

January 19, 1981

LB 357-388

Journal a motion he is submitting pursuant to Rule 6, Section 2, to rerefer LB 245.

Mr. President, new bills: (Read title to LB 357-388 as found on pages 261-268 of the Legislative Journal.)

SPEAKER MARVEL: Your agenda for tomorrow will show that we will adjourn until 9:30 a.m. There will be a chairmen's meeting at nine o'clock and Exec Board at eleven o'clock. Those two latter meetings will be in Room 1520. Senator Haberman, would you like to adjourn us until nine-thirty tomorrow.

SENATOR HABERMAN: Mr. President, I move that we adjourn sine die until nine-thirty tomorrow morning.

SPEAKER MARVEL: Leave out the sine die.

SENATOR HABERMAN: Move we adjourn until nine-thirty tomorrow morning.

SPEAKER MARVEL: All those in favor say aye, opposed no. We are adjourned until nine-thirty tomorrow morning.

Edited by:


Mary A. Turner

March 6, 1981

LB 194, 174, 387,
431, 478

SENATOR HOAGLAND: All that is is simply obsolete language, Mr. Speaker, that was designed to effectuate the provisions of the election of membership to library boards in 1972 and 1974 and is no longer needed.

SPEAKER MARVEL: The motion is the adoption of the Hoagland amendment to the Clark...Hoagland amendment to the bill. All those in favor of adopting the Hoagland amendment vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to adopt the amendment.

SPEAKER MARVEL: The motion is carried. The Hoagland amendment is adopted. Now, Senator Clark, what do we do with the bill?

SENATOR CLARK: I would move that the bill be advanced to E & R Initial as amended.

SPEAKER MARVEL: The motion is to advance the bill as amended. All those in favor vote aye...do you want to clear the board? All those in favor vote aye, opposed vote no. Record.

CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. We now...the next two bills will be temporarily passed over because the introducer is not here and we go to LB 89.

CLERK: Mr. President, if I may right before that, you committee on Miscellaneous Subjects whose Chairman is Senator Hefner reports 431 to General File with amendments.

Your committee on Revenue reports LB 478 to General File with amendments; and your Retirement Systems Committee reports LB 387 to General File with amendments. (Signed by the respective Chairs.)

Mr. President, LB 89 was a bill introduced by Senator Shirley Marsh.

SPEAKER MARVEL: Is Senator Marsh in the room? We are going to temporarily pass over those two bills and we will come back to them shortly, and the next bill is LB 174.

CLERK: LB 174 offered by Senator Fenger. (Read title.) The bill was read on January 14. It was referred to the Judiciary Committee. The bill was advanced to General File.

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LB 384, 284, 387, 394

SPEAKER MARVEL: The motion is to advance the bill. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 26 ayes, 13 nays Mr. President on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried and the bill is advanced.

CLERK: Mr. President, while we are waiting I have amendments from Senator Koch to 284 and from Senator Fowler to 387 that they would like inserted in the Journal. Senator Nichol offers an appreciation note. Senator Hefner asks unanimous consent to add his name to LB 394 as co-introducer.

SPEAKER MARVEL: If no objections, so ordered. We will start with 384 and the Clerk will.

CLERK: Mr. President, LB 384 was a bill introduced by Senator Loran Schmit and Senator John DeCamp. Read title. The bill was first read on January 19th. It was referred to the Ag and Environment Committee for hearing. The bill was advanced to General File. I do have a committee amendment from the Ag and Environment Committee, Mr. President.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. Chairman, I move the adoption of the committee amendments. The committee amendments are very simple, Mr. President, they include in the provisions which allow for lending privileges the credibility for apiaries. That was done at the request of Senator Richard Peterson who is in the bee business and he asks that we do it and the committee consented and I ask the amendment be adopted.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 384. All those in favor of adopting those amendments vote aye, opposed vote no. Have you all voted? Record.

CLERK: 26 ayes, 0 nays on the adoption of the committee amendments.

SPEAKER MARVEL: The motion is carried, the committee amendments are adopted. Senator Schmit, do you want to explain the bill before we proceed further.

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LB 448, 387

SENATOR WESELY: Well, we are close.

PRESIDENT: People don't want to vote, so if you want to bring them back in to vote why....

SENATOR WESELY: How many are absent today?

PRESIDENT: We have got three...is it still three excused? Three are excused, period, that's it. What do you want to do, Senator Wesely? Clerk, do you want to....

SENATOR WESELY: Go ahead, record. Record the vote.

PRESIDENT: Record the vote. All right.

CLERK: 26 ayes, 13 nays, Mr. President, to bracket the bill.

PRESIDENT: The motion carries. LB 448 is bracketed. Go on then to LB 387, Mr. Clerk.

CLERK: Mr. President, LB 387 was introduced by Senator Rumery. (Read title.) The bill was first read on January 19. It was referred to the Retirement Systems, Mr. President. The bill was advanced to General File. There are committee amendments pending.

PRESIDENT: Senator Fowler.

SENATOR FOWLER: Is there an amendment to the committee amendments pending too?

CLERK: Yes, sir.

SENATOR FOWLER: Okay.

PRESIDENT: Do you want to explain the committee amendments first, Senator Fowler, or do you want to take up the.....

SENATOR FOWLER: Well, actually it might be best if I could maybe explain the thrust of the bill....

PRESIDENT: All right, why don't you do that first.

SENATOR FOWLER:which then would facilitate the adoption of the amendment.

PRESIDENT: Fine. All right, why don't you do that and then we will take up the amendment to the committee amendment.

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LB 387

SENATOR FOWLER: Seeing the great attention here, we will proceed. The....

PRESIDENT: (Gavel). Let's have a little attention.

SENATOR FOWLER: Okay. This bill is probably the least significant of all the retirement bills introduced, although it may be one which you have been more extensively lobbied. The Retirement Committee believes that one of the basic principles we should operate under is a certain amount of equity and uniformity among retirement systems, that is that a privilege or benefit that is available to people in one category in one system, should be available to people and category in another. 387 deals with what is known as termination benefits or what might be known as termination rights, and that is when you leave employment, when you leave a retirement system, how much right you have to what you have contributed and what the employer has contributed. Now, what the bill will call for, if adopted, for first class police and fire, which is a separate retirement system adopted under state law, it says that if you leave for whatever reason, terminate before retirement, that you will be able to get the money you paid into the retirement system, the money you paid back to you plus five percent interest. Now that is less than the going rate on interest but we felt that that was a figure that probably is the average, it's one that is easily calculated. Other systems have a little more complicated formula, but this one allows it to be taken out at five percent. Now currently first class police, if they leave, get their money but they get no interest. The city gets to take that interest, and for that reason we feel that there is a definite inequity there. If somebody has been paying money into a retirement system, their own contribution, we feel they should be able to get back the interest on their money. Now what happens after a certain point of service is that you start earning a right to the employer's share, available not as a cash withdrawal but available as a retirement benefit when you retire, what's known as deferred annuity. And so this bill allows that after ten years' service you can...if you leave before retirement age, you can take that deferred annuity prorated on the number of years of service. Now if you choose not to take that, then you can withdraw your contribution plus the five percent interest. Now, basically, no one is getting something that they have not earned. An employee is getting back the money they contributed plus interest or they are getting this deferred retirement benefit. And this is a very common, accepted principle in retirement systems, and that is that a retirement system should not profit excessively from anyone who terminates

employment before retirement age. Currently, the first class cities and police get a financial windfall, if you will, the interest off the police employees' contribution, for example, if someone for whatever reasons terminates employees, and for that reason we think that it is unfair. There are no other retirement systems in the state that allow this. Now this bill has some fiscal impact on some first class cities. Some first class cities have their pension plans in a sound enough financial situation that they can absorb this with no problem. Some communities have not been contributing to their retirement plan and they will have to develop extra revenue to fund this. Now I have offered to the League of Municipalities to offer a one year exemption from the spending lid so that these communities could catch up or start catching up with their retirement contributions. I have not....I guess I have offered that indirectly through the police lobbyists and I have not heard back on that amendment. So I guess at this point I can't say whether we will offer that amendment or not. Now this is a very limited change as far as the first class police and fire. And, again, all it is is to try now for some equity so that an employee can get the interest on the money that they are required to contribute to the retirement system, or if they work for a city more than ten years, they have an option of taking a retirement benefit. Now Senator Nichol of Scottsbluff had a more far-reaching bill that was introduced to change in many ways the first class police system, and after visiting with Senator Nichol and the various other people, the committee decided not to advance that bill because it was too far-reaching a change and then we recognized the fiscal situation of the cities. So we opted instead for Senator Rumery's bill. Senator Rumery's bill originally came in just for first class firefighters. The committee amendment adds first class police so that we have both systems to achieve uniformity. Inadvertently, in the language the committee drafted we put a lower retirement age for the police than currently exists. So my amendment to the committee amendment changes back that retirement age of police from 55 to what the current law provides. So I would recommend adopting that just for technical uniformity. Then the committee amendment is designed to provide the same benefit to the first class police that Senator Rumery proposed for first class fire, and in that way with the committee amendment we can talk about both systems and whether this benefit or right should be provided to the employees. So I would recommend no matter how you feel on the bill to get it into a shape that is technically correct and provide for equity between the police and fire, that you adopt both the amendment to the committee amendment, then adopt the committee

amendment, and then we can argue the merits of the proposal.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, in looking this bill over and discussing it with the City Manager, I find that it still costs the city of Scottsbluff \$139,000 each year, for the first year rather, and with the escalation of prices it would be over \$139,000 a year, and I find it difficult to support the bill even with the amendments or without. But I suggest to you if you have a city of the first class in your district, you have a look at what it is going to cost that city before you make up your mind. Thank you.

PRESIDENT: Any further discussion? Senator Cope. Senator Fowler, you have introduced your amendment, have you not, so we really technically can be discussing the amendment to the committee amendment. So, Senator Cope, did you wish to speak to the amendment to the committee amendment, or to the committee amendment? Okay, we are talking about the amendment to the committee amendments right now. Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise to support the bill and the amendments to it. I retain my membership on the Retirement Committee every year so that I am there to vote against Senator Fowler's elaborate retirement programs, and this is one... probably one of the only bills all year long that I felt in good conscience and looking at the economy of the state and the political subdivisions that I could vote for, so that should tell you something about the bill.

PRESIDENT: All right, anything further? Senator Fowler, I guess you can close on the amendment to the committee amendment.

SENATOR FOWLER: This amendment to the committee amendment is simply a technical change to bring back in conformity the proper age for....bring this statute in conformity with the other statutes as far as retirement age for police. And it is technical and just needs to be in there to clean up the bill.

PRESIDENT: All right, so the motion is the adoption of the Fowler amendment to the committee amendments. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

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CLERK: 15 ayes, 0 nays, Mr. President, on adoption of the Fowler amendment to the committee amendments.

PRESIDENT: The motion carries. Now we are on the committee amendments. Anything further? If not, Senator Cope, did you wish to discuss it? Do not, all right. Senator Fowler, anything further on the committee amendments?

SENATOR FOWLER: All I would say is that the committee amendments bring first class police in the bill so that it covers both systems believing that it should be....if we provide this benefit it should be equitable between the two services.

PRESIDENT: The motion now is the adoption of the committee amendments. All those in favor vote aye, opposed nay. Have you all voted? Voting on the committee amendments to LB 387. Senator Fowler, we better bring some people in to vote it looks like.

SENATOR FOWLER: Do you want me to go out to the rotunda and see if I can.....

PRESIDENT: Would that help?

SENATOR FOWLER: I don't know. It's really...it's just technical.

PRESIDENT: Well, let's bring in some of the technicians then to vote on this.

SENATOR FOWLER: I would be glad to ask for a Call of the House and a roll call vote.

PRESIDENT: All right. The motion is Call of the House. All those in favor of a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 18 ayes, 1 nay, to go under Call, Mr. President.

PRESIDENT: The House is under Call. The Sergeant at Arms will secure the Chamber and see that all members are at their desks. All members will register your presence, please. We can accept call ins, can we not, Senator Fowler? Yes, all right, we will accept call ins as you come in. So would everybody please register your presence. The House is under Call. We are accepting call ins for those legislators that have....we can accept call ins.

CLERK: Senator Beutler voting yes. Senator Goodrich voting

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yes. Senator Vard Johnson voting yes. Senator Wesely voting yes. Senator Wiitala, you had voted yes, Senator. Senator Fitzgerald voting yes. Senator Chronister and Beyer voting yes.

PRESIDENT: Record the vote.

CLERK: 26 ayes, 0 nays on adoption of the committee amendments, Mr. President.

PRESIDENT: The motion carries. The committee amendments are adopted. Any further amendments on the bill?

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

PRESIDENT: All right, Senator Fowler, do you...or Senator Rumery, excuse me. Senator Rumery will you speak to the bill?

SENATOR RUMERY: Mr. President, I move 387 be advanced.

PRESIDENT: All right, any further discussion? The motion then....oh, Senator Fenger. The Chair recognizes Senator Fenger.

SENATOR FENGER: Mr. Speaker, in spite of the fact that opposing decent retirement benefits is a little like arguing against God and motherhood, I think we better take another look at this bill. Enacting this piece of legislation will have the ultimate effect of compounding an already serious problem. If you glance at the handout on your desk, it will give you some idea how severe a problem really exists. It would appear that many of our first class cities already have deficiencies. Some are severe in the unfunded value of accrued benefits on many of these local pension plans. You will note the Norfolk fire pension fund, for example, is currently funded at less than ten percent of the amount that is supposed to be there. York is under twenty percent. The City of Grand Island has a dollar deficiency in excess of two and a quarter million bucks. I think we have a series of minuscule social security problems right here in the state. This isn't true in every case. Many cities not on this list have city councils who have addressed this problem. They have accumulated sufficient tax reserve. They have taken the bull by the horns, so to speak, and they have kept their funds solid. For this reason, I think 387 is the wrong bill at the wrong time. Most of you know the Nebraska League of Municipalities is working hard among its member cities in an attempt to bring to this body next year suggestions

to correct the deficiencies pointed out today. So I hope at this time we can reject this bill, hold it over until next year and then perhaps incorporate the ultimate aim of 387 into future legislation that will provide some assurance that the benefits will be paid when due at a future date. Thank you.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President, members, a question of Senator Rumery or Senator Fowler...either one. Senator Fowler, I would agree that the five percent is a good thing, that portion of it, but I am looking on page 2 starting with line 23, "In lieu of such lump sum benefit, a firefighter with 10 or more years of service may elect to receive a deferred annuity to commence at age 55. If this election is made, the accumulated contributions of the member may not be withdrawn from the system. The deferred annuity to commence at 55 shall be computed as fifty percent of the firefighter's salary at the date of termination multiplied by the ratio of the years of his or her service at the date of termination", and so forth. Now, what is the present status now of the pension? It seems to me as I read that, that that is where the difference where the problem could come for the cities. It isn't the five percent, I don't believe, at least, it wouldn't be with me. But I am just thinking, you retire at 55, you could live to be 90 and the city has to pick up the difference then of everything of half the salary at retirement.

SENATOR FOWLER: Senator Cope, first of all we are not changing the benefits in any way that someone that chooses to elect...that elects to retire at the normal retirement age. We are not improving those benefits for already people that work the full service and retire. That fifty percent, that age 55, is in the current plan for someone that works the full length of service for the fire force. What we are changing is, adding to it is if let's say if you choose to elect...let's say you elect to retire five years early, you have the option under this bill of withdrawing your own money plus the five percent interest, or you can wait those five years until your retirement age and then you can start the pension, but you don't get the full pension and that is what that times the percentage, etcetera, etcetera. You get it prorated based on the years of service, so you don't...if you leave the service and this bill only covers those that leave a fire or police system early for whatever reason, to get another job because they want some change, they are tired of fire work or whatever, they leave early, they work say 15 or 20 years

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for the system, they will get....they can elect to take their retirement at the normal retirement age prorated by the years of service, and this is a very standard principle in retirement systems that the state employees, county employees, school system employees, all these that after a certain number of years usually five, in this case we have ten years, if you have worked then even if you don't work to retirement age, you can draw that benefit. But it doesn't increase the benefit that you would receive and in no way changes the benefits for people who reach retirement age.

SENATOR COPE: In other words this is the new part of the language that is going to increase the payments to the city for those that retire before their 21 years of service.

SENATOR FOWLER: They leave before 21 years of service. They are not able to retire at any early age than the law....they are not able to draw their retirement benefit any earlier. You know, they leave....(interruption).

SENATOR COPE: I understand, but....

SENATOR FOWLER: Yes.

SENATOR COPE:this is what is going to cost the cities the extra money which....

SENATOR FOWLER: Well, both....

SENATOR COPE:at the present time they don't have.

SENATOR FOWLER: Both sections would cost cities because cities are financed....some cities have chosen to finance their plans off the interest of the employee's contribution, and those cities are the ones that are probably strongly objecting to this bill because they are counting on employees quitting or leaving service so that they can keep that interest money to fund the retirement system. That is very poor fiscal management and some of our cities have gotten themselves in financial trouble because they did not start early.....

PRESIDENT: Half a minute.

SENATOR FOWLER:to do this. So both sections do have a fiscal impact, but that doesn't mean we shouldn't change it in the interest of fairness and equity.

SENATOR COPE: Thank you.

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PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, it appears to me that we got the cart before the horse in this particular bill. I believe the League of Municipalities is in the process of making a very thorough study on this matter and all of you have the figures before you. I would like to move that we indefinitely postpone this bill.

PRESIDENT: There is no motion on that. Is there a motion?

SENATOR H. PETERSON: May I so move?

PRESIDENT: Well, if there is a motion on the desk, I guess.

SENATOR H. PETERSON: I will put one on the desk.

CLERK: Mr. President, Senator Howard Peterson would move to indefinitely postpone LB 387.

PRESIDENT: So that means we have to....no, we don't have to, not at this stage because we are on what, Select? General File, yes. Okay, we will recognize Senator Peterson on his motion to indefinitely postpone.

SENATOR H. PETERSON: Mr. Chairman and members of the body, I believe if you look at the figures that are on this sheet and note the total number of dollars that are involved as far as the first class cities are concerned, we are trying to talk here about paying out interest and paying out prematurely people who retire, and I recognize that these are worthy things, there is no question about that, but I think the real problem is, what do we do when there is no money in that fund? What does Norfolk do, for instance, if half of their people decide to retire early and they have only got the fund eight percent funded? Where does the money come from? We are talking about a lid. We don't know what we are going to do with the lid yet today. It appears to me just as I said earlier that we have the cart before the horse. We ought to give the League of Municipalities an opportunity. They just got these figures just very recently, I know, and the cities ought to be given the chance to look at this thing and come in with a recommendation. We shouldn't be letting the fire and policemen run the fund for the cities.

PRESIDENT: The Chair recognizes Senator Fowler and then Senator Rumery.

SENATOR FOWLER: Well, Mr. President, I don't mean to understate the fiscal problem of some of the cities. Certainly,

they have gotten themselves in trouble in this area. Killing this bill will not solve that particular problem. Now the League of Municipalities has handed out a sheet indicating some unfunded liabilities but there are also communities that are not on this sheet that have very solvent systems, including the Bellevue police according to the statistics of the valuation results is funded at 119 percent, over a 100 percent funded. That is not on the sheet here. I am not quite sure why they didn't want to show that. The Blair police have a funded excess of 172 percent. Now these are the studies...this is the statistics that the League of Municipalities provided. Fremont police is 118 percent. Grand Island police is 99 percent funded. Kearney police is 119 percent funded. LaVista police is 237 percent funded. Lexington police is 247 percent funded. Papillion police is 675 percent funded, and believe that, over six times the money is in there than will be drawn. And Plattsmouth police, maybe they just have one officer, is 1600 percent funded. Now....and Scotts-bluff police, 190 percent funded; Seward police, 186 percent funded; Sidney police, 106 percent funded; Wayne police, 113 percent funded; York police, 374 percent. The League of Municipalities did not hand those statistics out. In fact, there are only ten of the thirty-four systems that are less than 50 percent funded. Now, Norfolk has a problem. They were not contributing money into their retirement plan, but other cities...other cities obviously had the foresight, had the prudence to set money aside for these plans so that they are in some cases over a 100 percent and some cases over 600 percent funded. Now that is financial security beyond necessity. Now why should we penalize the police and fire in some first class cities where their city administration has responsibly provided the retirement plan? Why should we deny them the interest on their own money that we require that they contribute? The police system says that they can't even get interest on the money that we take out of their paycheck by state mandate. Now that seems grossly unfair. A few communities have not solved their funding problem because they ignored it. They thought it would go away. A large number of cities, a majority of the first class cities have responsibly funded their retirement plans. So I would object to indefinitely postponing this bill, penalizing some police and fire in cities that have solvent systems, because a few communities in Nebraska did not respond in advance to this problem. Now the League of Municipalities had an opportunity in interim studies that we have had to come in with a solution for several years and chose not to. Now as it appears that a bill is going to become law with a small slight change in the pension system, suddenly they say, oh, we have to study this and we will come

in with an alternative. Interestingly enough, the alternative that they provide as I read it, and the only description I have seen is about four sentences, not an extensive plan, but at least a little outline, interestingly enough what they propose provides the same type of benefit that Senator Rumery is saying should be available, and the reason is that that is a standard principle of retirement, that you should get the money you are forced to contribute plus interest when you leave, and after a certain number of years of service you should have an option of gaining a percentage of vested right in a percentage of the retirement based on your years of service. Some cities have trouble. Killing 387 is not going to solve that problem. I question the sincerity of the League of Municipalities on their study because they had plenty of opportunity to do this. Even so, a new retirement plan does not solve the unfunded liability question. These are legal obligations that they have accrued. Norfolk has to pay the benefits that have been promised. You can't change that.

PRESIDENT: Half a minute.

SENATOR FOWLER: So I would suggest that the League of Municipalities and the cities that are concerned about this go with 387 with the amendment that would remove for one year the lid so that they could catch up and start providing the contributions that they should have. But please don't penalize police and fire across the state in cities that have sound retirement systems because a few communities were indifferent to the needs of their financial situation. I would definitely oppose killing 387. It is ironic. This is the smallest retirement bill in terms of impact, and I think the League of Municipalities' attitude is not going to be constructive in trying to solve the retirement problems that their own cities have created.

PRESIDENT: My timing shows that we have had 30 minutes on this bill, and the Speaker has ordered 30 minutes on a bill, and unless someone wants to alter the Speaker's agenda this morning, I think we will go on to the next bill at this point and just leave us right where we are. Senator Fowler.

SENATOR FOWLER: I think....I would ask that we might as well get the issue resolved, that we have a vote....

PRESIDENT: But we have several....we can't get it resolved, it would take another half hour to resolve it because we have got several speakers just on the motion to indefinitely postpone.

SENATOR FOWLER: Well, I can remember when you were presiding

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officer and there was a 30 minute rule that sometimes you would offer the opportunity simply to vote on the issue. The bill has been discussed....

PRESIDENT: Well I will....here comes the Speaker, let's see if he is as good as I was in giving you that opportunity.

SENATOR FOWLER: I might suggest that Senator Peterson close on his kill motion. We vote on that.

PRESIDENT: If he would close....if he could close at this point, that's the way I used to rule but that's....Speaker Marvel, what do you want to do? We have about one, two, three, four, at least four more speakers just on the motion to indefinitely postpone, and then we get back to the bill and we have already consumed 30 minutes.

SPEAKER MARVEL: So the motion at the moment is the kill motion?

PRESIDENT: Yes, sir.

SPEAKER MARVEL: Okay, you vote it up or down.

PRESIDENT: All right. So we will let Senator Peterson....

SPEAKER MARVEL: And then....

PRESIDENT: At this point we will just vote up or down on the motion before the House.

SPEAKER MARVEL: Can I make another point before we continue? Because of the pressure of time of the fact that we are down to four or five days, the first thing I would like to do when we get through with this item is to call a meeting of the committee chairmen in 2102. So as soon as you get through with this motion, I would like to put that motion. I think we can call the chairmen together and we have got two or three options we would like to talk about.

PRESIDENT: All right, do you want to give Senator Peterson a closing on this, or just vote it up or down? Just vote. All right, the motion then before the Legislature is the motion to indefinitely postpone LB 387. All those in favor vote aye, opposed nay. Yes, Senator Peterson.

SENATOR H. PETERSON: (Microphone not on)....the body what we are voting on and how we should vote.

PRESIDENT: Yes. All right, do you want to read the motion

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before the House in case they are just coming in?

CLERK: Mr. President, the motion is to indefinitely postpone the bill and that is offered by Senator Howard Peterson.

PRESIDENT: It is LB 387. Senator Fowler, what do you wish to do? I am about to call the....

SENATOR FOWLER: I would ask for....

PRESIDENT: I am not sure that we are under Call. Technically we are still under Call but people have been roaming around like we aren't, so....

SENATOR FOWLER: I would ask for a Call of the House.

PRESIDENT: All right, Call of the House has been requested.

SENATOR FOWLER: Roll call vote.

PRESIDENT: All those in favor of a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 22 ayes, 6 nays to go under Call, Mr. President.

PRESIDENT: The House is affirmed now to be under Call, and we will now ask all members to return to their desks. All other people will leave the floor of the Legislature. The House is under Call. Record your presence. At which time do you request then a roll call vote on this? Okay. Senator Fowler, did you say you wanted a roll call?

SENATOR FOWLER: Yes.

PRESIDENT: That's what I thought you said. Senator Fenger. Senator Fitzgerald is here. Senator Fenger is here too, I see him back there. Senator DeCamp, Senator Wiitala. Oh, Senator DeCamp is excused, I am advised, all right. Senator Labedz, are you here? Yes. Senator DeCamp is here. We are looking for Senator Haberman. Here he is. Here he comes. Senator Schmit, Senator Vard Johnson. Senator Schmit, Senator Vard Johnson, it looks like. Speaker Marvel I think is here. Yes. Senator Schmit and Senator Vard Johnson are the only two that we need. Do you want to proceed with the roll call vote then? Senator Schmit and Senator Vard Johnson. Or do you want to wait for them?

SENATOR FOWLER: I think I had better wait for them.

PRESIDENT: All right. The Sergeant at Arms will please

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bring in Senator Vard Johnson and Senator Schmit. Here is Vard. Here is Senator Johnson. Senator Johnson is within the Chamber. Senator Schmit is on his way and the minute Senator Schmit gets here we will proceed with a roll call vote on the motion to indefinitely postpone LB 387. For those of you who have just arrived, we are voting on Senator Howard Peterson's motion to indefinitely postpone. Here he is, Senator Schmit, voting on indefinitely postponing LB 387. And you may proceed now, Mr. Clerk, with the roll call vote.

CLERK: (Read the roll call vote as found on page 2255 of the Legislative Journal.) 23 ayes, 24 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT: The motion fails. I take it, Mr. Speaker, the bill just stays where it is at this point then. All right, Senator Fowler.

SENATOR FOWLER: As long as we have come this far, why don't we just have a vote on advancement, no closing.

PRESIDENT: Mr. Speaker, do you want to just do that? He wants to vote on advancing without any closing. There is another motion...there is another motion, so I take it.... Mr. Speaker, you want to just pass it over to the next one then? Because now there is another motion on it, so....

SENATOR FOWLER: Could you read the motion, please?

CLERK: Mr. President, I have a motion on the bill which would move to....Senator Peterson would move to return the bill to the Retirement Committee.

SPEAKER MARVEL: Okay, pass it over.

PRESIDENT: All right, we will go on to the next bill then. Mr. Speaker.

SPEAKER MARVEL: I don't know how long this next bill is going to take, but we need to visit with the chairmen in 2102 before noon.

PRESIDENT: All right. We will go ahead with LB 460 then, Mr. Clerk.

CLERK: If I may, right before that, I have an Attorney General's Opinion addressed.....

PRESIDENT: All right, read that, go ahead.

January 7, 1982

LB 180, 180A, 198, 359,
387, 687, 688, 689

Senator Fowler would like to print amendments to LB 387.
(See page 142 of the Journal.)

Senator Warner would like to print amendments to LB 198.
Senator Landis to 180 and 180A. (See page 143 of the Journal).

Mr. President, two new bills. LB 687 offered by Senators Haberman, Nichol, Kahle and VonMinden. (Read title). LB 688 offered by Senators Fowler, Landis and Wesely. (Read title). LB 689 offered by the Miscellaneous Subjects Committee and signed by its members. (Read title). (See page 144 of the Legislative Journal).

SPEAKER MARVEL: Next take up LB 359.

CLERK: Mr. President, LB 359 was a bill introduced by Senator Newell. (Read title). The bill was introduced on January 19 of last year. At that time it was referred to the Urban Affairs Committee for public hearing. The bill was advanced to General File. There are committee amendments pending by the Urban Affairs Committee, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I am not sure how to proceed procedurally and would ask the opinion of the Chair. There is before the Clerk a substitute amendment which would, in effect, gut all of 359, at least as it is written, and rewrites much of the same provisions placing all responsibility for elections rather than with the SID as it is now currently with the Election Commissioner. Much of what was to be accomplished by the committee amendments and the terms of LB 359 would be accomplished under this substitute amendment but ultimate responsibility would be shifted, and I think since that is what the introducers want to approach now, I would ask that we not handle the committee amendments at this time but proceed to the substitute amendment and since that is in effect the LB 259 incarnation that the introducers want to talk about perhaps we should pass over the committee amendments at this time.

SPEAKER MARVEL: Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: Mr. Chairman, I was going to suggest to Senator Landis that perhaps since they have changed the bill considerably they might wish to take it back for another hearing. I notice it changes it substantially, whatever that means and I wonder if you would consider that,

PRESIDENT: Senator DeCamp, you moved approval of the gubernatorial appointments, right? Any further discussion? All right, any discussion on the motion by the Banking Committee Chairman for the gubernatorial appointment's approval, acceptance. All those in favor then of the gubernatorial appointments...approving the gubernatorial appointments made by the Banking, Commerce and Insurance Committee vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 0 nays on approval of the report, Mr. President.

PRESIDENT: The motion carries. The report is approved. We are now ready for agenda item #5, General File, Special Order by the Speaker commencing with LB 387. Do you want to bring us up to where we are?

CLERK: Mr. President, LB 387 offered by Senator Rumery. (Read title). The bill was read on January 19 of last year. At that time it was referred to the Retirement Systems Committee for public hearing. The bill was advanced to General File, Mr. President, with committee amendments attached. On May 26th last year the bill was considered by the Legislature. Committee amendments were adopted at that time. There was also an amendment from Senator Fowler that was adopted last year, Mr. President. The bill was passed over on January 11 of this year. I now have a motion from Senator Howard Peterson to return LB 387 to the Retirement Committee.

PRESIDENT: All right, I think in order to give us some perspective of where we are, Senator Rumery, why don't you explain the bill and then we will take up Senator Peterson's motion.

SENATOR RUMERY: Mr. President, members of the Legislature, I would appreciate your attention as we try to explain this bill. At the present time firefighters in first class cities have no vesting provisions in their pension plan and this is according to Section 35-201 as amended. A firefighter in a first class city would be terminated...could be terminated just before his retirement which is age 55, and therefore be denied his retirement benefits. Or he or she only would be entitled to receive his or her own contribution towards the retirement plus interest. LB 387 would correct this inequity and establish vesting provisions for firefighters in first class cities similar to those now existing in primary class cities. Specifically LB 387 provides that any first

class city firefighter who terminates his or her employment for reasons other than death or disability and who has ten years or more of service, may receive a lump sum return to his or her contributions to the retirement plan and receive a deferred annuity to begin at age 55 based on 50 percent of his salary at the time of termination multiplied by the ratio of his years of service to 21 years. For example, fifteen twenty-firsts, seventeen twenty-firsts, and the like, but in no event shall the ratio exceed one. The bill is in accord with the principle of 14 of the Nebraska Retirement System Committee principles in sound retirement planning, except that the vesting occurs after ten years rather than after five years in the principle. We will proceed with this and Senator Fowler, Chairman of the Committee, may have some explanation that he wants to give.

PRESIDENT: Senator Fowler, do you want to merely add by way of explanation of the bill, yes.

SENATOR FOWLER: Yes. Well, there are two handouts on everybody's desk that were put out to explain the bill, and I can go into those in greater depth as we go through the debate on the different motions. One of the handouts was prepared by Charlie Noren, representing the firefighters. The other is a handout from the actuary for the Retirement Committee. I think Senator Rumery has indicated that essentially the issue before us deals with first class city police and fire, a system established in the Nebraska statutes by this Legislature, that deals with the question of when someone, for whatever reasons, leaves employment prior to retirement for reasons other than death or disability, what happens to the money that has been contributed to the retirement plan, or whether that employee will be able to take those dollars that were contributed plus 5 percent interest and be able to utilize that to set up and continue a retirement program. That is the issue, whether or not people that are forced to contribute to a retirement plan when they have to terminate for whatever reasons, should be able to get their money and the 5 percent interest, not any sort of complicated interest formula, a very low interest number, whether they get the use of their own resources or whether or not a municipality can utilize that money that the employee contributed to basically provide interest income to the retirement fund that is the exclusive use of the municipality. That is kind of a...it is a question of equity. The bill as before you represents the basic guiding principles of the Retirement Committee in this area. In fact, this bill

falls below the standard that we have established. So it doesn't even come up to the committee's standard. But it takes us a step towards letting an employee, if they have to leave service, be able to get at least 5 percent interest on the money that they have contributed. And again let me stress that this bill reflects the Retirement Committee as a series of principles we judge all legislation so that there can be consistency, equity, conformity and so that this can be in some ways a rational process. And this bill upgrades this but doesn't even meet the standards of the committee and in that way I think Senator Rumery's being very, very reasonable. So there is information on your desk. I would be glad to answer questions. And I will go into greater depth on the fiscal impact which our actuary indicates is negligible....go into greater depth on that as we get to the question of advancing the bill.

PRESIDENT: All right, now that will be the explanation. Now we will go to the motion by Senator Howard Peterson on the return. Do you want to read the motion, Mr. Clerk, or, Senator Peterson, do you just want to explain it?

SENATOR H. PETERSON: Mr. Chairman and members of the Legislature, I would be happy to offer a substitute motion which would be to indefinitely postpone and I just would like to speak to that if I might, Mr. Chairman.

PRESIDENT: Well, let's see if there are any other motions, or any other amendments or anything because actually, Senator Peterson, if there are, we should....you should withdraw your motion to return and then if there are some other motions, why it would take its place in that order even though prioritywise it probably would be better to take yours first.

SENATOR H. PETERSON: Well, let me speak to my motion that is on the floor.

PRESIDENT: All right, you want to speak to the one to return at this time?

SENATOR H. PETERSON: Yes, right.

PRESIDENT: All right, and then you can still do whatever you want to then. Go ahead.

SENATOR H. PETERSON: There are two or three reasons, as I see it, to return this particular bill to the committee, the most important of which is that the League of Municipalities

has before that committee an entirely new program on retirement, one that the committee will be considering and that would indirectly affect this particular legislation. And it appears to me that the committee ought to look at both matters before we vote on it here on the floor. To say that this particular matter does not have any fiscal impact upon first class cities, in spite of what Charlie Noren has put around on our desks, I would have you understand that he is taking for granted that every first class city has this fund completely funded, and those of you who know or are in the know, know there is somewhere between \$10 and \$12 million that presently is not funded by first class cities and the impact of this legislation would be that you would take this amount of money specifically out of the general fund of the city. And to me that is not a fair basis on which to approach the problem. So I just would say that I would like to see the bill referred back to the committee, but if we don't get that done, I would like then for a day's indefinite postponement motion in order that the League of Municipalities might specifically visit with some of us to tell us exactly what the impact will be on cities of the first class.

PRESIDENT: Senator Peterson, before I call on Senator Dworak who is next to speak, I have just reviewed the record on the General File history of this bill, and there has been either I believe you filed it last year a motion to indefinitely postpone which failed, which means that we cannot take that motion up again until on Select File, so just so you know where you are on that. So we are speaking to Howard Peterson's motion to return to the Retirement Committee. Senator Dworak.

SENATOR DWORAK: Mr. President, is there a motion to return, or is that.....

PRESIDENT: Yes, Senator Dworak, the motion that we are debating is to return to the Retirement Committee, that is the motion.

SENATOR DWORAK: Well, I oppose the motion to retire. I think the arguments to return the bill are shallow in the fact that any time that we have any issue come up before this body and the opponents want to stall that issue, we come up with this idea or this concept of returning the bill. So I think that is something that this body shouldn't even consider. That isn't even good strategy. I talked to these people this morning before

the session began and I think they are very much aware of the financial...potential financial ramifications and I think they are in the process of trying to work that out, and whether they have or not, I don't think they have at this point but I think they will in the next couple days. Now if they can come forward with a plan like a contributory approach to this that would not have any financial ramifications on the city, I think we may be...we may look at this piece of legislation a little differently than we would right now, and I think we ought to give them an opportunity to see if they can work that out and keep this bill alive and on the floor until that plan is formulated one way or the other and then make the decision on the bill. But I think returning it to committee is just ducking an issue that deserves to be decided by this body. There's a lot of people across this state with a very vital interest in this. There are some obvious inequities in it right now that need to be straightened out in the retirement systems. I think the bill is a good vehicle to do that. It is on General File. I think it could very readily be advanced to Select File and then at that point make the decision as to when they will have the time to come up with an alternative plan and then make the decision on the bill. So I would oppose returning this to committee.

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, as a member of the Retirement Committee I also oppose having the bill sent back to us because there really is nothing that that can achieve. The bill that Senator Peterson is talking about that the League of Municipalities developed is really a separate plan than what we are talking about now. What they are proposing is something to be created possibly in the future that in no way solves the problem of the current pension system that police and fire have contributed to. There has to be some sort of reconciliation of this particular issue no matter what happens with LB 936, the League of Municipalities bill. And the issue that is in front of us in Senator Rumery's bill is a question of simple justice for those who are contributing to the plan, and to indicate that again Senator Rumery is being incredibly reasonable in his proposal if you were to look at the League of Municipalities' proposal, this new plan, when you get to this concept of termination benefits on page 4. This new proposal that the League of Municipalities has goes much further than Senator Rumery is talking about trying to adapt to the current contributions. So if the League of Municipalities thinks

that goes further than Senator Rumery in their own bill because they know that this type of returning interest is the reasonable and fair thing to do in any pension plan, if they go further than Senator Rumery in their own bill, then there is really no reason to object to that for the existing retirement system. Sending the bill back to committee only means that in one week or two weeks this issue will be back up on General File because this is a separate and distinct issue than the proposal of the League of Municipalities and there is really no linkage factor there. So I would say that we ought to debate this issue for this retirement plan now, the police and fire, and then when after the committee hearing which will be in about a week or ten days, after that issue, you know, is decided by the Retirement Committee, we can deal with that, but that is a totally separate issue. That is only police pension and that is only a future orientation. What we are talking about is the existing system that needs to be amended. So I would oppose sending this back to committee. I don't think that if there is any value...we have had a whole year to look and consider this bill, sending it back to the Retirement Committee, there has been no information provided to our committee that I think has changed anyone's mind in the committee. So I see no reason to send the issue back to us.

PRESIDENT: The Chair recognizes Senator Marsh.

SENATOR MARSH: Mr. President and members of the Legislature, I rise to oppose sending LB 387 back to committee. This proposal is before us now. I think we should address the issue. I think we should be making a decision on this and not be fiddling around. Our time is too short and too valuable this session to be arbitrarily doing this simply because someone does not like the bill or does not like the form in which it is in. I would oppose the return motion on LB 387.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, for about four years here everytime one of the bills came up on investment of public funds or investment of our retirement funds and the various pensions that the state handles, school funds, so on and so forth, I have been casting a bit of a warning and saying this situation is much more grave and much more severe than anybody wants to believe and it is going to come to haunt us. Now I think this may be the first year of

haunting and it is a complex issue and I don't think there is anybody that questions that, and it, therefore, follows the rule of inverse attention that rules in this Legislature and just about every other legislative body in the United States, and that rule goes, the more complex and costly it is, the less interest there is of legislators as opposed to death penalties and drunk driving and things like that that are relatively simple, that we can all command multitudes of attention on, that the press can get their teeth into, so on and so forth. This issue here, however, has a lot of ramifications that are going to go on forever. And so you know what I am going to try to propose and what I am suggesting, I am against returning the bill to the committee and I am against killing the bill, I am against passing the bill, I am against basically doing anything until you get the other half of this question out here which is the proposal by the Municipalities, or whatever. And it is my firm suspicion and I think you will see it verified that those who are in favor of 387 are arguing against what they normally would and that those that are sponsoring, including myself, the other proposal, are arguing against normally what they would, that the Muni plan is far more costly than 387, that 387 as it is gives far less benefits than these people who are involved are entitled to, but everybody is exactly the opposite of where they think they are in this particular situation. And I'd try to just prove a little bit of what I am suggesting by asking a few quick questions. Senator Fowler, it is my understanding that at the present time there is about \$12 million of unfunded liability by the first class cities. My question to you, and it is one of about three questions, it was the state that ordered this certain amount taken out of the individual's salary, is that correct? Out of the salary itself, a certain amount was ordered by the state or given the power to the cities to order to be taken out of the salary. Is that right?

SENATOR FOWLER: That would be correct.

SENATOR DeCAMP: In the case of that money that was taken literally out of the salary, for example, Tom Fogarty gets his check from the Lincoln Journal, but instead of getting his full check of his actual salary, so much per hour, or whatever, five percent is taken out and held by somebody. The somebody that held that in many cases did not hold it but, in fact, took it, borrowed it and used it for part of the general fund of the city, didn't they? Senator Fowler.

SENATOR FOWLER: Okay, I cannot say specifically that the cities...well, let me...let me...some cities have not put enough money in that the benefit that was promised can be paid right now. Okay, if you want to look on that as borrowing the employee's money, fine.

SENATOR DeCAMP: Okay, how in good conscience can you... can you, Senator, which is what 387 does now, how can you say, okay, Mr. Policeman or Fireman, or whoever is involved here, you can get your money back under the limits of this bill with a 5 percent interest return, how can you say that is fair? Is 5 percent a reasonable figure?

SENATOR FOWLER: Well, Senator DeCamp, the 5 percent was decided and it is a low figure. It is obviously lower than what people would be getting now and it is probably lower than the aggregate interest over the time of this period. We selected a single percentage for the convenience of the cities, that is, many times it says, average interest as it does in the League of Municipalities bill, that it is oftentimes difficult or more expensive to calculate on each individual account the average interest. So we chose just one percentage and we chose a low percentage, 5 percent, because we were trying to compromise and be reasonable. It is less than what somebody would get if they had contributed that money in a savings account, certainly, but it cuts down...right now the police system is not getting any interest, so we thought going to 5 percent was progress.

SENATOR DeCAMP: Okay, half of my point I think has been developed. The other half...Senator Fowler, have you read the Muni bill? The one sponsored by about 20 of us here?

SENATOR FOWLER: Yes, I'm familiar with it.

SENATOR DeCAMP: Is it more costly than this proposal right here?

SENATOR FOWLER: I think that in terms of this particular benefit portion the Muni bill gives more to the employee because it doesn't say 5 percent, it says the actual rate of interest...

SENATOR DeCAMP: Right.

SENATOR FOWLER:and in that way this section...the section that we are dealing with for the Muni bill which

is a proposal for the police in the future is a more expensive or a more liberal position than Senator Rumery's. It is also probably what people actually should get, so we were willing to compromise with Senator Rumery's bill to go half way.

PRESIDENT: Time is about up, Senator DeCamp, so if you will conclude.

SENATOR DeCAMP: Okay, my point is very simple. The cities are trying to buy time which is what the other proposal does and actually will treat ultimately more in the form of a pension, more in the form of fairness than this bill. However, this bill is based upon the idea, I think, down deep that the people have already been robbed and lied to and stolen from, literally, and it is terrible to put it in those words but that is what has happened, and, therefore, they are saying, look, we would rather just have some of what we put in back than to have this situation go on so we will take it. It is like the loan company saying, look, we will take 50 cents on the dollar just to get something. Therefore, my suggestion is that rather than move this bill or do anything with it, we wait until such time as the other proposal....

PRESIDENT: Time is up.

SENATOR DeCAMP:is up here which it has to be so that you can get the entire situation in clear focus.

PRESIDENT: Time is up. Senator Higgins.

SENATOR HIGGINS: Mr. President and Senators, the motion has been made that we send this bill back to committee pending the advice of the League of Municipalities. I am going to be brief. If your house is on fire when you get home tonight, are you going to call the League of Municipalities, or are you going to call a firefighter? And on your way home, if you get in an accident and you are sprawled out all over the highway, are you going to call the League of Municipalities and say, what shall I do, or are you going to have a police officer there who might be the first one that is going to save your life, if the fire volunteer doesn't get there? So whether you are from a metropolitan city, a primary city, or a first class city, right is right and wrong is wrong. We are supposed to decide here the merits of a bill. We are not supposed to be taking advice from lobbyists. They were supposed to give that at the committee hearing. So when you vote, just remember when you are in trouble who are

you going to call, the League, or are you going to call your local firemen and policemen? Thank you.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise in opposition to Senator Peterson's motion to return this bill to the Retirement Committee for further deliberation and consideration. I do so for several reasons but first I have to comment about the bill itself. Without any question the bill is an extremely just and fair bill. It simply provides a slight rate of interest on persons who leave a police and fire force early and receive their contributions back. And apparently according to the material I have on my desk, no one has testified in opposition to the fairness of that feature. Secondly, what it does, it is doing what the federal government, frankly, is requiring of all our retirement accounts, is providing a vesting period and a vesting period is very simple. A vesting period means when you have crossed this point in time, your rights to ultimately receive that retirement pension are guaranteed. Now the federal program that requires this to be done is the ERISA program, and I can't tell you what that ERISA stands for, probably Employee Retirement and who knows, all kinds of security accounts, but vesting is essentially a requirement of certain pension and profit sharing plans. But, obviously, public employees are not fully covered because we in the Legislature have to go back not under any federal mandate but just under what is good common sense and what is fair, right and practical to put a vesting provision in our firefighters' and our policemen's retirement programs, and that is all 387 does. It is a simple bill. It is a fair bill. Now the thing that is so interesting about this is that the actuaries for the Retirement Committee say look, 387 frankly is not going to cost the municipalities very much money. It is really a cheap bill. But the municipalities, the first class cities, come out on this bill crying, bloody murder, and the reason why they do so is because the bill continues to point out what they have been doing wrong for the last decade. What they have been doing wrong for the last decade is they have not been funding their responsibilities under their retirement programs adequately. You know, the City of Omaha was sued by its police officers I think six years ago in connection with the city's unfunded liability for its retirement programs, and that case was ultimately settled with an agreement between the police officers in the City of Omaha for the city to commit \$40 million new dollars to the police pension fund just to begin to get rid of the

unfunded liability. But what has happened here is that the cities under our direction have established retirement programs for their police and fire officers and probably for other employees, but they haven't been putting enough money into those programs to make certain the money will be there when these officers finally get at retirement age, and thus when you get a bill like LB 387 it continues again as a tremendous goad or a prod to the cities to put their house in order. Otherwise, as Senator DeCamp does indicate, it will all come down like a pack of cards because the money hasn't been committed to these programs, and it just has to be done. It is like buying life insurance. You have got to meet that premium payment so that eventually when you do pass on the money will be there. The cities have got to meet the premium payments so when the officers retire the money will be there. Now I have not read the current plan proposed by the League of Municipalities. I do know I had some conversations with its lobbyists a year ago at which time they told me that the plan was a very exciting and bold plan. It would be a good plan for all communities. But I don't know whether that plan will succeed in this body and not knowing that, I think the only fair and right thing for us to do is to keep this bill alive and to move the bill along because this is a just and proper bill....

PRESIDENT: One minute, Senator.

SENATOR V. JOHNSON:for overall retirement programs for city police officers and firemen. And for that reason, I would oppose the return of the bill to committee for further study.

PRESIDENT: The Chair recognizes Senator Nichol, and really the noise level is very high and I will see if I can hear Senator Nichol right now before I pound the gavel. So go ahead, Senator Nichol.

SENATOR NICHOL: Mr. President and members of the Legislature, I will try not to make too much noise, but Senator Vard Johnson, I would like to ask you a question since you are headed for the outside. Senator Vard Johnson, you explained it very clearly. Thank you. My question is...no not the question, I haven't asked you yet, but with the 7 percent lid imposed on cities, how do you propose that they meet this obligation?

PRESIDENT: Senator Vard Johnson, will you respond?

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SENATOR NICHOL: Well, my question is to you, would this be exempt first of all from the lid since I assume it isn't, or is it?

SENATOR V. JOHNSON: You know it might be exempt from the lid and I have to go back and read the lid law to give you the precise answer to that because my recollection is we did provide some exemptions from the lid for retirement programs.

SENATOR NICHOL: That is right, and I don't recall either, so with both of us having a bad memory, I will be interested in that answer as to whether or not it is within or without the lid.

SENATOR V. JOHNSON: I can probably look it up while you are still at the microphone.

SENATOR NICHOL: Thank you.

PRESIDENT: Senator Fowler.

SENATOR FOWLER: To deal with Senator Nichol's question, if you would read the memorandum from the committee actuary and look at the attachments, it would indicate the fiscal extra contribution that would have to be made, and it says at the bottom of the first page, number one, "for a city contributing to the retirement system based on actuarial recommendations, the increased and recommended annual contribution to reflect the provisions of LB 387 would not be significant. Based on the examination of annual costs for firefighter and police officer systems for several first class cities, the additional annual cost is expected to be less than one-half of one percent of covered pay roll," and by covered pay roll that is the fire and police pay roll. So the extra cost as determined by the actuary would be very, very small in terms of the city budget so that the pressure or impact on the lid would not be great. Also, as we all know, the lid terminates in one year with the sunset clause. So I don't think that there is any problem there. Now I do have an amendment pending that would have exempted this extra contribution from the lid. But I am going to withdraw that because the actuary indicates that the cost is insignificant and the League of Municipalities didn't indicate that they cared to have that amendment, so I really think that based on the actuarial information and the lack of response to that amendment from the League of Municipalities, I have to assume that a lid exemption is unnecessary

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because the actuaries indicated that the cost is minimal.

PRESIDENT: All right, Senator Peterson, you may close on your motion to return.

SENATOR H. PETERSON: Mr. Chairman and members of the body, I just feel that what we have had this morning is one side of the issue and that is the reason why I rose to support the return. It seems to me that I believe there are eleven of us in this body that signed the other bill...thirteen of us I guess who signed 936 and as has been pointed out, it is more liberal than the one that is before us, and it appears to me that it is rather foolish for us to move a bill across the board which is involved in another bill and that is the reason why I support returning it to committee so that the committee has both of them before them. I honestly believe that LB 936 is a much better and sounder bill and will in the long run satisfy the needs of these people better than what we have before us.

PRESIDENT: The motion before the House is the return of LB 387 to the Retirement Committee. All those in favor vote aye, opposed nay. Two are excused. Senator Peterson, do you want to do anything about a Call of the House or anything because I am going to call the vote? Record it? Record the vote.

CLERK: 14 ayes, 23 nays, Mr. President, on the motion to return the bill to committee.

PRESIDENT: The motion fails. Any other amendments on the bill?

CLERK: Mr. President, Senator Fowler had amendments on page 142 but I understand he wishes to withdraw those.

PRESIDENT: Senator Fowler.

SENATOR FOWLER: Yes, I would ask unanimous consent to withdraw that amendment. There did not seem to be any need or interest in that amendment, so I will ask to withdraw it.

PRESIDENT: All right, the Fowler amendment is withdrawn.

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

PRESIDENT: All right, Senator Rumery, do you wish to move the bill on?

SENATOR RUMERY: Mr. President and members of the Legislature, when this bill was before us last May, we received 24 votes. I hope somebody down deep in their heart could find the opportunity to give me another one. I move the advancement of the bill.

PRESIDENT: Any further discussion? Senator Fowler.

SENATOR FOWLER: Not to want to talk the issue to death, but I guess there may need...just again to re-iterate a few points. When the Retirement Committee looks at an issue one of the first questions that we consider is the question of equity and comparability, that is, is what we are proposing something that is basically a concept that is acceptable within the area of retirement, is it a concept that is offered to other employee groups, is it standard practice? What Senator Rumery is proposing in his bill is kind of the standard minimum for a termination benefit, and that is that you get at least some interest and it is 5 percent in this bill, and as Senator DeCamp pointed out, that is probably less than the going rate but at least it is more than the provisions are now. So there is certainly...this is a movement towards standard practice. The federal government for private plans requires this type of termination benefit. The programs that we have adopted in this Legislature for other systems are far more generous as far as benefits. When you look at the judges, the University of Nebraska, the state college system, county employees, state employees, you are looking at things that are more generous and, in fact, more in conformity with standard practice in committee principles than what we have here. When Senator Rumery brought 387 it dealt with firefighters in the first class cities. The committee amended it and expanded it to include police so as to maintain this concept of equity and fairness, and so that the provisions that are provided here although it may not be a return of all the interest income, at least at 5 percent it is providing for the employee who has contributed a certain amount of the interest money back. And I don't think that a city in its financial planning should plan to use the employee's money to get interest to fund the retirement system. That is not good, sound financial planning. Now as far as the fiscal impact of this bill, our actuary...I read you the statement that the extra contribution to affect this change is half of one percent of the payroll contribution of the police and fire, very small amount of money is the contribution. Now to the question of the other bill. The other bill does not solve the problem of the employee who has been

contributing for ten, fifteen years into the system. The money that has been taken from that employee in no way does the League of Municipalities' bill solve the problem of what about the interest the employee should have received on those dollars. The League of Municipalities' bill starts at a certain date and looks forward and deals with that problem for the future contributions. If it was passed this year, it would be on the dollars contributed next year and the year after. That bill does not deal with the question of equity for the dollars that have already been contributed. And that is why 387 is needed. Now if there are some who think that there is a linkage between the two bills, I would say, looking at the timetable of the Retirement Committee, that we will have a hearing next week in the evening and I would urge all committee members to attend... a little plug there to boost our attendance of committee members. Evening hearings are tough to get people for, but if the committee would come and we would have the hearing, I think that we could have some sort of action in the committee, a response one way or another, before this bill moves towards Final Reading and off Select File, looking at the current timetable. Now I don't think that there is very much linkage between these two bills. One deals with kind of a past problem, the other looks towards the future. But if you do believe that there is some sort of linkage, or you want to compare the two, I give you my assurance as Chairman of the Retirement Committee that we will have made a recommendation, had a meeting at least, the hearing and committee action before we take this bill up on Select File. It is a question of equity in this bill.

PRESIDENT: One minute, Senator.

SENATOR FOWLER: It is a question of dealing with a past problem. If you were asked to contribute to a retirement system, particularly given today's interest rates, wouldn't you want that interest to be credited to your account? So if for whatever reasons you move to another job, you could take those dollars plus the interest and purchase into a new retirement plan, or perhaps roll it over into another individual retirement account or something, but at least if you could get the interest that had been accrued. Somebody, obviously, is getting that interest. I think at least 5 percent of it should be given back to the employees. Anything made above that, Senator Rumery was willing to let the cities keep, which I think is very generous. I would urge this Legislature to advance 387 and I would say that we will be having a hearing shortly

on the other bill and you will hear a recommendation from us, but they are really not that closely linked as issues.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President and members, a question of Senator Fowler.

PRESIDENT: Senator Fowler, will you respond?

SENATOR COPE: I think I understand pretty well the 5 percent, the interest and that part of it, I could certainly go along. Now would you go over once more the other benefits if other than...the person who leaves the employ of the city takes it in a lump sum, that part I understand. But if he doesn't, exactly what happens?

SENATOR FOWLER: Okay, the other...okay, the bill changes only one other aspect of the pension system. The rest, I could get the chart and read over all the different benefits but no way does 387 change any of the other benefits, other than an employee after 10 years of service if they elect not to take their contribution plus interest, then they are able to leave the money there and get a pension based on those years of service. And again that is standard practice that in a certain number of years you can earn the right to a deferred pension, and that is the only other thing it establishes that after 10 years of service you have the option of taking the money with interest or getting a deferred pension. Below 10 years all you can do is take your money with interest, but it doesn't change any of the other benefits and provisions, and if you want, I can get a sheet and run down all those.

SENATOR COPE: No, that is...but I guess that is the part that bothers me, is the second alternative. Now taking the cash, I can buy that, but looking into the future there is a lot of cities today, Chicago, New York, a lot of big cities that have gotten themselves in big problems because of the fact that people are living longer, inflation, and I would tend to think that this could happen on this second alternative. Now if a person stays on duty, then I think they should have a pension, but when they work so many years and move onto somewhere else, I just can't see the reasoning there. I think, and I am not that familiar with the bill that is being presented by the municipalities, but I think that it does give us a basis of taking care of all the policemen and firemen in years to come on a much more equitable basis and probably a safer basis for them than the basis that we are working on now. So I oppose 387.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, at the risk of sounding boring I want to develop this thing a little more because I think it is important we all understand some of the implications and so I will try to ask a question again. Senator Fowler stated and he is absolutely correct that this involves about one-half of one percent increase. That is minimal, but that is as I see it not going to cause all the repercussions. The thing that I see is going to cause the repercussions and going to be not one-half of one percent but a significant hit on the cities is the fact that the money isn't there. The one-half of one percent is an actuarial figure and it presumes that money has been put in there. I just said, and it can be verified, that about \$12 million hasn't been in what, half a dozen or a dozen towns, Norfolk, Fremont and so on and so forth. Now, question, if you pass the law and say they are entitled to a specific amount of interest on a specific amount of money that they have put in, if they want to take it out, don't you also say by implication though it's never been stated on this floor, don't you say by implication that can be tested by a law suit, okay, Fremont and Omaha, put your money into the pot to make it actuarially sound to make everything correct and accurate and functional, and then doesn't that mean that in the case of let's say Fremont, and I don't know what the figures are but I think it might be close to a million bucks, huh, \$800,000, doesn't that say, okay, let's have a law suit like we did in Omaha, and Fremont, you now have to come up with that money, where do you come up with the \$800,000? The other bill as I say is intimately linked from the standpoint that it says, okay, we realize we are facing the problem and we are going to give fair benefits but we are going to buy time, put the problem off 8 or 10 or 12 years so they can do this gradually, and I don't know what that is right or wrong, fair or unfair. I think it may be more workable. But I do suggest, I do suggest we get both bills up here and deal with them together and you all take an hour of time and talk to some people about this and learn about it, because you are going to go home and find out we have done something you didn't expect. That is what happened when they started this back in the sixties, the late sixties, we simply passed a law and gave an order to some towns and said, now set up a pension plan and do this and that. And so somebody discovered one day, well, yes, well they have been holding out 5 percent of the money, or whatever, but it hasn't been going into pension plans, it's just been

going into the general fund and there is a liability. It's like they owe a debt, and this bill doesn't address who pays the debt and when and how and where do they get the money. And I can see the money coming from about a 30 or 40 or 50 percent increase in property taxes on some houses in these towns, and all hell will break loose if that happens and then somebody is going to call the Legislature and there is Senator Johnson and whoever and they're going to say, hey, what happened, what happened? What happened is you got to understand this bill and come up with a workable solution that isn't going to cause these problems but is going to be fair and at this time in the form the bill is in without taking the other things into consideration, I don't think you have got it. And so I would suggest, I would suggest you hold off advancing until such time as that other one gets up here. And don't get me wrong, I am for 387's solutions, at least the problems it attempts to address...

PRESIDENT: One minute, Senator.

SENATOR DeCAMP:getting solved. I am for the problems getting solved but not without getting both pieces up here. And so I am going to hesitate to vote to advance it but not hesitate to say this is one of the two or three top issues of the session that has to be addressed. And don't get me wrong also I am not saying that Senator Fowler or any of that group is being unfair. They are being imminently fair, the problem is the cities are going to be put in the position in a year of having to solve financial problems that haven't been addressed for ten or twelve or fifteen.

PRESIDENT: The Chair recognizes Senator Lowell Johnson.

SENATOR L. JOHNSON: Mr. President and members of the body, Senator DeCamp referred to the condition of Fremont in respect to the pension plans in question, and they do indeed have an \$888,000 unfunded liability due to the present concept of the pension plans. We are based on a definite philosophy here of fixed benefits versus fixed contribution formulas. And again, Fremont is not concerned with a problem with equity as indicated in the handout that we received this morning. But I do think the body is entitled to the full statement of Fremont with respect to that, and I will share that with you at this time. "We do not object to an employee getting his or her pension program contributions back plus reasonable accrued interest, we do object to vesting in a fixed benefit pension program if the employee does not stay until his normal

retirement date." Now in all fire and police pension programs in question if they were contributor programs and an employee's entitlement were based on what he contributed and what the city contributed, plus the accrued interest, I am sure Fremont would have no problems with LB 387, perhaps with the exception of the local determination issue which is another one that can be addressed. But for the basic reason that we are going to be considering an alternative in LB 936, I urge the body to vote no for the advancement of this current bill, 387.

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, I would say that Senator DeCamp has perhaps overstated the impact of this bill on the situation of the unfunded liability, not trying to underplay the situation that certain communities have with certain other pension funds. Senator DeCamp leaves the impression though that no dollars have been contributed, and, in fact, in the case of the Fremont fire system \$245,000, according to the actuarial study, is the value of the assets they currently have in their plan. Now their liabilities are greater than that and that is where the unfunded liability comes in. But the Fremont police system is overfunded. The actuarial value of the assets according to the Towers, Perrin, Forster and Crosby study, the value of the assets are \$58,000 above the liabilities. So in one system, yes, they are underfunded but in another system they are overfunded. And if they are overfunded in a system, I can't see any reason at all in that situation to worry about this bill. And in the case of underfunding, there are dollars, unlike what Senator DeCamp indicated, there are dollars in funds that if an employee left and wanted to withdraw the money, there are dollars in all the systems to fund that. So I don't think the crisis is as great. And let me stress again that the League of Municipalities bill is a future...for future employees and future contributions, is not an alternative to 387 because it does not deal with what the employees have contributed over the last 10 or 12 years or however long they have been in service. So they are not alternatives. You could do both but in any case if you wanted to solve the problem with existing employees, you have to pass 387. So I would urge that it be advanced after all this debate. It seems to me that if there is a need to compare in peoples' minds the two bills after the hearing, that that can be done as well on Select File as General File, and I think that there would be that opportunity. After all

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this debate and this is the second time we have had it on General File, used up a lot of time on the issue, it is not that dramatic. It may be a little complex because of the actuarial terms, but the impact is not that dramatic and for that reason I think we ought to advance it. I think it would be unfortunate if we would have to debate it again on General File.

PRESIDENT: Before we take up the next speaker on this bill, the Chair would like to introduce two groups, both of them from Belmont School, both of them in Senator Landis' District. The first is a group of 60 Fourth and Fifth Graders. The teachers are Mrs. Schernikau and Miss Davies. They are up in I think this end of the north balcony, and then on the other end of the balcony we have 50 Fourth Graders also from Belmont with Miss Kubik and Mrs. Gillespie. Would they all kind of wave their hands and let us know where they are? Welcome to your Unicameral. The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, I guess the argument that slays me most is that once again we are trying to erode local control, and we all have this memo from the City of Fremont in which they state that pensions, retirement and disability benefits are fringe benefit items which logically should be negotiated at the affected local level. They have the responsibility to do it. They have the responsibility to raise the money to do whatever they say they'd do, so I think we should leave this responsibility with the local people.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. President, a point of order, please.

PRESIDENT: Yes, state your point.

SENATOR KOCH: I was under the assumption that Senator Rumery was closing and asked for the advancement of this bill to E & R Initial. Am I incorrect?

PRESIDENT: No, he was not closing, he was just moving the bill. There has been no closing yet.

SENATOR KOCH: Okay.

PRESIDENT: Yes.

SENATOR KOCH: In that case, I want to comment on this

issue. I have been around here for several years. This issue is not particularly new and sometimes I want to be sympathetic to cities having been on city councils. In a case where cities have developed pension programs and then have seen fit to use that money in general funds rather than to actuarially carry out the obligation they have to those people who serve either in fire or police service, then I think that the burden of proof falls upon those cities. This bill that Senator Rumery and Senator Fowler have been discussing this morning I think has merit, and I think it is unnecessary that we should wait for a bill that may not see the light of day in a short session. If the municipalities have a bill which they say will solve the problem, then I am willing to wait with breathless time to see that they get it here. I believe that those men and women who have served thus far are deserving of some consideration. Therefore, I think it is time we move 387 and when the munies get their bill here which is going to take care of the future, we will act on that one. We are talking now about those who have served and deserve some attention in terms of the price they have paid for that service. Thank you.

PRESIDENT: The Chair recognizes Senator Rumery for purposes of closing on the motion to advance. Senator Rumery.

SENATOR RUMERY: Mr. Chairman, members of the Legislature, we are faced with a real problem here this morning and I think we have been able to solve some of it, at least, and I think we can accomplish the rest of it. Senator Lamb mentioned the local control. The proposition has been in the statutes for some time that the cities should do this, and the ones that are chafing under this now are the ones who haven't done it, and they need to get with it and get it done. I like to think that we are doing something for people who have impaired their health by breathing smoke and fire and going through all the other hazards that they have gone through to give them some kind of a decent retirement. Therefore, I move that we move the bill as it is amended.

PRESIDENT: Motion before the House is the advance of LB 387 to E & R Initial. All those in favor vote aye, opposed nay. Two are excused, Senator Rumery. Have you all voted? Senator Rumery, do you....

SENATOR RUMERY: Mr. President, I move for a Call of the House.

PRESIDENT: All right, record what is on the board, and

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the motion is, shall the House go under Call? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 26 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The motion carries. The House is under Call. The Sergeant at Arms will see that all members who are not at their desks will return to their desks. All other personnel will leave the floor. All members of the Legislature will register your presence. The House is under Call. Only one is excused now, Senator Rumery. Senator Hoagland, will you put your light on so we know you are here? Senator Schmit, Senator Chambers, Senator Kahle, Senator Newell. He is here. Where did the Speaker go? Would somebody get him in here. Senator Schmit, Senator Kahle, Senator Marvel, Senator...Senator Kahle is on his way, and I think....387, yes. Senator Kahle is the only one I think. Senator Schmit. We need Senator Schmit yet. Senator Schmit. All right, we are waiting for Senator Schmit, is the only one. Do you want to...Senator Rumery, whenever you want to proceed, or if you want to wait, we will wait. Senator Rumery, did you say you wanted to wait for Senator Schmit?

SENATOR RUMERY: He will probably be here in a little bit, won't he?

PRESIDENT: Well, I don't know. Someone has gone after him so if you want to wait.

SENATOR RUMERY: We might go ahead with a roll call vote.

PRESIDENT: All right, we will proceed then with the roll call vote on LB 387...moving of 387 to E & R Initial. All those in favor will vote aye, opposed nay. A roll call vote, Mr. Clerk.

CLERK: (Read the roll call vote as found on pages 488 and 489 of the Legislative Journal). 21 ayes, 26 nays, Mr. President.

PRESIDENT: The motion fails. The bill does not advance. Motion to raise the Call. The Call is raised. The Clerk will read some matters into the record.

CLERK: Mr. President, your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle instructs me to report 782 advanced to General File with amendments; 639 as indefinitely postponed, and 711 as indefinitely postponed. All signed by Senator Kahle. (See pages 489 and 490 of the Journal).