

April 6, 1979

LB 80

PRESIDENT LUEDTKE: The motion failed and the Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, basically my questions are informational in a true sense. I feel like there are some gaps here and I would like to ask Senator Marsh some questions if I may.

PRESIDENT LUEDTKE: Senator Marsh, will you respond?

SENATOR MARSH: Thank you, Senator Beutler.

SENATOR BEUTLER: Basically, my first question has to do with the history of employment and discrimination litigation in general in Nebraska since the OEC has been created. Has the situation been that there have been a lot of people who have felt that they've had a legitimate complaint and have not gotten satisfaction for that complaint? How many plaintiffs cases have been won and how many of them lost? Could you just give me a bit of a feel for what's been going on in that regard?

SENATOR MARSH: Senator Beutler, I should have that information at my fingertips and I do not here on the floor this morning. I can tell you that most cases where there is substance do not go to court. They are resolved out of court. I also know that there are some cases of substance which hinge on this very matter of when they go to court not being able to prove that discrimination was intentionally done. I think more cases would be settled out of court if this word were removed from our statutes. The intent is not to have more court cases. The intent is to solve the problem of discrimination. If I am doing something which is unlawful, and it actually hurts someone else, in our civil case...in our civil courts someone does not have to prove I intentionally did it in order to make me stop... anything else except this section of the law.

SENATOR BEUTLER: My second question has to do with the relationship of federal law and state law, which I don't fully understand what's been said so far. I have not worked in this area, but as I understand it there is a difference between federal law and state law with regard to the interpretation of intentionality. Is that correct?

SENATOR MARSH: May I ask Senator Hoagland to respond who has had some experience?

SENATOR BEUTLER: Sure. That would be fine, and Senator