

out of the general fund today, why we'd all be working at it. Well I'm telling you, this is a \$50 million minimum savings over the not too distant future. Anyone that has doubts I can take and show you, show you the cases, names crossed out but you won't have any doubt once you read them what is going on. This needs to be done. I urge you to do it because remember this final fact. Insurance companies are simply an agency for collecting a lot of money and paying it out. They are going to always collect long-term, whether it is two, three, five years more, that is their profit, than they pay out. If they are paying out \$50 million fraudulently they're going to collect \$50 million fraudulently from everybody in the state and that is what is occurring. This is a major savings in cost containment for the state. It will help in your medical insurance. It will help in the overall medical costs. I urge you to adopt it.

SENATOR CLARK: The question before the House is the advancement of 421. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Record the vote.

CLERK: 30 ayes, 6 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The Chair declares the bill advanced. The Clerk wants to read some things in.

CLERK: Mr. President, new bills, LB 775 (read title); LB 776 (read title); LB 777 (read title); LB 778 (read title); LB 779 (read title); LB 780 (read title); LB 781 (read title); LB 782 (read title); LB 783 (read title); LB 784 (read title); LB 785 (read title); LB 786 (read title); LB 787 (read title); LB 788 (read title); LB 789 (read title). (See pages 234-238, Legislative Journal.)

Mr. President, I have notice of hearing by the Public Works Committee for gubernatorial appointments. I also have notice of hearing by the Public Works Committee for bills for Wednesday, January 20, and Wednesday, Thursday and Friday of next week. I have notice of hearing for Judiciary Committee for January 19.

Mr. President, Senator Marsh asks unanimous consent to print amendments to LB 139 in the Legislative Journal.

Mr. President, your committee on Constitutional Revision and

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LB 511, 778, 779

Mr. President, your committee on Banking whose Chairman is Senator DeCamp to whom was referred LB 778 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; and LB 779 General File with amendments. Both signed by Senator DeCamp.

Mr. President, on LB 511...

SENATOR CLARK: (Gavel) Could we have it a little quiet under the balcony please.

CLERK: ...there are E & R amendments, Mr. President.

SENATOR CLARK: There is no E & R amendments?

CLERK: There are, Senator.

SENATOR CLARK: Senator Kilgarin. Senator Lamb, would you take the E & R amendments?

SENATOR LAMB: Mr. President, I move the E & R amendments be adopted.

SENATOR CLARK: You have heard the motion. All those in favor say aye, opposed nay. The amendments are adopted. Next amendment.

CLERK: Mr. President, Senator Lamb would move to amend, and the amendment is on page 398 of the Legislative Journal.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, if I can speak over the din under the North balcony...

SENATOR CLARK: (Gavel) Could we once again have it quiet under the North balcony. We cannot hear.

SENATOR LAMB: ...I have an amendment which is printed on page 398 of the Journal and the first two paragraphs of that amendment are merely clarification. They make the same language just read a little better. The third paragraph requires that there will be a special license plate for the well-boring apparatus. We checked with the Department of Motor Vehicles and they have decided that this is the best way to approach it. The fee is not changed. It is still the one-twelfth which was in the bill as we advanced it from General File but there will be a designation on the license plate that this vehicle is hauling well-boring apparatus. That is the extent of the amendment and I ask that it be adopted.

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LB 764, 778

SENATOR BARRETT: Workmen's compensation, Senator Kahle, is based on a premium. You are paying a rate, so much per thousand dollars of remuneration.

SENATOR KAHLE: So it could affect them in the same way it would affect any other business, that is what you are saying?

SENATOR BARRETT: I would think so, yes.

SENATOR KAHLE: Okay, thank you.

SENATOR CLARK: Any further discussion? Do you wish to close on the motion to advance?

SENATOR BARRETT: I think only to say, Mr. Chairman, that I will attempt to address Senator Nichol's concerns and Senator Dworak's concerns on Select File. Thank you.

SENATOR CLARK: No further discussion, he has closed. All those in favor of advancing the bill, 764, vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on advancing the bill? Record the vote.

CLERK: 27 ayes, 1 nay, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. LB 778.

CLERK: Mr. President, LB 778 (read title). The bill was read on January 12 of this year, referred to the Banking Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CLARK: Senator DeCamp, on the bill please.

SENATOR DeCAMP: Mr. President, members of the Legislature, this bill is another one of those bills, we have to kind of keep devising a system to keep money in the country and keep agriculture financed, keep business in this state going. One of the questions that has arisen in recent months, recent years has to do with variable interest rate loans and this legislation simply clarifies the fact that they are legal. They are an allowed thing, and in the case of consumer loans, it puts some standards that don't exist now in the law and those are that before on a consumer loan,

before there is a change in the rate, there would have to be a ten day notification to the individual involved that the rate was changing. Now one of the main purposes of the bill is to avoid litigation and the litigation will come probably in the form of the fact that these loans are already being utilized widely, I am going to say almost exclusively on some larger loans, and, of course, PCAs, Production Credit Associations, Federal Land Banks, all other federal agencies are allowed to do this. This bill simply eliminates, as I say, that possibility of litigation by saying these are an allowed thing so that our state institutions and others know it and we also provide some additional protections that do not exist now for the average consumer and that is that they do get a notice, whereas under the present situation they don't. This was requested by the Nebraska Bankers Association. However, it does go much broader than just bankers. It would allow also, one of the main goals of variable interest loans is to allow lending institutions to enter into longer term agreements because now they know they will have the flexibility to follow what the market conditions are rather than to get trapped into a fourteen percent loan when things may go up to twenty and also to allow that consumer to know that if he signs up at twenty and it goes down to thirteen, he gets the benefit of that. So it is a two-edged sword again to provide a realistic dealing with the situation of money and credit as it exists in 1982.

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President, a question of Senator DeCamp.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Yes, sir.

SENATOR COPE: Senator DeCamp, I presume that bank loans are for a certain length of time and during that time the interest rate remains the same, or when, as written in the bill, ten days prior to changing. Now would you clarify that please? In other words, I go to the bank and for the next three months I could be sure that I was going to pay that amount of interest, is that correct, or could the bank come and say in ten days you are going to be charged more?

SENATOR DeCAMP: Senator Cope, it is going to depend upon the terms of the note. If the note specifically guarantees you a rate for three months, you have got that rate for three months. If the note provides a variable, then if it is a business loan, they could change that as conditions

go. For example, it might have one and a half percent over prime or some such standard as that in the note. What we do have now is the variable occurring, and in the case of the consumer, the change can be without them really knowing it. So on consumer loans we are providing a ten day notice that doesn't exist now but, of course, that depends upon the original terms of the notes, whether it says variable in there or whether it provides a rate, for example, that is the equivalent of a variable such as one and a half percent over prime. And the notice would be, U. S. mails mailed to you at the address put on the note itself.

SENATOR COPE: Now variable loans are used primarily in savings and loans, is that correct?

SENATOR DeCAMP: That used to be, Senator. That is where they were popular and where they were first developed, and again they were developed there for the purpose of giving the ability of the savings and loans to make longer term loans. However, banks now are using variable loans very heavily as are PCAs, Federal Land Banks, other federal agencies. Variable loans are here and it is time we recognized them officially and that is what the legislation does. So I would not want to deceive you even slightly by suggesting that the place where variable loans are going to occur under this legislation is S & Ls because, no, quite the opposite. S & Ls have their variable ability pretty much. This is going to put it across the board in other areas and that is the purpose.

SENATOR COPE: I understand that but I just...at the present time banks have a variable loan in that their length of time, sixty days, six months, a year, whatever it is, but it is for that length of time, isn't it...?

SENATOR DeCAMP: No.

SENATOR COPE: ...or is it the change on notice?

SENATOR DeCAMP: No. No. Again, let me make that clear, you could have a loan you signed today with let's say the First National Bank of Kearney, I don't know whether such a bank exists, and that loan could say right now, it probably does in the loans they are making, let's say a \$12,000 business loan for inventory and it would say right in there something like one and a half percent over prime, so on and so forth, and so that would change, could change from week to week. In fact it could change on a daily basis if things became that unstable.

SENATOR COPE: Thank you.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, I wonder if Senator DeCamp would respond to a question please. Senator DeCamp, you might have already answered this when you were visiting with Senator Cope but what we are talking about here, on an operating note from a bank, a six month note, right now is it a variable interest? Can they change interest rate during that six month period?

SENATOR DeCAMP: No, that is a contracted note. You sign a piece of paper that has writing on it as to what the rate is, and if the rate now says, fourteen percent, sixty days or six months, that is what the rate is. However, there are loans being made now where it says on the contract or in the note, it says one and a half percent over the prime or it says...it says variable in it, something like that. Both types exist and I am saying more and more banks are using the variable. This clears it up that it is a legal item. It also makes the bank, lending institution, know that they can make a longer term note because now they don't have to worry about those daily, weekly, monthly changes, and as you recall in a period of like six months which was the traditional note, you used to be able to get a minimum of six months in any note, you were having rate changes so fast and so rapid that what was sensible six months before the note was due became obsolete and costly either to the banker or the consumer and so this provides that flexibility to follow or track whatever the rates are. Therefore the lending institution is going to be willing to make that six month or year note. If you noticed what occurred here the last year or so was institutions started making three months notes. Regularly they would only go three months or even shorter in some cases and so this legitimizes what is going on in many cases...

SENATOR VICKERS: Senator DeCamp, you can use part of this in your closing.

SENATOR DeCAMP: Okay.

SENATOR VICKERS: I was just curious as to whether or not this was actually going to affect the ability of banks or the ability of borrowers to get a guarantee of a certain interest rate for a six months period of time at least and I would assume that banks would still be able if they so choose to do so...

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SENATOR DeCAMP: Absolutely.

SENATOR VICKERS: ...to have notes of a six months period of time, is that correct?

SENATOR DeCAMP: Yes, sir.

SENATOR VICKERS: Okay, thank you.

SENATOR DeCAMP: It might be cheaper for the consumer though to take the option, the variable.

SENATOR CLARK: Senator Goodrich.

SENATOR GOODRICH: I just wanted to rise and support the bill because of the fact what it does is it makes the banks...puts the banks in a position or any lender in a position where he can then make a longer term note without the fear of his cost of money going up beyond the cost at which he gave the note, the interest rate at which he gave the note. So, consequently, this particular legislation will make and more and more longer term loans available to the public and it is for that reason that I wholeheartedly support the bill.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: I have some questions for Senator DeCamp. I hadn't looked this bill over prior. Now presently are these banks and these loans illegal and what they are trying to do...is the effort just to legalize illegal activity that is going on?

SENATOR DeCAMP: Well, the legislation would make it clear that any variable had to be within state or federal laws, that there could be no violation whatsoever there, whatever the confines were, number one. Number two, whether a particular lending institution making a variable rate loan today is illegal or not I honestly don't know and that is why I suggested there probably will be litigation over the subject that will throw everything into confusion in the future unless we do clear it up. Now, remember one other thing I said. I said the variable rate can only be as contracted for. In other words, you have to agree to the variable rate and, of course, that is the situation today as it is being employed, that is the situation with the legislation.

SENATOR BURROWS: Okay, I want the rest of my time. If I understand this correctly, if a farmer wants a six month loan and he has got one bank that he can basically deal

with for all practical purposes, if that bank would change its policies under this law and decide to go to variable interest rate loans, he could be hung with the only option available to him with that banking system to take a variable rate loan and couldn't even be sure he would have his money at six months at sixteen or eighteen percent, if that bank changes its policies, and at this time with the credit available, what is the potential of him going to a different bank? It isn't there. There is a single charter in most of these towns across the state. The home loan, the homeowner is not going to, if the local lending institutions change to a variable rate, they won't have the option. It doesn't guarantee an option of a choice to that consumer. I think some people on this floor ought to look at the consumers' side rather than just what the banks want in legislation and this is a banking bill. It isn't a consumer bill. There weren't any consumers coming in looking for this. The bill is to make what is illegal today legal for some of the banking institutions of the state. I think it is high time that the Legislature start looking at consumer interest and be sure they are going to have the options. This isn't needed as I understand it in any way for the Federal Land Bank Association and I would like for Senator DeCamp to speak to that, if Production Credit and Federal Land Bank aren't currently exempted. So it doesn't affect them, and if I am wrong on that, I would like to be corrected but I think it is purely a bill for the banking interest of the state and has no benefits to the consumers in the State of Nebraska. Thank you.

SENATOR CLARK: Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Yes, Mr. President, members of the Legislature, to clear up some things so my good friend Senator Burrows does understand why PCAs are exempted, the answer is they already have the authority and they are doing this as is the Federal Land Bank and so the reason they are exempted is because they already have it. We don't need to deal with them. We are dealing with the other institutions. As for the consumer, I think it is much more a consumer bill for sure than it is a bank bill. If Johnnie DeCamp walks into the bank and says I need \$25,000, which I desperately need, by the way, but anyway I walk into the bank. They can say, look, how long do you want it for. Well, I say, I would like it for a year. They say, we are only making three month notes because we don't know what the rates are. We don't know what they are going to be in the future. Then they have the flexibility under this bill to track the rates and give me that year note or I can be faced with the other alternative of the bank saying, Johnnie DeCamp, you want \$25,000 for a year but we don't



know what is going to happen so we make the rate today signed in the agreement twenty-two percent. And I say that is awfully high because everybody is talking that interest rates are going to go down. We all heard that talk. Why are you tying me up. They are going to say because I don't know whether they are going to go down so we are going to protect ourselves. So I am going to pay as the consumer the additional interest. This definitely, by any standard you want to use, is the consumer bill to give him the terms and the length, to give him the option to have lower interest if interest rates go down, but anytime you have a situation like that, you also have the option if they go up for the recoupment of cost by the institution. And so I would urge you to adopt the legislation as definitely a pro consumer bill.

SENATOR CLARK: You have got a motion on the desk? Senator Burrows, do you want to take your motion up now?

SENATOR BURROWS: It doesn't matter to me.

SENATOR CLARK: Let's take it up now.

CLERK: Mr. President, Senator Burrows moves to indefinitely postpone the bill.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I think it is really a disgrace on the people in this state to let a bill that leaves an option for bankers that really have local monopolies across this state, they are chartered institutions, to shift their lending policies from fixed to variable interest rates. Senator DeCamp has not explained that this option does not exist, that they cannot through this option totally change their lending policies and move to variable interest rates on their entire loan setup. I don't think Senator DeCamp will contest this, that that bank will now have if we pass this bill the option to totally do away with fixed interest loans if that bank decides on it. I think it is a bad public policy decision to move this in this direction. They can have variable interest rates at what they want going out, take fixed interest rates on what they are paying to the people that have CDs and take advantage of all that low priced money on any increase in loans across their banking ledger. I would urge the body to look this bill over and think seriously about killing it while it is now on General File before we remove the consumer protection we have now by forcing fixed interest rate loans. I think it is one of the more serious mistakes we are making as this bill moves across the floor of the Legislature if we advance this to General File. I urge you to vote yes on the kill motion and dispose

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of this issue right now. It is not needed for the Production Credit Associations or the Federal Land Bank and I do hope that the homeowners and the farmers of this state and the small businesses will retain that option through their banking institutions of fixed interest rate loans so that they know when they calculate to go into a loan at least they know what they are going to have to pay for interest instead of taking a loan at a lower rate of interest and by the time that sixteen month period is out having an interest charge that runs whatever business or operation they have into a loser for them. I urge you to vote yes and kill LB 778 right here on General File. Thank you.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I feel kind of like the fireman who tried climbing up into the tree to get the cat, trying to help the cat down from the tree and the next thing he knows the cat is scratching him. This is clearly and definitely by any standard you want to use a consumer bill. It is the reason the consumer, for example, in PCA and Federal Land Bank has been able to get some financing and some long term financing because finally the PCA or the Federal Land Bank can say, Joe, we are going to give you a five or ten year loan and the reason we are giving it to you at a low interest rate now or whatever the existing conditions are is because we know with the contract you are signing you are willing, if interest rates go up, to pay the additional interest and we are willing to give you the benefit, if interest rates go down. In other words, you are buying the bread, buying the money in this case over a long term at whatever it costs plus the amount to handle it, one or two or three percent, whatever it is, above the cost of purchasing. Now Federal Land Banks and PCAs, those financial institutions, I repeat, do have this authority now. With conditions developing in which one farmer after another or one individual after another, because of Reaganomics or whatever you want to call it, is being squeezed out of their existing lending situation and having to look for additional financing, they are going to have to be able, we hope, particularly with this in conjunction with the next piece of legislation we will offer here, they are going to have to be able to find financing and they are going to have to be able to find financing that can give them more than three months so that they don't have to worry about going broke in three months or six months. They have some flexibility and they have some predictability. They know they have got two or three or five years or whatever. This gives them the potential. Now as to whether this is being done

legally or illegally, it is being done right now all the time. How is it being done? It is being done through a device called "side agreements". In other words, it is a rigamarole that obviously is going to charge the consumer or the individual more because it is more paperwork but what they do they fill out a bunch of papers and forms that says, in condition or in return for your making this loan, which has a certain loan here, in return for doing that, I agree with this side agreement to allow you to have a variable rate. That is what it gets down to. It is occurring now. This clears it up. I urge you to reject the kill motion. It is a fairly simple and obvious bill. If somebody can tell me, anybody on the whole floor here including my good friend Senator Burrows that interest rates now are stabilized and we have got her under control, we know that they are not going to go higher, they are not going to go lower, whatever, then I could see your argument. But with the current economic conditions and economic conditions foreseeable for the next several months, and years I would predict, with instability in interest rates, you had better give both the consumer and the man he has to get money from the flexibility to tailor those loans to the facts of life. I urge you to reject the kill motion.

SENATOR CLARK: Senator Nichol. Is Senator Nichol on the floor? Senator Howard Peterson. I will come back to him.

SENATOR HOWARD PETERSON: Mr. Chairman, members of the Legislature, I would rise to oppose the Burrows kill motion. I believe, Senator Burrows, you need to take a look at your own situation. You go to your bank today to borrow your funds for operations this spring, the bank is going to say to you, "Bill, we don't know what the rate is going to be like. We will loan you money a month at a time. You come in every month and sign a note and then we will charge the rate accordingly." This is really what we are saying with the variable rate only you don't have to come in every month. As I see it, what you are doing with your proposal, doing two things, one you are going to increase the cost of your money because the bank has to cover that cost of setting down and talking with you whether you like it or not. That is a fact of life. It takes time. It takes loan officers to do that. If you are going to have to sit down with every customer on a once a month basis, you are going to raise the cost of money in this state tremendously. Number two, you have got a competitive situation here. It is a fact of life. The small banks in this state are competing with the PCAs all over the state on agricultural loans, and when the PCAs can do this and you say to the small town bank you can't, then in reality what you are saying is we don't believe you

ought to be able to compete with PCAs. It seems to me that it would be a sad mistake for us to take that kind of action on this legislative floor. For that reason I would oppose the kill motion.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I don't usually get myself involved in banking bills but I just want to say something briefly. It would be easy here if we would just say to farmers and bankers, bankers, you can only charge seven percent interest to farmers and we would assume that they would do it. It is impossible. Whatever the interest rate is and whatever the bank is paying for its money, they have to charge a little more than what they are paying or they can't keep their doors open. I look back in the past when we would set limits at nine percent, cry what we are doing to the consumer. If we set the rate too lower, whatever it is, the bankers cannot make loans or the lending institutions cannot make loans. They have to make a profit. What that profit now is variable. It varies from day to day as you well know. I see nothing wrong with the bill and I oppose the kill motion simply because we say you can't charge more than a certain percent of interest doesn't make it so. The bankers know what it is. The people borrowing money know that it fluctuates. I think it is a good bill.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I arise to oppose the kill motion. A question of Senator Burrows, please.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Certainly.

SENATOR HABERMAN: Did you make some reference to the Production Credit Association or Federal Land Bank?

SENATOR BURROWS: Yes.

SENATOR HABERMAN: And what was your remarks?

SENATOR BURROWS: They are excluded and this situation leaves an alternative financing situation between the bank with the fixed interest rate and PCA with a variable rate. This leaves a farmer a choice, and if you give them both the variable rate, the farmer no longer, or the homeowner, has a choice.

SENATOR HABERMAN: Okay, thank you. As I understand it, the federal government is cutting back on funds to Federal Land Banks and PCAs and, therefore, it becomes more and more important that the local banker be able to come up with the funds for the farmers, and if the farmer, and I am one of them, who have gone to the PCA and the Federal Land Bank to get money and they have raised and lowered the rates to me through notices in the mail and I think it is perfectly fair so I see no reason to not give this opportunity to the local banker due to the financial condition that the farmers are in and they are going to have to have the money and we can't set a rate and say it is going to be this. So I rise to oppose the kill motion because, as I say, there is going to be less money from the federal government for the other two and we are going to need the money from the bankers to help the farmers. Thank you very much, Mr. President.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, the nature of my comment will be a question I guess to Senator DeCamp.

SENATOR CLARK: Senator DeCamp is not here right now.

SENATOR WARNER: Well, maybe somebody that is knowledgeable of the intent of the bill will answer it then. Most of the comments I heard (interruption).

SENATOR CLARK: Here is Senator DeCamp.

SENATOR WARNER: ..variable rate, but I am curious, the provision of the bill apparently only requires notification when the rate goes up. Now it would seem to me that it would be helpful to know when the rate went down also because some of us more or less monitor what the prime rate is in the papers from day to day, some of us from hour to hour, and I would kind of like to know when they didn't reduce the note interest rate. I am sure I will find out about it when it is increased but I think if notice is the purpose then the notice ought to go both ways, up or down. Would you see a reason why the bill only notifies the loan person, the person holding the loan, that is having the loan is only notified when it goes up?

SENATOR DeCAMP: There is no problem if you want to put it going down, too. I guess we thought it was important on consumer loans that the bad news be officially delivered and the good news you would discover, I guess. It is going

to happen either way. If you want a notice in there, it doesn't bother me.

SENATOR WARNER: I will maybe do that later then. I am curious because some may be a little negligent in notifying you when they went down and this way you could kind of monitor the rate of interest as long as it is going to be variable on a very short term basis.

SENATOR CLARK: Senator Vard Johnson.

SENATOR VARD JOHNSON: Senator DeCamp, could you help me with just a few answers on this? Right now as I understand it from our general usury bill that we are talking about, what was it, 643, I can't remember the number, no, it is 623, the federal government has essentially preempted virtually everything the state has done in connection with usury. That is, as I understand it, under the current depository deregulation act, the federal government has said that there will be no usury rates whatsoever for home mortgages, and there will be no usury rates whatsoever for business loans, and no usury rates whatsoever for agricultural loans, and any consumer loan over and above \$1,000, there are no usury rates. Am I correct on that or not, Senator DeCamp?

SENATOR DeCAMP: That is a pretty good summary, yes.

SENATOR VARD JOHNSON: Okay, now what that means then is if there are no usury rates applicable to those loan transactions, then whatever rate is imposed on a borrower under those transactions can be a variable rate, isn't that correct? I mean it would be a contractual matter and so, therefore, if the federal government right now has preempted the field, there is no reason why the lender and the borrower cannot have a variable rate?

SENATOR DeCAMP: Well, you have got...Vard, the way it is done, as I say, they pick a bench mark, whether it be the prime rate or some other thing, and it has to all be written contractually. In order to get around any conflicts, they are using side agreements.

SENATOR VARD JOHNSON: What I really am trying to get at, Senator DeCamp, is frankly whether LB 778 is a necessary bill in light of the current federal preemption because I don't know. I just don't know the answer to the question.

SENATOR DeCAMP: Okay, and that gets back to where we started this conversation about thirty minutes ago. In order to clear up the question and avoid litigation, I suggest we do this as has the banking industry.

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SENATOR VARD JOHNSON: Okay, so we don't really know whether it is necessary or not but very simply, the banking industry, the finance industry think it is appropriate just to make certain that the "t's" are crossed and the "i's" dotted.

SENATOR DeCAMP: To a degree, that is close.

SENATOR VARD JOHNSON: All right, thank you very much, Senator DeCamp.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, a couple of thoughts that I have had and I don't know how to really vote on this issue but one of the things that bother me is the fact that again you are squeezing the guy that is having trouble with credit. I, as a borrower, perhaps if I don't like what my bank charges, I can go somewhere else and perhaps be successful. I am not sure about that. But the guy that has got his back against the wall, he has no choice and they are going to rip it to him because he can't move. He can't go to another bank. He doesn't have any credit there. He is probably in trouble with the bank that he is already at and maybe that is the reason they want a guaranteed interest rate. Whatever happened to free enterprise? We all talk about it. This is a guarantee that the bank is going to make money no matter what happens to the other poor devil. And perhaps if the banks all go broke, we are in bad shape too but if the farmers all go broke we won't need any banks. I just can't see why we should have this cast in cement that we have to follow whatever that interest rate is on perhaps a monthly basis, Senator DeCamp, or what is the increment?

SENATOR DeCAMP: There is no increment. It could theoretically be on a weekly basis depending upon what is happening to the economy and what is happening to interest rates. I think you watched when they were for a while changing a point or two in a week.

SENATOR KAHLE: Well, my problem is then that banks have been very careful to see that a farmer had a cash flow set up for his entire operation for the year, and if you are a young farmer, this is absolutely the only way a bank is going to deal with you. How in the world can you set up a cash flow with an interest rate that might change every week and still be farming at the end of the year? I just don't believe it is going to help anybody but the bankers. Thank you.

SENATOR CLARK: Senator Burrows, do you wish to close?

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SENATOR BURROWS: Yes.

SENATOR CLARK: Wait one moment. Senator Vickers, your light has never been turned off. I didn't know what you wanted.

SENATOR VICKERS: Thank you, Mr. President. Mr. President and members, I rise to support Senator Burrows in his kill motion for many of the same reasons as just pointed out by Senator Kahle. It seems to me that what we are doing here is guaranteeing that the banks will certainly make money, and as to how in the world we are going to be able to figure our costs when we consider our cost of interest as part of our operational cost, and by the way that cost is one of the larger costs that at least my operation has any more. Another point that I think needs to be brought out, if it is so great for them to have a variable...the ability to have a variable interest rates changing on ten days notice, then why don't they also get that same provision for people with savings account so that the interest rate that they are paying for their money to an individual that is putting money into a savings account could be on a variable rate and go up right along with the cost of money. If it is fair on one side, it would seem to me that it should be fair on the other side, too, so I am going to support Senator Burrows in his kill motion on LB 778.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, if you will look in your book as to the proponents, there is one proponent, Bill Brandt from the Nebraska Bankers Association. There was not a consumer, if he is a consumer proponent, I think we are in real trouble in this legislative body because I don't think we can look to the Nebraska Bankers Association to protect the consumers and consumer interest on interest legislation in this Legislature. I would like to correct some fallacies, I think, presented by Senator Haberman. Production Credit and Federal Land Bank borrow on a national money market. They do have a rationale for variable interest loans but they don't hop around every month or every two weeks or every week which this bill would provide the option to do. There is a strict difference between the way most of the bank's money is purchased. Most of it comes from depositors and is on a fixed rate of interest. That bank has a fixed rate of interest on that CD, on the deposit money in that bank when he makes out his note and there is no rationale that he should quickly be moving because of a small portion of



money that he might be borrowing on a national money market. It just doesn't fit. The rationales are totally different between the banking situation and the Production Credit and Federal Land Bank situation. They plain don't have a good argument to go to variable interest rates. Now what the banks do with it, if you want to trust to the compassion of these banks, chartered institutions, and in many communities in the State of Nebraska where they have customers in trouble, they are the sole borrower that is potential for that customer. The next chance really is either the Production Credit Association, Federal Land Bank or Farmers Home Administration, and if they cut back in what was I think Senator Haberman's reference, probably the FHA, they may have problems getting in over there. So let's give the person that is the borrower a little protection and retain the present system where he can get the fixed interest rate law with security from the bank if he is going to get a loan there or he can have the option of going to the variable rate over at the Production Credit Association or the Federal Land Bank. This is one of the greedier bills that has been presented in this session of the Legislature, a pure bankers bill with no consumer protection whatsoever in it. I think everyone in this Legislature should think a little bit more about their customers and their constituents that are borrowing the money rather than the lender himself. Another point you might think, it gives no protection, no advantages to the depositors in the state. All it is for is the banking institutions. I urge you to vote to indefinitely postpone this bill right here on General File. Thank you.

SENATOR CLARK: Senator Burrows was closing. For what purpose do you rise?

SENATOR HABERMAN: A point of personal privilege, Mr. President.

SENATOR CLARK: State your point to the Chair.

SENATOR HABERMAN: Senator Burrows, would you please call me Senator Haberman and not Senator Höberman. Thank you very much.

SENATOR CLARK: That is a real point of personal privilege. The question before the House is to indefinitely postpone LB 778. All those in favor vote aye, opposed vote nay. This only takes a simple majority.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Record the vote.

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CLERK: 5 ayes, 30 nays, Mr. President.

SENATOR CLARK: Motion lost. We are back on the bill, 778, for the advancement. Did you want to close on the advancement of the bill?

SENATOR DeCAMP: Yes, I will close on the advancement. Mr. President and members of the Legislature, I don't think a closing is necessary from a standpoint of maybe getting votes because I think there is enough people understand it but I think it is necessary from the standpoint of making sure that you do understand this bill because I swear to you this is a pro consumer bill and it is rather depressing to me that a couple individuals are seeing it otherwise. Senator Burrows walks into his bank and says, look, I want a loan, operating loan, for the next eight or nine months for my farm and he says, by golly, I don't want you playing around with any of that variable interest rate. The banker says, fine, Bill, fine with us. We are happy. And Bill says, what is the interest rate? The banker says, well, I don't know what the interest rate is going to be next month or four months from now but I will tell you this, Bill, I know what it is today and I know what I think it might get up to and I am just going to give you an interest rate that will make sure that I don't have any losses. In other words, under the present system he is going to make that interest rate guaranteed high enough for the period of time to make sure there isn't any possibility he is wrong. And so if everybody else is getting their money at fourteen or fifteen or sixteen, Bill is probably going to get his at eighteen or nineteen if he wants the term. The other option Bill has is the banker can say, Bill, I don't know what the interest rates are going to be for six months but I will give you a thirty day note and you can come in and renew it in thirty days. That is where you are at. This is a clearly, strictly optional provision. Bill can insist on the other system and the bank can follow the other system exclusively if they want, and when I say the bank I mean more than just a bank, lending institutions. This is simply an alternative way to lend money and I guarantee you if you will think about it it is clearly pro consumer. Now sometimes you use circumstantial evidence to prove your case and I am going to use a little circumstantial evidence in this one and it goes something like this. Vard Johnson everybody would agree is a pretty bright fellow. Davey Landis is on the Banking Committee as a lawyer and one of the things he specializes and really puts his heart into has to do with interest rates and what is happening there. Peter Hoagland is no dummy. He is a bright young lawyer, too, Harvard, Yale, whatever. Everyone of those

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individuals if you were watching, everyone of them voted no and voted against the kill. Now do you think that really these people could be called anti consumer. Absolutely not. I think you would have to say these are three individuals that have a bit of a reputation for being pro consumer. Now I acknowledge that. Everyone of those understands this bill pretty well and everyone is voting against killing it. Finally with respect to Senator Burrows argument about on depositing money, why can't they get a variable rate, too? Well, that is what has developed. That is the whole system that has developed and probably half of this body and half of those reporters up there in one form or another are participating in it and it is called "money market funds". Right? That is the new age. You put your money in and you get more or less depending upon what the going rate of interest is. The other thing that limits it when you put it in a savings account such as the five percent or the five and a quarter percent, that is an existing federal law that they are talking about eliminating, too. But if you want variable interest, you sure can get it at the highest amounts in money market funds. So I repeat, I think this is an important bill, and just because the bankers support it doesn't mean that it is bad. Bankers, incredible as it sounds and it sounds incredible to me on occasions, bankers can do things that make the system work better. They can make the financing system work better.

SENATOR CLARK: You have one minute.

SENATOR DeCAMP: And this is one of the areas where something needs to be done and where they are supporting it.

SENATOR CLARK: The question is the advancement of 778. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: This is advancing the bill. Have you all voted? Record the vote.

CLERK: 29 ayes, 3 nays on the motion to advance the bill.

SENATOR CLARK: The bill is declared advanced. LB 779. Go ahead and read in.

CLERK: Mr. President, some items to read in. Senator Lamb would like to print some material in the Legislative Journal.

I have an item scheduled for Special Order by the Speaker.

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LR 214

LB 127A, 636, 724, 778, 823, 834

SENATOR NICHOL: One minute left. Senator DeCamp.

SENATOR DeCAMP: I wasn't going to talk but it just occurs to me that you are all maybe going the opposite way on this. All the resolution says, if you read it, is exactly, precisely the opposite of what Ernie wants. The resolution says, look, we realize there are some touch economic times and we have already indicated support for this particular road, and if it gets into trouble, it is the intent...and that is all it says, the intent of the Legislature to try to continue it on. Well, that seems to me to make sense for those, I don't know, 40 or 50 that wanted the doggone road, and I guess they think it is a necessary road. I think Ernie is the one that is the winner. Everytime you vote against him you are voting against him without reading the resolution because the resolution is the last thing he ever wants. He wants a record that shows everybody opposed the state doing what they said they wanted, which was the road. So I suppose if you were smart, you would just pass the dumb resolution and he would be the only loser, it just occurs to me.

SENATOR NICHOL: Senator Chambers, did you wish to close? Senator Chambers, did you wish us to vote on your motion to reconsider, or do you wish to with....okay, he will withdraw. Is there any objection to Senator Chambers withdrawing his motion? Senator Haberman. The motion is withdrawn. Mr. Clerk, do you have some things to read in?

CLERK: Yes, sir. Mr. President, Senator Sieck would like to print amendments to 127A; Senator Vard Johnson to 724. (See page 606 of the Legislative Journal).

Mr. President, your committee on Miscellaneous Subjects gives notice of cancellation and resetting of a public hearing.

Senator Vickers would like to print amendments to LB 778 in the Journal. (See page 607 of the Journal).

Your committee on Urban Affairs whose Chairman is Senator Landis, reports 636 advanced to General File with committee amendments attached; 823 advanced to General File with committee amendments attached. Those are signed by Senator Landis. (See page 607 of the Journal).

Your committee on Public Health whose Chairman is Senator Cullan, reports LB 834 advanced to General File. (See page 607 of the Journal).

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LB 264, 309, 347, 403, 418, 542  
563-66, 572, 579, 642, 659, 677  
703, 705, 718, 719, 722, 724,  
764, 774, 778, 779, 797, 852,  
879, 606, 32, 229, 490, 492

SPEAKER MARVEL PRESIDING

RABBI BISMAN: Prayer offered.

SPEAKER MARVEL: Item #2, roll call. Please record your presence. Record your presence. Pat, do you want to record.

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

SPEAKER MARVEL: Do you have anything under #3?

CLERK: Mr. President, I have several items. First of all I have a reference report referring LR 218 to the Banking Committee for public hearing.

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication re: 264, 309, 347, 403, 418, 563, 564, 565, 566 and 572 as found on page 613 of the Legislative Journal.)

A second communication. (Read re. LB 542.) And a third, Mr. President, from the Governor addressed to the Clerk. (Read re. 32, 229, 490 and 492. See pages 613-614 of the Legislative Journal.)

Mr. President, your committee on Education whose chairman is Senator Koch reports LB 642 advanced to General File; LB 774 advanced to General File; LB 797 advanced to General File with amendments. Those are signed by Senator Koch.

Your committee on Public Works whose chairman is Senator Kremer offers a corrected statement to LB 852. (See pages 614-615 of the Legislative Journal.)

Mr. President, your committee on Government, Military and Veterans Affairs whose chairman is Senator Kahle reports LB 879 advance to General File with committee amendments attached. That is signed by Senator Kahle. (See page 615 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 606 and recommend that same be placed on Select File; 579 Select File; 703 Select File with amendments; 705 Select File; 718 Select File; 719 Select File; 724 Select File; 677 Select File; 722 Select File with amendments; 659 Select File; 764 Select File with amendments and 778 Select File with amendments and 779 Select File with amendments, all signed by Senator Kilgarin as Chair. (See pages 615-616 of the Legislative Journal.)

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LB 778

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 778.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. The E & R amendments are adopted.

CLERK: Mr. President, Senator Vickers would now move to amend the bill and the Vickers amendment is found on page 607 of the Journal. (Read Vickers amendment.)

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President and members, the issue of variable interest rates was discussed at quite some length when this bill was on General File and as Senator Kahle, Senator Burrows and myself and others pointed out, when you allow or encourage interest rates to be adjusted in short periods of time it puts quite a financial impact on people involved in agriculture and other businesses that rely so heavily on large amounts of borrowed funds for their operating capital. Considering the rates that interest are now it is a large portion of our costs of doing business. It was pointed out by Senator DeCamp and other members of the body that the various financial institutions needed that ability to have variable interest rates. It just seemed to me that what is sauce for the goose should be sauce for the gander. It ought to also be allowed or stated that various variable interest rates should be paid then for those...by those institutions as they have funds put in for deposit by the citizens of the State of Nebraska. That is in very simple terms the essence of this amendment.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I think I am opposed to this and I don't claim to be that knowledgeable about all the multitudes of things that occur in interest and the way all the federal laws work but talking to Mr. Brandt who is supposed to be an expert and of course you all know Mr. Brandt, he informed me that these things that he is trying to control are controlled by federal law, federal this, federal that, therefore, it becomes somewhat unworkable. I see what Senator Vickers is trying. I guess these two just aren't able to mesh and the one might destroy the other, it might destroy the bill so...but with total sympathy to his goals I guess maybe, and some of his desires here, I would oppose the amendment from a workability standpoint.

SPEAKER MARVEL: Senator Vickers, do you wish to close on your amendment?

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SENATOR VICEPS: Mr. President, I will just withdraw the amendment. I think the point has been made. I think that was the attention I was trying to do.

SPEAKER MARVEL: Hearing no objection, so ordered. The next...

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

SPEAKER MARVEL: The motion is to advance the bill, Senator Kilgarin.

SENATOR KILGARIN: Mr. President, I move that we advance LB 778 and I request a record vote.

SPEAKER MARVEL: All those in favor of the motion vote aye, opposed vote no. A record vote has been requested. Have you all voted? Have you all voted? Senator DeCamp.

SENATOR DeCAMP: Mr. President, of course we don't want to have Calls of the House unless we have normally kind of close votes. With three opponents here showing on the board we'd hope we could get up to 25 without having to go through a lot ceremony. I think that is what everybody kind of wants. And I know it would inconvenience a lot of the committees that are holding their special executive sessions and so on and so forth to have a Call of the House. At the same time I see it's not moving very rapidly from 23 to 25.

SPEAKER MARVEL: Have you all voted? Let's try it once more and then...

SENATOR DeCAMP: Well the other people are in committee.

SPEAKER MARVEL: Senator Newell, we are on LB 778. Senator DeCamp.

SENATOR DeCAMP: Mr. President, obviously we are going to have to have the entire legislative body here for the balance of the afternoon's activities since we've got members wanting roll call votes or record votes and everything. I ask for a Call of the House and advise you in advance that I will be insisting upon roll call votes for each and every motion on anything from this point on the balance of the afternoon unless the rest of us can start acting like gentlemen in here and I mean it. And I am entitled to that under the rules if you are going to do that. I would ask for a Call of the House and a roll call vote.

SPEAKER MARVEL: Record.

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LB 778, 779

CLERK: 25 ayes, 3 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is 779.

CLERK: Mr. President, if I may right before that, Senator Dworak would like to print amendments to 631; and Senator Fenger to 714 in the Legislative Journal.

Mr. President, E & R amendments, Senator, or do you know that?

SPEAKER MARVEL: Before we go to Senator Kilgarin, it is my privilege to introduce 40 adults from all points of the state as members of the Nebraska Health Care Association. They are located in the North balcony. Would you indicate your presence so we can welcome you to the Unicameral. It would be all right if you took the snow with you when you go home. LB 779, E & R amendments.

SENATOR KILGARIN: I move the E & R amendments to LB 779.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. The E & R amendment is adopted.

CLERK: Mr. President, Senator Schmit would now move to amend the bill and the Schmit amendment is found on page 709 of the Journal.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I move the adoption of the amendment. May I explain the amendment? The amendment, Mr. President, and members of the Legislature, provides that the banks which are investing in agricultural credit corporations who have expanded the base of their lending capital can by virtue of the fact that in this instance where they own more than eighty percent of the stock in the corporation can further expand the amount of credit they can make available to their customers. It is an addition to the agricultural credit act, one which has just started to get some rather broad acceptance among the banks. I agree with the bill and I believe that the amendment is well explained, well understood by those of us who are involved and I do not know of any opposition to it. I urge the adoption of the amendment.

SPEAKER MARVEL: The motion is the Schmit amendment to LB 779. All those in favor of the motion vote aye, opposed vote no. LB 779, the Schmit amendment, have you all voted? We are



LB 577, 579, 601, 605, 642, 644, 651, 662,  
677, 678, 696, 697, 718, 718, 719, 720,  
728, 729, 739, 743, 764, 767, 767A, 775,  
776, 778, 784, 792, 796, 807, 824, 825,  
828, 839, 845, 869, 877, 890, 892, 931,  
941, 951, 952, 961, 962

March 9, 1982

SPEAKER MARVEL PRESIDING

REV. MORRIS VENDEN: Prayer offered.

SPEAKER MARVEL: If I could have your attention for a moment before we proceed. The chairmen had a meeting today and it was agreed that we would attempt to control debate as we have not done too well in the last few months and that we would try, for instance, with 652 to have the debate and the vote on advancement after one hour and that we try to have the pros and the cons of these issues so it doesn't take forever to get the point across. This time we're in a position where we either try to limit debate or many of the other issues will simply go down the drain. So the Chair would appreciate, the chairmen would appreciate your cooperation in trying to give people an opportunity on both sides and not spend all day in the discussion. Record.

CLERK: There is a quorum present, Mr. President. Yes, sir, I do have some items to read in. Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 579 and find the same correctly engrossed; 662 correctly engrossed; 677 correctly engrossed; 718 correctly engrossed; 719 correctly engrossed; 728, 729 correctly engrossed; 764 correctly engrossed and 778 correctly engrossed. (See page 1060 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 720 and recommend that same be placed on Select File with amendments; 767 Select File with amendments; 767A Select File; 807 Select File with amendments; 941 Select File; 877 Select File; 577 Select File; 792 Select File; 605 Select File; 931 Select File with amendments; 796 Select File; 845 Select File; 644 Select File; 739 Select File; 696 Select File; 828 Select File; 642 Select File; 678 Select File; 775 Select File; 776 Select File; 951 Select File; 961 Select File; 952 Select File; 784 Select File; 651 Select File; 716 Select File with amendments; 743 Select File; 601 Select File; 869 Select File with amendments; 697 Select File; 825 Select File; 892 Select File; 962 Select File with amendments; 839 Select File and 890 Select File with amendments. Those are all signed by Senator Kilgarin as Chair, Mr. President. (See pages 1057-1059 of the Legislative Journal.)

Mr. President, I have a motion from Senator Labeledz to place LB 824 on General File pursuant to Rule 3, Section 18(b). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Okay, we go to item #4 and we're talking about LB 924 and I would caution you to do your best to get

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LR 243  
LB 202, 267, 449, 579, 606, 628, 630,  
654, 662, 692, 702-703, 717-719,  
728-729, 778, 801, 829, 852

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by LeRoy Hofker, Treasurer of Gideons International, the bible distribution society, from Lincoln, Nebraska.

LeROY HOFKER: (Prayer offered).

PRESIDENT: Roll call. Have you all registered your presence so we can get underway? Senators Wagner and Fowler, if you would go over there to the desk and push that button, we could get underway. Senator Higgins, if you will push that button, I will show you are here. Okay, have you all registered your presence? Record the presence, Mr. Clerk.

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

PRESIDENT: A quorum being present, are there any corrections to the Journal?

CLERK: I have no corrections this morning, Mr. President.

PRESIDENT: The Journal will stand as published. Any messages, reports or announcements?

CLERK: Mr. President, LBs 267, 702, 717, 449, 579, 662, 718, 719, 728, 729, 778, 606, 630, 801, 703, 692, 654, and 829 are ready for your signature; as is LR 243.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 267, 702, 449, 579, 662, 718, 719, 728, 729, 778, 606, 630, 654, 692, 703, 801, and 829.

CLERK: Mr. President, Senator Wagner would like to print amendments to LB...I am sorry, Senator Wesely, to print amendments to LB 852.

And Senator Chambers would move to reconsider the vote to indefinitely postpone LB 202. That will be laid over.

PRESIDENT: Okay, so ordered. We are ready then for Final Reading. The Sergeant at Arms will secure the Chamber, all members will return to your desks, and all other people will leave the floor of the Legislature. We are ready for Final Reading. All right, Mr. Clerk, I guess we are all in place so let's proceed with the reading of LR 628 on Final Reading.

CLERK: (Reading of LB 628 on Final Reading.)

LB 69, 267, 359, 435, 449, 579, 606, 628,  
630, 654, 662, 692, 702, 703, 717, 718,  
719, 722, 728, 729, 778, 782, 801, 829

March 22, 1982

PRESIDENT: The amendment is adopted. We are going to stop now and recess until 1:30 and then we will come right back onto this bill. Senator Nichol, would you like to recess us until 1:30. We have one communication to read in.

CLERK: Mr. President, engrossed LBs 267, 359, 435, 449, 579, 606, 628, 630, 654, 662, 692, 702, 703, 717, 718, 719, 722, 728, 729, 778, 782, 801, 829 and 69 were signed by the Governor on March 19 and delivered to the Secretary of State.

SENATOR NICHOL: Mr. Chairman, I move we recess until 1:30 this afternoon.

SENATOR CLARK: You have heard the motion. All those in favor say aye. Opposed. We are recessed until 1:30.

Edited by:

*Marilyn Zank*  
Marilyn Zank