have flowed both on General File and now, again, on Select File, in many ways by only using the maximum weekly benefit, it's a little bit like the old story of comparing apples and oranges. That is only

part of the story. Nebraska is different than most of the rest of the states in that we do...most of the states have what is called a flexible system, and that is adjusted to the state average weekly wage rate. Nebraska has seen fit to operate a little bit differently than that, but when you compare Nebraska's benefits to the surrounding states based upon the average weekly wage, for the maximum side, Nebraska compares quite favorably. Nebraska compares in other ways that I think offsets, perhaps, some minute differences in maximum weekly benefits. One is that in Nebraska we allow the worker the 100 percent privilege of selecting the physician, which is, I am sure, worth quite a lot. Some of the surrounding states mandate that the employer selects the doctor to determine what the percentage of disability is or what the...even whether they are qualified for worker's compensation. Nebraska pays the maximum benefits that a worker is entitled to, based upon their salary, and I would share with you that nearly all of the states use two-thirds of the base salary as the qualifying levy for...level for what a person would get. Nebraska doesn't offset this with social security. Nebraska does not offset this with what a person might be getting from a private plan or something that accrues to them from a source other than worker's compensation. Most states that have higher, and certainly those that have considerably higher weekly benefit rates have two things in that that separate us from those states. One is they typically tend to have a much higher level of average weekly salary, and then, almost without exception, they offset or limit in some other fashion the amount of money that a person can receive from their worker's compensation policy. So it appears to me that when viewed from the rapid increases in premium cost, based upon the cost of paying for all of the medical costs that go with worker's compensation, that the phasing in that is currently part of LB 313, as Senator Hefner indicated in his presentation was agreed to by the sides, is a way to increase the base compensation which, by the way, does not affect the weekly compensation for anyone that is currently drawing, nor would it increase the compensation at any given wage rate up to our maximum for anyone that might draw in the future. It increases the upper limits, but nothing below that. We are comparable with the other states and maybe even a little bit better than some below that. So I think that we have a good system in place ready for passage that will serve the state well for the next two years. We will be able to see where the premiums are going and we will have a policy that gives an injured worker comparable compensation and protects the employer from

exorbitant increases. So I would urge your not adopting this amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator McFarland, with Senator Morrissey to follow.

SENATOR MCFARLAND: I will pass and I will just close when I get a chance.

SPEAKER BARRETT: Thank you. Senator Morrissey, please.

SENATOR MORRISSEY: Thank you, Mr. President, and members. I would have to, looking at one of Senator McFarland's handouts, the original bill asks for a worker's comp increase from 245 to 290, so I would have to agree with what Senator Hefner just said, that this figure that we have now has been negotiated. He said it was negotiated by business and industry and I completely agree. Business and industry negotiated that figure. I am not going to go on and on, I made my point the first time around. I think it is fair. I think it is just. And I am just wondering if any of you heard from anyone in your district, if anyone got any response to the debate the first time around. I support Senator McFarland's amendment. I don't think it is outrageous. It is far from outrageous and it is a compromise that can be reached inside the glass, in here on the floor. It is something that the injured workers are deserving of and I would just simply ask you to give them a thought and support this amendment. Thank you.

SPEAKER BARRETT: Any other discussion? Apparently not. Senator McFarland, to close.

SENATOR MCFARLAND: Thank you, Mr. President. I will just make a couple of comments. There are some businesses who have trouble in Lincoln. They do in northeast Nebraska. They do all across our state. And I suspect even if we lowered the worker's compensation rate even to \$200 per week, those businesses are still going to have problems, just because of the economy in the particular business they are in, or the particular changes that have occurred in the products they may be selling or manufacturing or producing. This minimal increase in worker's comp benefits I don't believe will have much of an effect one way or another on the cost of operating business. It will have an effect, however, in helping an injured employee who may be injured through no fault of his own or her own get a better

compensation benefit on which to live on, and I don't see that \$265 a week is any real significant amount of money to live on if you are hurt and all of a sudden your income is lost, and you can't earn a salary that you would have earned normally. As I indicated before, had this bill come out of committee last year, as we had anticipated it would, and had been given some degree of assurance that it would come out of committee last year, then I think the 255 increase in '89 would have been appropriate, 265 in '90. I am proposing this amendment, too, as if the \$10 a year increase had taken effect and acknowledging that it still remain 245 in 1989, what I am saying it should be 265 in 1990, and if you want to negotiate it upward again or downward, for that matter, that can be discussed next year or the year after, but I think this is a reasonable amount. Actually, I think that it should be much more than what it is, but in discussing with some of the senators and discussing with people who attended the luncheon of the AFL-CIO, there was a suggestion that there could possibly be sufficient support for this amendment and that is why I offered it and I urge you to vote for it. Thank you.

SPEAKER BARRETT: Thank you. You have heard the close and the question is the adoption of the McFarland amendment to LB 313. Those in favor vote aye, opposed nay.

SENATOR MCFARLAND: There appears to be slow voting. Maybe we should just have a call of the house and have everyone...have a roll call vote on it.

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

CLERK: 21 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Those outside the Chamber, please return and check in. Senators Scofield, Warner, Wesely. Senators Abboud and Baack. Senator Landis, please check in. Senator Hartnett, please, the house is under call. Senator Lynch. Senator Warner, Senator Wesely, the house is under call. Senator Pirsch, would you please record your presence. Senators Warner and Baack, the house is under call. Senator Warner is on his way. Senator Hall, I assume we can proceed.

SENATOR MCFARLAND: Ask Senator Hall, he is...

SPEAKER BARRETT: Senator McFarland, may we proceed?

SENATOR MCFARLAND: I will agree with Senator Hall, we can proceed, Mr. Speaker.

SPEAKER BARRETT: Thank you, both of you. Members, return to your seats for a roll call vote. The question is the adoption of the McFarland amendment to LB 313. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See pages 1157-58 of the Legislative Journal.) 17 ayes, 24 nays, Mr. President.

SPEAKER BARRETT: The motion fails. The call is raised. Anything further, Mr. Clerk?

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

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: In the interest of time and accommodation, I would withdraw that amendment.

SPEAKER BARRETT: Thank you. It is withdrawn.

CLERK: I have nothing further on the bill, Mr. President.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 313 as amended be advanced to E & R for engrossment.

SPEAKER BARRETT: Is there discussion? Seeing none, those in favor of the advancement of the bill say aye. Opposed no. The ayes have it. Motion carried. The bill is advanced. To the A bill, Mr. Clerk.

CLERK: Mr. President, LB 313A, I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 313A be advanced to E & R for engrossment.

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LB 164, 164A, 259A, 260, 260A, 313, 313A  
348, 542, 594, 642, 678, 843A, 855  
855A, 953, 953A, 965, 980, 980A, 1032  
1136, 1236  
LR 239

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 843A.

SPEAKER BARRETT: LB 843A is advanced. Have you matters for the record, Mr. Clerk?

CLERK: I do, Mr. President. Amendments to be printed to LB 1136 by Senator Landis. (See page 1289 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 164 and find the same correctly engrossed; LB 164A, LB 259A, LB 260, LB 260A, LB 313, LB 313A, LB 348, LB 542, LB 594, LB 678, LB 855, LB 855A, LB 953, LB 953A, LB 965, LB 980, LB 980A, LB 1032 and LB 1236, all of those reported correctly engrossed. (See pages 1289-92 of the Legislative Journal.)

I have an explanation of vote from Senator Barrett, Mr. President. (See page 1292 of the Legislative Journal regarding LB 642.)

That's all that I have.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Ashford had some fourth graders from Christ the King School in Omaha, District 6, with their teacher. Are you folks still with us in the south balcony? Apparently they have just left. Mr. Clerk, LR 239CA.

CLERK: Mr. President, LR 239CA was a resolution introduced by Senators Withem, Warner, Lindsay, Barrett and Weihing. It proposes an amendment to Article VII, Sections 10 and 13 of the Nebraska Constitution as well as Article XIII, Section 1. The resolution was introduced on January 16 of this year. At that time, Mr. President, it was referred to the Education Committee for public hearing. The resolution was advanced to General File. I do have Education Committee amendments pending.

SPEAKER BARRETT: The Chair recognizes the Chairman of the Education Committee, Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, members of the body, this is the time of year when you would rather not have your personal

March 29, 1990

LB 187, 187A, 259, 259A, 260, 260A, 272A  
313A, 313

Journal.) 29 ayes, 19 nays, 1 excused and not voting,  
Mr. President.

SPEAKER BARRETT: LB 272A passes. Senator Landis, for what  
purpose do you rise?

SENATOR LANDIS: Could I rise for a point of personal privilege  
for just a moment, Mr. Speaker?

SPEAKER BARRETT: Proceed.

SENATOR LANDIS: On behalf of a great many people, I would like  
to thank this body for its statesmanship and its compassion. I  
recognize it's done with political cost but with a sense of  
responsibility. And on behalf of many people, I want to say  
thank you.

SPEAKER BARRETT: Thank you. While the Legislature is in  
session and capable of transacting business, I propose to sign  
and I do sign, LB 187, LB 187A, LB 259, LB 259A, LB 260, and  
LB 260A. Have you anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Thank you. Proceed to LB 313.

CLERK: (Read LB 313 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure  
having been complied with, the question is, shall LB 313 become  
law? All in favor vote aye, opposed nay. Have you all voted?  
Record, Mr. Clerk.

CLERK: (Read record vote. See pages 1704-05 of the Legislative  
Journal.) 46 ayes, 1 nay, 1 present and not voting, 1 excused  
and not voting, Mr. President.

SPEAKER BARRETT: LB 313 passes. The A bill.

CLERK: (Read LB 313A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure  
having been complied with, the question is, shall LB 313A become  
law? Those in favor vote aye, opposed nay. Have you all voted?  
Please record.

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LB 272A, 313, 313A, 488, 488A, 503, 503A  
567, 567A, 662

sign and I do sign, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, and LB 503A. LB 567, Mr. Clerk.

ASSISTANT CLERK: (Read LB 567 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 567 become law? Those in favor vote aye, opposed nay. Have you all voted? Senator Withem.

SENATOR WITHEM: I would ask for everybody to check in and a roll call vote.

SPEAKER BARRETT: Thank you. Will members please record your presence. A roll call vote has been requested. Senator Hefner, Senator Lowell Johnson, Senator Byars. Senator Morrissey, would you check in, please. Senator Goodrich. A roll call vote has been requested and the question is, shall LB 567 pass?

CLERK: (Roll call vote taken. See page 1711-12 of the Legislative Journal.) 27 ayes, 20 nays, 2 excused and not voting, Mr. President, on adoption of or final passage of LB 567.

SPEAKER BARRETT: LB 567 passes. The A bill.

CLERK: (Read LB 567A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 567A pass? All in favor vote aye, opposed nay. Record, please.

CLERK: (Read record vote. See pages 1712-13 of the Legislative Journal.) 27 ayes, 20 nays, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 567A passes. LB 662.

CLERK: Mr. President, I have a motion on the desk. Senator Nelson would move to return the bill for a specific amendment.

SPEAKER BARRETT: The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, and members of the body, I am not sure that all of you are aware or not, I had asked for an



March 29, 1990

LB 163, 163A, 164, 164A, 187, 187A, 259  
259A, 260, 260A, 272A, 313, 313A, 338  
488, 488A, 503, 503A, 520, 520A, 536  
567, 567A, 662, 898, 899, 1031, 1125  
1126, 1170, 1220

morning visiting in the south balcony. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 520, LB 520A, LB 567, and LB 567A. Senator Lynch, please check in. Senator Byars. Senator Schimek, please. Senator Labedz. Members will return to your seats for a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1713-14 of the Legislative Journal.) 14 ayes, 33 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: Motion fails. Mr. Clerk, have you a priority motion?

CLERK: I do, Mr. President. May I read some items?

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, amendments to be printed to LB 338 by the Health and Human Services Committee. (See pages 1714-17 of the Legislative Journal.)

Messages that bills read on Final Reading this morning have been presented to the Governor. (Re: LB 1031, LB 1125, LB 1170, LB 536, LB 1220, LB 1126, LB 898, LB 899, LB 163, LB 163A, LB 164, LB 164A, LB 187, LB 187A, LB 259, LB 259A, LB 260, LB 260A, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, LB 503A. See page 1714 of the Legislative Journal.)

And LB 272A has been reported correctly enrolled, Mr. President. That is all that I have.

SPEAKER BARRETT: To the motion.

CLERK: Mr. President, the first motion, Senator Hall would move to recess until one-thirty, Mr. President.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Carried. We are recessed.

RECESS

April 4, 1990

LB 260, 260A, 313, 313A, 488, 488A, 520  
567, 567A, 663, 663A, 854, 899, 1124  
1125, 1141  
LR 239

SENATOR BERNARD-STEVENS: It'd be a fascinating turn of events to have that happen. But the bottom line is all of this debate is about a bill that's unconstitutional. Bottom line is in some cases in western Nebraska, by the way the bill is, it may not be possible to get the kind of counseling that they need in order to get the permit signed on the informed consent. Bottom line is some people in western Nebraska who don't have a counselor or someone that fits the definition that's in LB 84 (sic), which I'll again bet that 90 percent of the people in this body still have no clue of what that definition is, nor care, that a lot of people in the rural part of our state have to go elsewhere to find somebody who fits the qualifications that are in the bill. I took the time to call counselors throughout western Nebraska and ask if they felt they qualified under the bill. They stated, the way the bill is written, probably not.

SPEAKER BARRETT: Time has expired.

SENATOR BERNARD-STEVENS: But if we'd a been allowed to make some (inaudible).. improve that situation. Thank you.

SPEAKER BARRETT: Thank you. Senator... excuse me, Mr. Clerk, you have a motion on the desk?

CLERK: Mr. President, Senator Chambers, I understand you want to offer a motion to adjourn until nine o'clock tomorrow morning, Thursday, April 5.

SPEAKER BARRETT: Have you anything to read in, Mr. Clerk?

CLERK: Mr. President, I do. I have your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LR 239CA and find the same correctly engrossed, LB 1141 and LB 1124. (See pages 1902-04 of the Legislative Journal.)

Mr. President, I also have three communications from the Governor regarding signed bills addressed to the Clerk: Engrossed LB 663, LB 663A, received in my office March 30 and signed by me on April 4. (See pages 1905-06 of the Legislative Journal.) A second communication: Engrossed LB 1125, LB 899, LB 260, LB 260A, LB 313, LB 313A, LB 488, LB 488A, LB 520, LB 567, LB 567A, received in my office on March 29 and signed by me on April 4 and delivered to the Secretary of State, Sincerely, Kay Orr, Governor. (See Page 1905 of the Legislative