

January 14, 1981

LB 140-151

SPEAKER MARVEL: Item #5, resolutions.

CLERK: Mr. President, LR 4 is found on page 127 of the Legislative Journal. (Read LR 4.)

SPEAKER MARVEL: The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker. I will be very brief. This resolution is self-explanatory. Those of you who remember the recent election, the effect that it had was rather profound on certain local officials in terms of their re-election or defeat. At seven o'clock as you recall the newsmedia, television primarily, declared the winner to be President Reagan-elect and as a result it has been brought to my attention that not only on the west coast but even it affected our own state. Those who were going to the polls suddenly decided the election was resolved and why stand in lines. So what this resolution does is encourages Congress to seriously review the problems and try to correct them by the next presidential election so this does not reoccur. This resolution is being introduced by numbers of other states and the same resolution is being sent to Congress and hopefully they will act positively. Thank you.

SPEAKER MARVEL: The motion is the adoption of LR 4 as explained by Senator Koch. Is there any other discussion? All those in favor of that resolution vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 0 nays on adoption of the resolution, Mr. President.

SPEAKER MARVEL: The motion is carried. The resolution is adopted. Do you want to go to the next one? Do you have another resolution? Okay, the next item is the introduction of new bills.

CLERK: (Read LB 140-142.) (See pages 144-145 of the Journal.)

SPEAKER MARVEL: ...(mike not turned on)...need to be processed so if you have some or anticipate some maybe we can get some more in today before we proceed with other business. The Clerk has some items on the desk that he may read in.

CLERK: (Read LB 143-151.)

Mr. President, Senator Koch would like to be excused on Wednesday, January 14 through Friday, January 16 and Senator Marsh would like to be excused all day January 15 and 16.

February 11, 1981

LB 20, 27, 29, 30, 37, 45,  
82, 125, 130, 140, 150, 165A,  
167.

RECESS

SPEAKER MARVEL: Come back to order, please. The Clerk has a couple of items to read in and then we will proceed back with the business as we had it prior to this recess.

CLERK: Mr. President your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 165 and find the same correctly engrossed....165A, excuse me; 20 correctly engrossed; 27 correctly engrossed; 29 correctly engrossed; 30 correctly engrossed; 37 correctly engrossed; 45 correctly engrossed; 82 correctly engrossed; 130 correctly; 140 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Judiciary whose Chairman is Senator Nichol to whom was referred LB 345 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (Signed) Senator Nichol. (See page 498 of the Legislative Journal.)

Your committee on Banking instructs me to report 125 back to the Legislature with the recommendation it be advanced to General File with amendments; LB 150 to General File with amendments. (Signed) Senator DeCamp, Chair. (See page 499 of the Legislative Journal.)

Mr. President, your committee on Revenue gives notice of exec session. (See page 499 of the Journal.)

SPEAKER MARVEL: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I ask unanimous consent to withdraw my motion to bracket.

SPEAKER MARVEL: Any objections? If not, so ordered. Senator Warner.

SENATOR WARNER: Mr. President, I ask unanimous consent to withdraw the kill motion at this point.

SPEAKER MARVEL: Any objections? So ordered. Now is there.....Senator Wesely. The Chair will move that the bill be passed over which will be either tomorrow or the first of the week. Does anybody object? Okay, if not, the bill is passed over. Underneath the south balcony a guest of Senator Marsh from Thailand. His first name is Sam. Do you want to raise your hand so we can wish you Good Morning? Underneath the south balcony.

February 24, 1981

LB 47, 150, 298

CLERK: Mr. President, LR 20 found on page 634 of the Journal. It is offered by Senators Rumery, Kremer, Lamb, Schmit, Howard Peterson and Wagner. (Read title.) Mr. President, that resolution may be found on page 634 of the Journal.

SPEAKER MARVEL: Senator Rumery.

SENATOR RUMERY: Mr. President, members of the Legislature; if I could have your attention for a little bit, we have a resolution here honoring Professor Herbert Davis who for a long time was chairman of the Dairy Department of the College of Agriculture at the University of Nebraska until the organization was changed a few years ago. He passed away last week at the age of 91 and some of us would like to honor him with this resolution. I hope you will be able to vote with us on this. Thank you.

SPEAKER MARVEL: All those in favor of the resolution #20 vote aye, opposed vote no. We are voting on LR 20. Okay, record.

CLERK: 39 ayes, 0 nays on the adoption of the resolution, Mr. President.

SPEAKER MARVEL: The motion is carried and the resolution is adopted. Now you will notice that item #5 is Special Order and you will find this frequently in the next days to come. This is a method that has been used in the past to try to keep, attempt to keep debate under control. We will see this morning how successful we are but on some of those bills that do take a lot of time, perhaps this is a way that we can get more out of the hour. That is really what we are trying to do. So, Special Order, under item #5 is LB 150, Mr. Clerk.

CLERK: Mr. President, if I may right before that, I have a few matters to read in.

Your committee on Public Works whose chairman is Senator Kremer to whom is referred LB 47 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (See pages 641-642 of the Journal.) Signed, Senator Kremer, Chairman.

Your committee on Urban Affairs to whom we referred LB 298 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (See page 642 of the Legislative Journal.)

Your committee on Government gives notice of public hearing. Your committee on Public Works gives notice of public hearing. Your committee on Government gives notice of public hearing.

Mr. President, LB 150 was offered by the Banking Committee and signed by its members. (Read title.) The bill was first read on January 14. It was referred to the Banking, Commerce and Insurance Committee for public hearing. The bill was advanced to General File. There are committee amendments pending by the Banking Committee, Mr. President.

SPEAKER MARVEL: Senator DeCamp, do you want to handle the committee amendments?

SENATOR DeCAMP: Yes. Mr. President, this is going to be a difficult, tense bill that I think probably needs to be passed and your immediate inclination is to vote against it because somebody says, I don't want you increasing my credit card use. So I wish if you have any interest in the subject you are going to listen to my explanation and the arguments on both sides and I hope ultimately, after my cross of plastic speech you will vote to support the proposal as being in the best interest of Nebraskans. And I am going to try to use examples to illustrate why even though, as I say, your immediate inclination as some of my good senator friends here have expressed, is to vote against it, that indeed, logic and fairness to Nebraskans dictate that you actually support the proposal. So let's start out and I am going to go from the very beginning because an incident occurred last night that convinced me that a complete explanation is necessary as to what the bill really involves. First of all, we are not talking about all credit cards. We are essentially talking about Visa and what they call Master Charge, or MasterCard. I don't think anybody really cares, do they?

SPEAKER MARVEL: (Gavel.)

SENATOR DeCAMP: Actually we are talking about the man in the moon here and anybody that cares to listen....

SPEAKER MARVEL: That is what the gavel was for.

SENATOR DeCAMP: It is going to be an important bill. You are going to be called on by your people to explain why you voted for or 'agin it. I think you ought to listen. It involves five banks in the State of Nebraska. The banks are U.S. National Bank, Omaha National Bank, First National Bank of Omaha, First National Bank of Lincoln and the National Bank of Commerce. It involves hundreds of millions of dollars. Four of these banks are following Nebraska law at the present time, Nebraska law as we have

written it and four of those banks are losing, quite frankly, on their credit card operations millions and millions of dollars. They have elected and basically are making the decisions right now to do the following: One, to sell their credit card operations to some other banks in another state, take their lumps, get rid of the credit card business and basically remove Nebraska banks from the credit card business; two, to close down the credit card operation; three, as U.S. National is planning to do to the best of my knowledge, actually move their operation out of the state into another state where they can set up. I think they are moving to Des Moines. What the legislation in its original form, well they have another choice quite frankly, and that is the choice I don't want them to make because that is the choice that will hurt Nebraskans and that is basically the reason for the bill and that choice is to say to heck with you, Nebraska. To heck with you, Nebraska, and your Nebraska laws. We are going to use a little loophole that First National of Omaha found and some other banks and we are going to use something called the most favored lender doctrine and they are going to tell you also, not only are we going to use it but we don't have to be scared now like First National and some of the others were because it was recently upheld by the federal courts as being a legal loophole. What is that legal loophole? That says, they then can go ahead, forget Nebraska law and charge 24% interest on those credit cards. I don't think we want that. We can have a better system. We can keep our credit card operations in Nebraska run by Nebraska banks and we can help the average cardholder, like Johnny, like Carol, to hold onto their credit cards under reasonable terms. Let me tell you what the bill in its original form did. In its original form the bill did this. It said, the bank that issues that credit card can make a charge for issuing it like they do on American Express, for example, of up to \$35 and the original bill said also that they could have a transaction charge. What is a transaction charge? That means when Bernice Labedz takes her Visa, she goes into Brandeis, she charges \$10.50 worth of goods, the bank would automatically add on let's say ten or twenty or fifty cents or whatever for using the card on that occasion. Here is what the committee amendments do. They change the \$35 to \$24. That would be the maximum that could be charged. They eliminate the transaction charge completely. So, the committee amendments, if you adopt them, remove the transaction charge completely, contrary to the Lincoln Journal editorial, and they bring the charge that could be made for the card itself down to \$24 maximum. Now they might only charge \$8 or \$10 or \$12, whatever, but it would be a maximum of \$24. Why do this? Well, a couple of reasons. Let's use Bernice Labedz, Johnny DeCamp and Howard Lamb as our examples and how this new proposal would work and why it is more

fair to the general public. At the present time Howard Lamb has his credit card, his Visa or his MasterCard. Howard charges three, maybe four, maybe five hundred dollars a month goods on his credit card but unlike the rest of us, Howard is rich. Howard can immediately, every month, the last day available, he can pay his credit card expenses. He gets a bill for four hundred dollars on his credit card and even though he has used that credit for twenty, thirty days, whatever, before he finally got the bill, he pays it and he has no interest charge, no fees, no nothing. So the person, so to speak, the wealthier person, the one that really uses it strictly as a convenience card is getting his interest paid by Johnny and Bernice, because Johnny and Bernice, we charge and then we make our monthly payments. We don't have the money if we charge three or four hundred dollars, let's say, for our trip to Bermuda or whatever, we don't pay her all at once. We pay thirty dollars a month or whatever. But it still took interest, there is interest acquired or accrued because of Howard's charges and all the group like him. Howard is being financed by Bernice and Johnny. The rich, so to speak, are being financed by the average cardholder in the state who pays his monthly payments. How do you compensate for that? Well you can do what First National did. They said, fine, we are increasing our interest rate to 24% because we are losing money, using the federal law and the loophole and so Bernice and Johnny can keep paying even more interest now to help finance Howard or we can charge Howard \$24 a year for use of his card. We can charge Bernice \$24. We can charge Johnny \$24 and we can keep the interest rates overall lower, 18, 19, whatever we settle on finally. That is why the essence of the bill is really a fairness to all Nebraskans in terms of who pays the interest and it will keep our banks in the state who are in the credit card business and are providing this service, it will keep them in business in providing this service. So, initially I would urge you to adopt the committee amendments and then we can get into a little bit of discussion on some additional changes that we might try on Select File. I don't want to hide anything from you. I am going to tell you everything I am going to attempt on the bill now but if we adopt the committee amendments and then we will develop the next amendment which will be the E clause and the reasons for it. I really believe if you look at the whole picture rather than the immediate emotional issue of, hey, this is an increase. This is an increase in our credit cards. My people aren't going to like that. You look at the whole picture and you are going to say, yes, indeed, this is a different system for credit cards but it is a more fair system. It is a system that can continue to keep banks in the state operating. It is a system that will keep banks from saying, to heck with Nebraska laws, we are just going to go on our own under

federal law. Now some of the questions that I have had asked of me in the last couple days and objections raised goes something like this.

SPEAKER MARVEL: You have thirty seconds.

SENATOR DeCAMP: Hey, they sent those cards out by the tons. They gave them away and now they are saying they are losing money, tough. They are not sending them out that way any more. It is a very selective process. You don't get one unless you ask for it. As I say, these are the committee amendments. I urge their adoption and we will develop the rest of it a little later.

SPEAKER MARVEL: We are speaking to the committee amendments of LB 150. Senator Kremer, do you wish to speak on the committee amendments? Senator Kremer.

SENATOR KREMER: Mr. Chairman, yes, I would like to speak to the committee amendment, then also ask Senator DeCamp a question relative to the bill as it will be amended at that time. So my answer would be yes, committee amendment. Senator DeCamp, may I lead off by asking a couple of questions?

SENATOR DeCAMP: Yes, Senator.

SENATOR KREMER: I understand now the committee amendments provide reduction of the fee down to \$24, is that right? That is the fee.

SENATOR DeCAMP: That is correct.

SENATOR KREMER: Senator DeCamp....

SENATOR DeCAMP: And it eliminates the transaction charge. Okay.

SENATOR KREMER: Right. You told us the banks are losing millions of dollars because of the issuance of the credit cards. In your opinion, Senator DeCamp, what is causing this loss? Is it the fact that many credit card carriers are not paying the assessment when the notice comes that they owe the credit card company? Is that our problem or is it due to operation? What is the problem?

SENATOR DeCAMP: No. Okay, it is extremely simple, Senator Kremer, and I will put it in terms that we all are very familiar with. If it costs you \$2.25 to raise a bushel of corn and the market price says you can get \$2.00 for that corn, you lose \$.25 a bushel. The banks are paying X number of dollars, let's say, 19%, 19 3/4% for money used for credit card purposes. They then have an additional, maybe, 2 or 3% overhead, so on and so forth. So the cost of the product, the cost of the money

they are selling to you, used in credit card purposes, is running at anywhere from 10 to 20% more than they are charging or receiving an income for it, a simple rule of economics.

SENATOR KREMER: I sometimes wonder if it would be good if we didn't have credit cards.

SENATOR DeCAMP: Very possible. That is one of the arguments on the other side.

SENATOR KREMER: I think I may spend a little less and I could pay my bills. That is not a question, that is a comment. Thank you, Senator DeCamp and Mr. Chairman.

SPEAKER MARVEL: The Clerk has an amendment on the desk.

CLERK: Mr. President, Senator Newell moves to amend the committee amendments by striking Section 2 of the committee amendments and in the original Section 2 of the green copy of the bill, in line 17, strike all the language from the word "neither" through the word "interest." That is offered by Senator Newell.

SPEAKER MARVEL: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. Chairman, in deference to some industry lobbyists and others who have convinced me that this is a... will kill the bill as opposed to amend it as I had hoped to amend it which pretty similarly would have killed the bill, that is how I had hoped to amend it, I will withdraw this and oppose the bill and save some time for the Legislature and I am sure that will make you upset, Mr. Chairman.

SPEAKER MARVEL: Any objection? Okay, so ordered. The amendment is withdrawn. Senator Kahle, we are back on the committee amendments.

SENATOR KAHLE: Thank you, Mr. Speaker and members. Senator DeCamp, I might have a question or two that...to ask you. You mentioned that one or so of the credit card outfits or banks may move to Iowa. Is there a different climate there for credit cards or what would be the advantage of going to Iowa?

SENATOR DeCAMP: The advantages of moving a credit card operation to another state such as New York that just changed their laws or South Dakota are that those states, recognizing the same thing that we are dealing with, have made dramatic changes in their credit card laws and are allowing the various things that we are talking about here or different things such as higher interest rates up to unlimited rates or 21% or 24%,



this type of thing. Iowa is one of the states has made changes that the banks feel are favorable to the credit card industry that they could operate under economically and profitably.

SENATOR KAHLE: Is that increase in the card cost or an increase in interest or both?

SENATOR DeCAMP: I would have to check specifically the Iowa changes, but I know for sure they have higher interest rates and they may have card charges also, I believe.

SENATOR KAHLE: Another question, what happens to the money the merchant pays for the service?

SENATOR DeCAMP: A very good point, it is one of the other things I wanted to raise here when I ran out of time. You may remember when the credit card business started and you were flooded with credit cards from all over and who knows where and you didn't know which bank really was sending them to you. The merchants, when you went into the merchant charged, he told you well, heck, he was paying 5% of 6% additional in addition to what you were paying for interest. As the competition became very keen, the banks, the industry, the credit card industry cut back dramatically on how much the merchant received or how much the merchant paid, I should say. From 6 to 5 to 4, some of them now are paying or receiving, the banks are receiving 1½, 2, 2½, it depends. One of the other options may be of the banks, another variable that I would hate personally to see, would be to dramatically increase again the charges to the merchants but then everybody is stuck with this, the whole consumer is stuck with this higher merchandise cost. I think the one using the credit card should be paying this, either through the fee or the interest or something rather than putting that on everybody.

SENATOR KAHLE: Isn't it possible now that a merchant can price his goods or not accept a credit card for the payment and perhaps, and I know I have bought gasoline from stations where you had to pay cash and there was usually a couple cents difference in the price. There is nothing to stop that, is there from happening?

SENATOR DeCAMP: No.

SENATOR KAHLE: You couldn't divide the price though. You can't charge a credit card customer more than a cash customer. You just can reject the use of credit cards. Wouldn't that be correct?

SENATOR DeCAMP: Basically, yes, as I understand it now, Senator Kahle.

SENATOR KAHLE: Wouldn't it be more fair though to increase the cost to the dealer or the person selling the product and reduce the use of credit cards if that is where you wanted to save money instead of tacking a specific price on a credit card, a specific fee in order to obtain a credit card? The analogy that you used with the person that paid each month and the one that didn't, I guess kind of evades me. It looks to me like that part of it should be carried by the merchant if there is a loss. If you leave your credit run over a several month period I am not against the interest. I think you should pay interest but if you pay it within thirty days I think that part should be borne by the merchant if he wants your credit card business.

SPEAKER MARVEL: You have one minute.

SENATOR KAHLE: Well, I think I am through but that is a concern that I have and I wonder what it is going to do to the credit card business. I personally will probably cut mine up if I have to pay for it. Thank you.

SPEAKER MARVEL: We are speaking to the committee amendment. Senator Cope.

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

SPEAKER MARVEL: Senator DeCamp. Senator Cope has a question.

SENATOR COPE: Senator DeCamp, what about the interest rates now on the way the bill reads? Tell me exactly how this ties in if the bill is passed and I pay \$24 for the use of the card, what is the maximum and I mean maximum, not the loopholes.

SENATOR DeCAMP: Okay, if you stay under state law and go with the bill we pass and by that I mean if you as a bank do this with the existing proposal and existing law it is 18% and 12%. I intend to attempt, probably on Select File, to change that to like 18% or 19% across the board, state law. The reason I intend to do that is I believe that will keep all the banks, with the possible exception of the one that has already used the federal loophole, at the 18 or 19, whatever is settled on, rather than using the loophole and it is a loophole and going to 24%. They can go to 24% under the following theory. A national Supreme Court decision approximately one hundred years ago said that you couldn't discriminate so to speak against national banks with respect to state laws and state banks and, therefore,

if you gave anybody in the state the right to have a certain interest rate, no matter what it was for apparently with the latest decisions, then the bank was entitled to that same privilege. So in the case of Nebraska, we allow the small loan industry to charge 24% on a very limited amount of money. First National said, look, you are allowing small loan companies in Nebraska to charge 24%, therefore, we are going to convert our credit cards over to 24% and make them retroactive.

SENATOR COPE: John, that is fine, thank you. I want a couple of minutes of my own. I think that is the problem. I think the bill or the amendment is a good amendment, the \$24, if, and the problem may be we can't do it, an 18% maximum. I think the people that use credit cards should pay for it and I think in the long run they are going to save money if you have a maximum of 18% but I certainly would be a little questioning about paying \$24 plus a possible 24% interest. The reason I support the amendment is simply this. When loan rates go down I am sure the rate on credit cards will follow, either in the price of the card each year or the interest rate. It will be highly competitive, the same as it was when credit cards started. I believe that that will follow. This is maximum, that is, unless we continue to have inflation. So, with a few more answers I certainly will support this amendment.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I just wanted to try to clarify a couple points. I had a couple of questions asked to me concerning aspects of this and I wanted to clarify a couple of things. First of all, with regard to raising the merchants' fee. It has been suggested that perhaps the merchants fee should be raised, but for myself, I would be opposed to doing that because it has the effect of essentially charging customers who pay cash for the credit card chargers. In other words, if the merchant raises his fee he raises the fee on all of the products in his store and he charges them the same whether you pay cash or whether you use your credit card. So raising the fee to him will cause him to raise the price of his product which will raise the price of the product to the cash customer as well as to the charge customer, so that in effect, the cash customer is picking up a part, of the charge. So I think it would be bad policy to suggest that that portion of the fee should be raised. Another question had to do with regard to whether there was any authority in the statutes presently to have a card charge under the law and the answer is that there is not. . Diner's card, some of these other cards that have charges for the card itself do so under the auspices of the law of

state in which they are organized. That is their authority for doing that. In the State of Nebraska the statutes do not say one way or another whether there is authority to have a card charge, however, the Supreme Court has said that any kind of charge of this nature is interest. So if you add that on to the interest allowable, the banks would be in trouble and for that reason are unable to have card charge without explicit authority from the Legislature. So that is the reason we need it here. I do have though one question, Senator DeCamp, and I think that the Legislature itself and the people of the state need to be reassured a little bit on this question. Philosophically, at least from my point of view, you can take a couple of different attitudes. You can take one, the attitude that all regulation is bad. We should leave it to free competition and if you follow that philosophy I suppose you would be in favor of any kind of bill that would loosen the regulations, however, for those of us who are not quite able to go that far, the question becomes a balancing test between the interest of the consumer and the interest of the banks and I don't see how you can accurately or in any manner fairly assess and weigh that balance until you have actually seen the financial statements of the banks involved in this business. Are they...has John DeCamp... has the Banking Committee taken a look at those financial statements and can the Banking Committee assure the rest of us that they are, in fact, losing money, that the situation that is described is accurate and that we need to do something? That is my question to you, Johnny.

SENATOR DeCAMP: Okay, Chrissy. Mr. President, in answer to his question I have personally during the last six months have gone to Omaha and gone to National Bank of Commerce and I have personally gone to Bill Smith of First National.

SENATOR CLARK PRESIDING

SENATOR CLARK: You have got one minute. Talk fast.

SENATOR DeCAMP: I personally reviewed the documentation they offered me and with my limited capacity to understand, looking at the black and white, the data they offered, it is very clear that they have lost millions and millions and millions on their credit card operation and if they are dead serious about anything it is about clearing it up one way or the other with this bill, either get out of the state, get out of the business or resolve it so it at least can be maintained economically.

SENATOR BEUTLER: And, Senator DeCamp, how was it determined by the committee that the drop should be from \$35 to \$24? How was that decision made?

SENATOR CLARK: You've got about ten seconds left.

SENATOR DeCAMP: Arbitrarily and capriciously.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, I have a question of Senator DeCamp if he would give me a little bit of time.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Yes.

SENATOR V. JOHNSON: Senator DeCamp, I would like your opinion on the, on really the efficacy or the effect of Section 2 of the committee amendment. Section 2 says, "It is hereby declared to be the public policy of the State of Nebraska that for the purpose of applying the federal most favored lender doctrine, the bank credit card rate contained in Section 8820 is not comparable or analagous to the small loan rate found in Sections 45-137 and 45-138." Do you believe, Senator DeCamp, that this statement will be binding on the federal courts and this statement would preclude the First National Bank of Omaha from using the small loan rate as the basis for setting its own charge card rate?

SENATOR DeCAMP: No, I do not. It is rhetoric only and intended to be rhetoric only. It was a declaration of frustration by the Banking Committee prompted by and written by Senator Landis in which we declared as the Banking Committee that we were slightly outraged at the manner in which First National of Omaha had gone to the 24% and the retroactive charges under the guise of supposedly helping President Carter, when indeed, we felt their motives were totally different and were intended to take advantage of a situation and cover losses and turn their credit card operation into profitability. Had they presented, we felt, very accurate data at the hearings we held last year on the credit cards and told us what they really planned to do, we might have taken a different attitude last year on the credit cards and so it is an exclamation of frustration and it was supported by at least five members of the committee.

SENATOR V. JOHNSON: Okay, thank you very much, Senator DeCamp. I frankly had hoped that such was not the case. I genuinely had hoped that in some way we would be able to read federal case law at least to permit us to specifically say, we mean business when we set a particular rate and we do not intend for any national bank or any

other national institution to be able to look at some other rate as developing its own doctrine on the most favored lender program but apparently, in Senator DeCamp's viewpoint, that is not correct. So, what we really have is a situation where you and I can go and change the credit card law from here until kingdom come but unless we change the small loan law we really have done nothing because we have permitted the First National Bank of Omaha plus any other banks that so want to use it to go and use our small loan law and set a rate of 24% per annum on the first thousand dollars and I can't even remember, I think it is 18% per annum on the next six thousand dollars on small loans. So, in many respects any changes that we make right now in the credit card law have very little value because every credit card lender in this state can just use our small loan law so if we really have integrity, if we really want to do something with respect to the credit card situation to provide a real balance between that bank that had the "chutzpah" to use the small loan law and the other banks that are just relying on our state's credit card law, then you and I should be about the business of lowering the interest rate in the small loan law. Thank you.

SENATOR CLARK: Senator Newell. Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, without getting into the complexities of this which are pretty involved, I guess I look at it in this light. Do we have a problem right now and I don't see that we do and I guess I get a little bit tired of this Legislature getting spooked in trying to deal with a problem before it is really here and so if there is a real problem, if we are not able to get credit cards, if the interest rate charged is exorbitant, I think the Legislature then can deal with the problem but until we actually see this problem I suggest that we stay with the situation as it is and deal with it at the time it arises.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Clark.

SENATOR CLARK: Mr. President and members, I think there is a lot of confusion on this whole thing. In the first place it costs money to give credit and you talk about raising the price of everything in the store because of these credits, I have always given credit without interest in my store. I had to finally get down to six months before I would do that and finally three months and now it is thirty

days and I charge 18% over that if they are delinquent. I think you have to remember that people do not have to get credit cards and the ideal way to save interest is not charge anything. You don't have to have a credit card. You don't have to pay for it. This \$24 that we are talking about is a maximum that they could charge. I pay \$35 for an American Express charge. I don't have to do that. I do it because if I travel abroad they take the American Express card in preference to other cards. That is why I pay the \$35. Now if they are going to charge \$8, \$10 or \$12 and the highest I have heard has been \$12, I think it is reasonable. You don't have to pay the \$12. You don't have to have the card. There is nothing in that bill that I can see that says that you have to have a card. If you want free credit, forget it. It is out the window. There is no such thing as free credit. It costs money to give credit. I think Senator DeCamp told you that they are paying 18%, 19% on prime interest right now in order to maintain that credit. I only have to pay about 1½% in my store for a discount for this credit. It used to be 5 and 6%. What has actually happened is they have competition on these things. Competition brings the discount rate down. I am paying right now 1½% on Master Charge or on Visa and it is not an exorbitant rate and I would rather have my cash than to carry that credit on my own books and have to go out and try to collect the money. At the present time what is happening, I have to call it, if it is over \$50 I have to call and get authorization for that credit. There is no recourse to me. Whoever has a credit card is the one that has to collect that money. I don't have to collect it. I get my money immediately but you are not going to get free credit. But if you are really worried about this, don't buy a credit card. Tear it up. Get rid of it. You would probably be better off anyway. I don't use credit cards except when I am out of the country but if you want to use a credit card you have a credit card you can use for a transaction to keep your records or whatever. I know people that have three or four credit cards because they keep different accounts on different credit cards. That is up to them. If they want to have that type of bookkeeping system, they want to pay \$12 for each card, they can do it but I don't see what all the confusion is in here, that you are going to try to save people money. You are not. And they do not have to have the credit card, so consequently I think the amendments that we put on in the Banking Committee are good. \$24 is the most they can charge for the credit card. No transaction charge at all so you are still going to get free credit. The only thing that is going to cost you for the year is \$12 or \$8 or whatever that competition will bring that card down to. So, I really can't see what the confusion is or what you are trying to protect or who you are trying to protect....

SPEAKER MARVEL: You have a minute left.

SENATOR CLARK: ...because you are not going to protect anyone from credit. Thank you.

SPEAKER MARVEL: Senator Maresh, we are still on the committee amendment to LB 150.

SENATOR MARESH: Mr. Speaker, a question of Senator DeCamp.

SPEAKER MARVEL: Senator DeCamp.

SENATOR MARESH: Senator DeCamp, what does the present law say about charging for a card? They can charge now if they want to, can't they? Do we have to spell it out in law?

SENATOR DeCAMP: Yes, we do, Richard.

SENATOR MARESH: Why?

SENATOR DeCAMP: Otherwise it is illegal.

SENATOR MARESH: Where does it say so?

SENATOR DeCAMP: It would be interpreted as interest and there is then no way of computing.

SENATOR MARESH: Who says it is interest?

SENATOR DeCAMP: The laws of the state.

SENATOR MARESH: Was it ever challenged in court?

SENATOR DeCAMP: I don't know that it has ever been challenged in court as such. It is one of the things that is so clear that....

SENATOR MARESH: This isn't another way to put the blame on the Legislature, is it, by saying LB 150 was passed, we have to charge?

SENATOR DeCAMP: No, there is no "have to" in the bill at all. They would never have to charge. It gives them the authorization, an allowance to charge and not have that computed as interest and it doesn't say \$24. It says that is the maximum. They might impose, from what I can learn, an \$8 or \$10 or \$12 charge on a card per year.

SENATOR MARESH: These cards that have a minimum charge, those are from out of state. Is that correct? Like Diner's card. Somebody said last night a Diner's card does charge now.



SENATOR DeCAMP: Diner's Club and American Express are under laws of a different state that specifically deal with those specific cards. They are sent to you under the laws of those states.

SENATOR MARESH: Thank you, Senator DeCamp.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I would like to ask Senator Clark a question if he would yield please.

SPEAKER MARVEL: Senator Clark.

SENATOR VICKERS: Senator Clark, you indicated that people don't have to use these cards if they don't desire. They don't have to pay interest if they simply want to pay cash. Now as a businessman, Senator Clark, let me ask a question of you. Supposing that I want to buy a piece of furniture from your store that is going to cost in the neighborhood of three to five hundred dollars. Now if I don't have that much cash then I have basically two choices. I can either charge it whether it be the credit card or whatever, or I could go to the bank or some other lending institution and try to take out a loan. Isn't that correct?

SENATOR CLARK: Yes, or you can have me carry the credit.

SENATOR VICKERS: Okay, now let's assume that I go to the bank or to some lending institution and take out an installment loan. Now if I take out an installment loan on a five hundred dollar purchase, what interest rate am I going to be charged?

SENATOR CLARK: Probably about 18%. You could be charged 24%.

SENATOR VICKERS: If I read the committee amendment, 45-137, it seems to me that the interest rate could be 24%.

SENATOR CLARK: It could be 24, depends on the (inaudible.)

SENATOR VICKERS: Okay now, I am going to pay 24% on this five hundred dollar purchase but I am going to pay you cash. I have made a commitment to some lending institution on an installment loan. I spelled out to this lending institution what I am spending the five hundred dollars for. On the other hand if I use the credit card and come in and buy it from you and it costs five hundred dollars, what type of interest am I going to be charged there under this law, under 150?

SENATOR CLARK: Well, he is going to attempt to make it 19%.

SENATOR VICKERS: But right now as it is worded it would be 18%, right?

SENATOR CLARK: Right.

SENATOR VICKERS: The question I would like to ask of you, do you think that is fair? Do you think it is fair that the person that takes out an installment loan has to pay more interest than those that want to use the credit card?

SENATOR CLARK: You asked me if it was fair, I don't even like credit so...no, it is not fair. Of course it isn't.

SENATOR VICKERS: Well then, Senator Clark, why does the committee amendment say that the Legislature, it is going to be the policy of the State of Nebraska that the rate contained in Section 820 is not comparable or analagous to the small loan rate found in Sections 45-137 and why does it go further on to say that the Legislature finds that small loan borrowers and bank credit card users are not synonymous or comparable in establishing a loan, a small loan rate? It seems to me that they are. How can you say that they are not when in the instance I just described to you the person has a choice between the two?

SENATOR CLARK: The real difference is if your credit is good enough you can get a credit card, you can go to the 18%. If you want to go to a small loan company, those people are paying that high interest rate normally because they can't get credit other places. That is the real bad thing about it.

SENATOR VICKERS: But as a matter of fact though, the installment rate applies at banks also, does it not, not necessarily small loan companies?

SENATOR CLARK: No, not banks that I know of unless they have a small loan department in the bank.

SENATOR VICKERS: Many of them do have though, do they not?

SENATOR CLARK: Oh, yes, a lot of them do have but it is small loans separate.

SENATOR VICKERS: Then if I understand what you are saying correctly, you are saying that there is some sort of a screening process before you can get a credit card because a credit card user has to have some sort of ability to pay. Is that correct?

SENATOR CLARK: That is right.

SENATOR VICKERS: That seems rather strange. I have a daughter that just graduated from college in December and she is getting credit cards from everybody under the sun and I question that anybody is examining her financial ability. Quite honestly, if they had of been, they would not be sending her credit cards. I have a little bit of trouble in understanding that the credit card...thank you, Senator Clark.

SENATOR CLARK: I really don't know that credit cards are being sent out any more just promiscuously. I don't know that.

SENATOR VICKERS: Well, thank you, Senator Clark. I personally believe that there is an analogy and in order just to look at the committee amendments I think we need to understand as a body what we are saying. We are saying in the committee amendments that it is going to be the public policy of the State of Nebraska that there is no analogy between those using the installment rates, paying the installment rates, making installment loans and those people using credit cards. Now I submit to you there is an analogy. When you decide to use credit I think you have some choices available to you and I would submit that most people examine all those choices and if we put in statute that there is no analogy, that in fact the interest rate is going to be cheaper on credit cards considerably than it is in installment loans, then I think we are promoting credit cards and use of more credit. I would also submit to you that there is going to be....

SPEAKER MARVEL: You have ten seconds left.

SENATOR VICKERS: ...if the economy continues as it is, a lot of people getting in a lot of trouble with a lot of these credit cards and a lot of the overuse of credit. I personally am opposed to the committee amendments and I think the body had best examine them very carefully before adopting them.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker, a question of Senator DeCamp, please.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Go ahead.

SENATOR BARRETT: Senator DeCamp, I think inasmuch as we are on the committee amendments I think they are crystal

clear in the reduction from 35 to 24, the elimination of the transaction fees. Correct?

SENATOR DeCAMP: That is correct.

SENATOR BARRETT: My question then simply is the latter section of the committee amendment which speaks to apparently the circumvention of the most favored lender doctrine. I guess my question is essentially this. Why? What is the philosophy, the need for this particular section of the amendment?

SENATOR DeCAMP: Okay, I dealt with that a little while ago but I will state it briefly again. Senator Landis and at least five members of the committee felt they wanted to make a public declaration, rhetoric if you will, in which they denounced the method that this particular bank had utilized on their credit cards in which they had made it appear as if they were trying to help poor President Jimmy Carter control inflation when, in fact, they were taking a very unprofitable credit card operation and overnight, by making it retroactive, 24% charges when you used the card, your whole account went to 24%, whatever you owed, going back and for the future 24%, bypassing state law. The committee was somewhat outraged because they had never really told us in committee, we felt at least, the true situation and that this was contemplated and, of course, there have been major news articles in almost all the big financial magazines about the propriety of this, the legitimacy, the morality of it and it did go to court and they said, yes, this loophole is allowed because of the various circumstances. So, the committee put this on to express their outrage I guess. And Senator Landis maybe could explain it better because he was the one that wrote the amendment and sponsored it and, quite frankly, it was necessary to put that amendment on to get it out of committee. That is as simple as I can put it.

SENATOR BARRETT: Mr. Speaker.

SPEAKER MARVEL: Yes, sir.

SENATOR BARRETT: Mr. Speaker, could we defer to Senator Landis for additional commentary on that subject? Is there time?

SPEAKER MARVEL: Okay, there are two and a half minutes left on this, so I recognize Senator Landis.

SENATOR LANDIS: Senator Barrett, would you restate the question that you want answered and I will be happy to do so as best I can.

SENATOR BARRETT: Yes, it would appear to me, Senator Landis, that that particular section of the amendment appears to try to circumvent the most favored lender doctrine and my question was simply, why? What is the need? What is the philosophy behind this?

SENATOR LANDIS: The most favored lender doctrine is an attempt by federally chartered banks and federal courts to analyze state law and to make and draw comparisons and where they find comparisons between rates, they will say to a lender, although you may have a strict statutory rate, we find that elsewhere in the state law that governs that area that you do business in a rate that is relatively comparable and since other lenders in that state may use that rate and since you are a federally chartered institution, we will permit you to use any rate that we believe to be analogous to that rate that you operate under in that state. So that the state then has a superior deciding force, juggling its rates, looking to those different rates and trying to draw comparisons and then allowing the federally chartered facilities to utilize whatever rates the feds decide have comparability. In this, I think it is significant to attempt to outline what we intend to be comparable rates and what we do not intend to be comparable rates. If we intended bank credit cards in this state to be used at a rate of 24% we would have put it in the bank credit card rate but we didn't. We created a small loan rate. I would contend this body had no intention at the time it raised the small loan rate that it also was having a concomitant legislative intent to raise the bank credit card rate. I never heard that mentioned once. Nobody in this body, to my knowledge, ever thought they were raising the bank credit card rate when they voted for a higher small loan rate.

SPEAKER MARVEL: You have fifteen seconds left.

SENATOR LANDIS: Because that is the case, because I don't think this body intended for there to be a comparison, I wanted that to be reflected clearly, that it is not our state policy that those two rates are comparable and that if the feds wish to do so, they are doing that without any attempt to analyze state legislative intent.

SENATOR BARRETT: Thank you, Senator Landis, excellent.

SPEAKER MARVEL: There is an amendment on the Clerk's desk. Mr. Clerk. Senator Stoney, you are next on the sheet.

SENATOR STONEY: Thank you, Mr. Speaker, a question of Senator DeCamp if he would respond, please.

SENATOR DeCAMP: Sure.

SENATOR STONEY: Senator DeCamp, it appears to me with the debate that we have had to this point in time that the problem that the institutions are having is that there is no profitability in those accounts that could be categorized as inactive. Is that correct? Those persons that use the account and then pay whatever the balance is within the thirty day period and, therefore, are not subjected to any interest charge.

SENATOR DeCAMP: That certainly is one of the major areas of nonprofitability.

SENATOR STONEY: Is there a problem with those accounts that are active, individuals that use those accounts and interest is charged against those accounts? Is there a profitability problem there also?

SENATOR DeCAMP: Yes, that is correct. As I say, they are receiving 18 and 12 and the costs of that money are somewhere between 21 and 23, depending upon which financial institution is involved and where they are buying their money and the methods of procedures.

SENATOR STONEY: Senator DeCamp, one additional question, in the bill on page 2, the language on line 18, "notwithstanding the provision of this section, a bank may charge a minimum fee of up to \$7.50 in lieu of interest on small loans." Could you explain that so that I might understand it?

SENATOR DeCAMP: At the present time in processing a small loan application, this was just something the small loan people asked to be added to the bill as I recall. In processing a small loan application they are allowed a charge for the person coming in, sitting there, the time involved, and I think they are increasing that a couple dollars but it really doesn't relate to the credit cards.

SENATOR STONEY: All right, thank you, and one other item. You circulated this that appeared on our desks today, since it has your signature on it.

SENATOR DeCAMP: Yes, sir.

SENATOR STONEY: And I am still attempting to understand the profitability question as it pertains to those active and inactive accounts, but as I read it here, extracting this from the circulated material, a card in your pocket is a thing of value and it costs the bank to issue, maintain the card account and cover the high administrative costs of even a relatively inactive account. If the cardholder does not pay a reasonable fee for the convenience of having a card, the costs must be borne by those using the card, either

in increased rates or a transaction fee and this is an unfair distribution of cost. Would you agree with that statement?

SENATOR DeCAMP: Yes, sir.

SENATOR STONEY: Thank you, Senator DeCamp, it appears to me, members of the Legislature that the proposal in its present form is discriminatory on its face. I think if there is a problem with profitability to these institutions with inactive accounts then we should attempt to address that. But with those individuals that use those credit cards and are charged an interest rate on a monthly basis on these accounts, it seems unfair that they should also pay this annual fee. I have placed on the Clerk's desk an amendment which would provide that any fee that is charged by the bank would address itself to those inactive credit cards. For example, if an individual has this credit card, does not use it, he is charged at the beginning of each year the fee up to \$24. Therefore, if they make charges and pay for those items within the thirty day period they still are subjected to that charge. But what this amendment proposes is that those individuals that are using those cards on a continuing basis and are paying interest on those charges, if it be \$24, that charge can be up to \$24, any amount that is decided upon to be charged, that would be offset in accrued interest. In other words, any interest that is due on that account up to the amount that is charged for the annual fee would be deducted before that person has to pay interest on that account. I think that is only fair and equitable. The individuals that are actively using the accounts and are paying interest on the accounts should not be subjected to the fee because it appears that the ones that we are attempting to get to are the ones who have the cards, they are inactive and they, through payment of the bills on a timely basis, do not generate interest for the lending institutions. So that amendment will be coming up and I hope you will give it your favorable consideration.

SPEAKER MARVEL: Okay, the motion at the moment is on the amendments, committee amendments. Senator DeCamp, do you wish to close on the committee amendments?

SENATOR DeCAMP: Yes, Mr. President. I would like to address all of the objections raised or questions raised by the members of the Legislature on the issue. Senator Johnson said that there would be very little value in passing this law in view of the fact that they could go to federal law, the federal loophole we have discussed. Answer: Only one bank elected to do that. Despite the fact that they have been

losing massively, the other four banks have deliberately refused to utilize this method. They do not like this method. They do not sanction it and they want to be governed by state law. Rather than utilize this loophole, one bank is now contemplating moving to Iowa. Another is contemplating selling their operation. Another is contemplating simply phasing it out. So the bill does have value. It has immense value. It solves the problem. Senator Lamb raised the question, why do anything, he said, until they prove there is a problem? That is the very essence of what I have been stating to you. They have documented a problem. They have proved their problem. Now, you ask, why haven't I passed out to the Legislature information showing the financial operation of each of the credit card operations of the banks involved? Answer: It is a very competitive field. They will take any senator here, document their case to him individually. They have, I think, satisfactorily documented it to the committee but they will not, I absolutely guarantee you, will not take and disclose all the facets in a public way or in a newspaper which is what would happen as he suggested or as is implied. The problem is here. That is what this is all about. It is a solution to the documented problem. Senator Johnson talked about changing small loan law to like 19 or 20 or 21%. This is my personal favored method. It also is a method I do not believe is possible to get passed and a method that would kill the bill and force all the banks back into doing what I said would happen, either go with the 24% of the federal law, throw the operations out, whatever.

**SPEAKER MARVEL:** You have two and a half minutes left totally on this matter.

**SENATOR DeCAMP:** Senator Peterson asked me a personal question. He said, what about my credit card? It doesn't expire until mid 1982. What if this law went into effect and you had charges now? There will not be retroactive charges on any credit card out there. What would happen is you would wait, on his particular case and probably most of you, until let's say June 1 when that expires, your new card to get reissued would have a charge. In this case it would be half a year so if the charge was \$12 for the year it would be \$6. The merchant issue: Why not just charge the merchant more? Because then you are putting a cost on all of us who maybe aren't even using credit cards, the general public. If you want to use a credit card, use that system, you should pay it. The merchant is simply going to raise his cost to cover that extra 5 or 6 or 7%. The whole general public is going to pay for it. I oppose that idea. The system I think we are offering you is the best one. I



would urge you to adopt the committee amendment, advance the bill to Select File and on Select File I will have a couple other amendments. I hear some other amendments here. That would be an opportunity between now and then to get together and see what common ground could be reached but I would hope we would advance the bill today. And I would take up, if Senator Stoney would delay his amendment until Select File and some of the others, I am sure that we can get some additional information to you as to the merits or defects of some of these proposals.

SPEAKER MARVEL: Okay, the motion is the adoption of the committee amendments. All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 25 ayes, 3 nays on adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: Okay, the committee amendments are adopted.

CLERK: Mr. President, I now have a motion from Senator DeCamp to add the emergency clause to the bill.

SENATOR DeCAMP: Mr. President, I know we are running out of time on this bill. I would agree to delay that amendment and vote on whether the bill should be advanced to Select File if everyone else would and I would hope we could get a conference between all the various people that have amendments and deal with it at that time if that is acceptable. Would that be okay with you, Larry Stoney? I will hold my amendment for Select File.

SPEAKER MARVEL: Okay, what is the....?

CLERK: Mr. President, Senator Stoney then moves to amend the bill. (Read Stoney amendment as found on page 643 of the Legislative Journal.)

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker, members of the Legislature. I won't take a great deal of time because I explained this earlier in my discussion of this proposal with Senator DeCamp. It doesn't seem rational to me that individuals that are using these accounts and currently paying the interest rates should be further penalized by being subjected to an annual charge. Now it appears that the profitability problem, and that seems to be documented in some of the information that has been circulated, is with those accounts that are used by individuals that pay them within the thirty day time frame and are not subjected to interest.

With this amendment it would provide that the institution could make a charge to the credit card holder each year and those accounts that are inactive or paid within the thirty days would be subject to that fee. On the other hand, those individuals who are using those cards on a continuing basis and are being charged interest would use that fee that is charged as a credit to the interest that accrues on that particular account. In other words, if someone in a year's time is subjected to \$185 dollars in interest payments for the charges that they make and the institution charges \$20, then that \$20 would be a credit against the \$185, making their total indebtedness, for interest, \$165. I think, ladies and gentlemen, the only way to be equitable in this issue is to adopt this amendment. Thank you.

SPEAKER MARVEL: Okay, you are closing on your amendment and the vote is on the adoption.... Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, I would just ask Senator Stoney a question and that is that if their interest were \$6 for the year, he had paid \$12, I assume you are still charging \$12 or \$24 or something for the charge to start with, then how would that work? Would the company refund the \$6 simply on the last charge made? It would seem to be a little cumbersome to me or can that be easily worked out with computers?

SENATOR STONEY: Senator Nichol, I don't think it is cumbersome. I think we are talking about individuals that are utilizing consumer credit. In your example, if the interest charges are merely \$6 and the institution charges \$20, that individual would still be charged the \$14, the balance of what the charge is for them to use those credit cards.

SENATOR NICHOL: My point is that if, say there is a dollar or two a month and it adds up to \$6, would it each time they run it through the computer does this automatically handle this matter or is it a hand figured deal?

SENATOR STONEY: Well I have no idea how they would calculate it. They are attempting to alter the law at the present time and they are going to make arrangements to incorporate this and accommodate this and I don't think that it would create any tremendous problem with the solution that I am offering.

SENATOR NICHOL: Okay, thank you.

SPEAKER MARVEL: We are out of time so the special order has passed as far as time goes so we will have to wait until a future date to debate the issue.

SENATOR STONEY: A point of order.

SPEAKER MARVEL: Yes, sir.

SENATOR STONEY: I have explained the amendment. We are in the middle of this issue with an amendment and I think that the vote should be taken on whether or not the amendment is adopted.

SPEAKER MARVEL: Okay. Senator DeCamp, do you... No, Senator Stoney closed.

SENATOR DeCAMP: Nobody got an opportunity to ever explain the opposing side of that particular amendment. That is all I am asking is that opportunity.

SPEAKER MARVEL: Okay. All right, Senator DeCamp, proceed.

SENATOR DeCAMP: Mr. President, the amendment essentially guts the bill. It becomes a bookkeeping nightmare, first of all with the bank never knowing where they are but, second, it is going to encourage delinquency in payments. Why pay when you know you are going to get it taken off of interest? Just run your account, two months, three months, four months. It becomes an entirely unworkable system because it is doing indirectly what you are trying to overcome directly with the bill. What are you trying to say with the bill? You are trying to say you can have a charge for the card to cover the cost of overhead, to offset the people that aren't serious about having cards, don't use them, to offset the various things and that is not interest. The whole purpose is to make it not interest because current law says you cannot have a charge or it will be interest. That is what current law says. We are trying to say you can have a charge for issuing the card, therefore, people who take them are serious. Senator Stoney is coming in the back door and saying you can have a charge and then you deduct it from interest. So, you are just gutting the bill.

SPEAKER MARVEL: Okay, do you want to close now? Okay.

SENATOR STONEY: Senator DeCamp, I am not attempting as you have indicated to gut the bill. This is a serious amendment and I am attempting to resolve an issue that I feel needs to be addressed. That is, that the individuals that are using those accounts and are paying interest should not be subjected to an additional card. Now I am in agreement that the industry should be able to charge on those accounts that are either inactive for administrative costs or those that are paid within the thirty day time frame, but I do not think it is fair to place in jeopardy, so to speak, those individuals that are using those cards. I

think that they are rather shallow arguments that are being offered and Senator DeCamp was willing to address the amendment until he had an opportunity to discuss this further with the banking lobby and I think, ladies and gentlemen, that the only sensible thing that we can do and the only equitable thing we can do is adopt this amendment. Thank you.

SPEAKER MARVEL: The motion is the Stoney amendment to LB 150. All those in favor of that amendment vote aye, opposed vote no. Have you all voted? We are voting on the Stoney amendment to LB 150. Have you all voted? Senator Stoney.

SENATOR STONEY: Mr. Speaker, how many are excused?

SPEAKER MARVEL: Two.

SENATOR STONEY: Then I would ask for a Call of the House and a roll call vote.

SPEAKER MARVEL: First, shall the House go under Call? All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 12 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence. All unauthorized personnel please leave the floor. Senator Cullan, Senator Burrows, Senator Koch, Senator Warner, Senator Kilgarin, Senator Cope, Senator Schmit, Senator Lamb, Senator Maresh, Senator Chambers, Senator Hoagland, Senator Goodrich, Senator Chronister, Senator Dworak, Senator Newell, Senator Remmers, Senator Haberman. Senator Goodrich, Senator Dworak and Senator Haberman. Senator Stoney, everybody is here except Senator Dworak and he is on the phone. Can we proceed with the roll call vote? Okay, call the roll.

CLERK: (Read roll call vote as found on page 644 of the Legislative Journal.) 17 ayes, 25 nays, Mr. President.

SPEAKER MARVEL: The motion lost. Okay, the bill is ready to be advanced. Is there any objection to taking that up at this time? Okay, the motion is the advancement of the bill to E & R for review. All those in favor vote aye, opposed vote no. Have you all voted?

CLERK: Senator Chambers requesting a record vote. Okay, 27 ayes, 18 nays on the motion to advance the bill, Mr. President.

February 26, 1981

LB 54, 150, 154, 274,  
275, 288, 329, 459

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Pastor Roland Hanselmann of Southwood Lutheran here in Lincoln.

PASTOR HANSELMANN: Prayer offered.

PRESIDENT: Roll call.

CLERK: Mr. President, Senator Beutler and Senator Vard Johnson until they arrive. Senator Fitzgerald would like to be excused for the day. Mr. President, Senator Sieck and Pirsch would like to be excused until they arrive.

PRESIDENT: Have you all registered your presence?

CLERK: Mr. President, Senator Labedz would like to be excused until she arrives.

PRESIDENT: Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

PRESIDENT: Quorum being present, any corrections to the Journal?

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

PRESIDENT: The Journal stands correct as published. Are there any messages, reports or announcements?

CLERK: Yes, Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 150 and recommend that same be placed on Select File with amendments; 288 Select File with amendments; 275 Select File; 459 Select File with amendments; 154 Select File with amendments; 54 Select File, (Signed) Senator Kilgarin, Chair. (See pages 672-673 of the Legislative Journal.)

Mr. President, your committee on Banking whose chairman is Senator DeCamp to whom is referred LB 329 reports the same back to the Legislature as advanced to General File and 274 General File with amendments. (See page 673.)

Mr. President, your committee on Revenue gives notice of executive session for Monday, March 2, from 12:00 until 1:30 p.m., (Signed) Senator Carsten, Chair.

Mr. President, LR 20 and 22 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable

SENATOR NICHOL: But why is this fairer? We are going to have schools being responsible for ordinary negligence. We are going to have the Legislature responsible. Why should we not have recreational areas responsible for ordinary negligence?

SENATOR LABEDZ: Well, I believe what is happening in the City of Omaha, and we are talking about willful and malicious negligence, we are not talking about the accidents that happen. Say for instance a little child falls off of the slides or falls off of the swings, we are talking about willful and malicious negligence by the City of Omaha, by any city or governmental entity, rather, that obtains land from a private owner and that private owner does have the protection now. We want to also include governmental entities, but they will have a very strict standard of liability under the section that is willful and malicious and I believe that is what the committee decided that this bill was essential for further protection for governmental entities.

SENATOR NICHOL: Well, thank you, Senator Labedz. I just can't see us in the same year forgiving people who are guests in a car, but at the same time we are saying this subdivision of government shall be free of being responsible for ordinary negligence. I thought the trend was in the other direction. Now there is, if a governmental entity does not buy insurance, which many of them do not especially on the state level where you have spread of risk, but I still think that if we are going to have a guest statute, then we should not allow entities of government to be free of responsibility. Thank you.

SPEAKER MARVEL: The Chair has made note of those who wanted to speak on this issue. Since it is twelve o'clock, we will have to stop and then we can take this up on Monday but those of you who wanted to speak are listed so the record will be complete and the Clerk now needs to read in whatever he has on the desk.

CLERK: Mr. President, the Business and Labor Committee will meet in executive session, Monday, March 2, 1981 at nine o'clock in Room 1019.

Mr. President, Senator DeCamp would like to print amendments to LB 150 in the Journal.

Senator Hoagland asks unanimous consent to add his name to LB 99 as cointroducer.

SENATOR WAGNER: Mr. Speaker, members, I just would like to have Senator Johnson over there realize that on the two sides here and in the back we have some good North Loup popcorn and I bring it here in his behalf. It is not North Bend popcorn, but North Loup.

PRESIDENT: Okay, you got his attention. You got his attention, Senator Wagner. I can see that by his looking down here. Okay, thank you, Senator Wagner. We are ready to continue then with Select File.

CLERK: Mr. President, I have E & R amendments to LB 150.

PRESIDENT: Is Senator Kilgarin in the... Senator Chambers, do you want to handle...? Senator Kilgarin I don't see is here. Would you...? I believe you are the next in line. There are E & R amendments on LB 150.

SENATOR CHAMBERS: Mr. President, I move that the E & R amendments to LB 150 be adopted.

PRESIDENT: Motion to adopt the E & R amendments on LB 150. Any discussion? All those in favor of adopting the E & R amendments to LB 150 signify by saying aye, opposed nay. The E & R amendments are adopted. Senator Chambers.

CLERK: Mr. President, I have a motion now from Senator DeCamp. It is found on page 699 of the Legislative Journal.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, this has not been the most comfortable bill I have ever had to handle or the easiest and in the last week or so I have gotten some letters from some of the members of the public that obviously don't fully appreciate the virtues and values of the bill or me and they got most of their impressions in this particular proposal from the newspapers as I understand it. I would like to go over with you one more time, exactly why I think the bill is necessary and why you as the legislators vested with the responsibility of looking at the whole picture are, in fact, benefitting your constituency and the constituency in Nebraska by passing the legislation. The legislation is, of course, the credit cards. The amendment I have got up there does three things. It increases the rate that they can charge on credit cards to a flat 19%, the same as the personal loan law. It adds the emergency clause so it would go into effect once it is passed and it clears up a question raised by Senator Johnson and that question was, well, look, let's assume we pass the legislation and give them a charge,

allow them a charge on the cards and give them 18 or 19%. What is going to prevent them from charging under state law and then leaping over and using the federal loophole that we talked about, the 24%? So we have a provision that would stop that and make that impossible. If they decide to go one they sacrifice the other. That is what the amendment does but let's talk about the credit card situation. People have contacted me and they have said, "Well look, the banks are making money. I read it in the paper. Banks are making lots of money." Indeed that is true. So we are not doing whatever we are going to do here for the benefit of the banks. When I pointed out to you that the banks are losing money, I pointed out on their credit card operation. So what is going to happen with the banks? They are going to say, "Look, state law, state legislators, we aren't making money on credit cards. We will drop that service or we will use the federal loophole the way one of the other banks did. We will go to 24%." I am trying to provide to Nebraskans the opportunity to have credit cards at what would be reasonable costs. Involved in the credit card operation today are the following factors, the following costs: They have the administrative costs, they have the float costs and they have the basic financing costs. The charge we are putting into the legislation has to do with the administrative and the float costs, the float meaning, the person that uses the credit card, pays his bill when he receives it, you still have anywhere from a... it averages about fifty-five days that the bank has paid that money out they had to borrow and so you have to have something to cover that cost. Since they aren't paying interest the charge would address that and the administrative costs. The interest rate itself is adapted to the facts of the money market today, that fact that it is costing 18, 19, 20, 21% to borrow money. My purpose, as I say, in the legislation is to make sure we do have banks in Nebraska providing the credit cards, providing them at the lowest cost possible rather than going to 24% interest or rather than just cutting out credit cards altogether and I am telling you they are not going to do it for nothing and if we want to keep the credit cards in the pockets of Nebraskans you are going to have to do something to make it at least a break even or profitable operation or they are going to cut it out. If you don't like it you have two choices. You just cut the credit card up and throw it away. You don't have to use it. Nobody is forcing you to or you can go with one of the banks that charge 24%, pay 24% and don't pay any charges. If we pass this legislation we will have two competitive systems. One is the 24% under federal law that some banks have chosen to use. The other would be our 19% system here. I urge you to adopt the amendments and advance the bill.

PRESIDENT: The Chair recognizes Senator Landis.



SENATOR LANDIS: Mr. Speaker, members of the Legislature, I serve on the Banking, Commerce and Insurance Committee. I voted for LB 150 when it came out of committee. I supported it in its amendment process in the committee and if this amendment gets on I am going to vote against LB 150 and I want to tell you why. When I was approached on LB 150 and asked about it, explained its provisions and plummed for support, I agreed that I understood that there was no way credit cards are going to continue to exist if they were not profitable and so I asked, if you get LB 150 as presently constituted, will you make money and the answer was yes. Now that rate was 18% and not 19%. So when John DeCamp stands on the floor and says there isn't money at 18%, either the bankers who were talking to me were wrong or John is wrong. Now I don't know which is which but I know that the bankers told me that if 150 got out as it was written they were going to be all right next year. Now, enough is enough. This session and last session have been bankers sessions, have they not? We have been tied up with usury rates, interest rates, the whole scale increase of the amount of money taken in by financial institutions and they are not hurting. They are making money just fine. Year after year they have been having record increases. I have heard the reports on profitability across the way in the Banking Committee. Maybe you haven't heard them but I have been there and I have been hearing them. There are segments of this economy that are not doing well but at this point it is not the banks. Now it becomes a point at which increases are unconscionable given the other kinds of sacrifices that people are making. If we pass LB 150 with 18%, it has been represented to me by what I regard to be reputable bankers there will be profitability in the credit card industry and now if that is the case, this extra percentage, the amount of which, the profit of which we don't know, isn't told us by Senator DeCamp nor I would assume the proponents of LB 150 later on, that amount of money, millions I am told, I would guess certainly, will be additional profit over and above the point of break even and the point of profitability. I believe I am a reasonable man. I believe I have acted as a reasonable man. It is not my intent to force industry to operate at a losing rate of return. That is not reasonable and if we don't make changes that will be the situation. That is why I am prepared to vote for LB 150 as presently constituted. However, it is also equally unreasonable to continue to grant to one area excessive gains, excessive support, excessive profitability at the cost of consumers that are strapped. John DeCamp tells you that there is a threat behind LB 150. You don't pass LB 150 with 19% and we will jump to the federal most favored lending doctrine in

the coming year. That is not the story that I have been told in committee by banks. They say they are going to make every reasonable attempt and I asked them at 18% whether they would live with it and they said they would make every attempt to do so. So, number one, the threat I don't think is genuine or it has been misrepresented to me. Number two, if it is so, this body can threaten right back. This body has the hammer, not the feds. This body can go to the small loan rate and set it at whatever rate they want and the bank credit cards will have to follow that rate. If we want credit cards at 16% and run everybody out of business we can do it. We have got the hammer, not the banks and don't let John DeCamp tell you that somehow we have to kowtow to the feds and to the banks in this state, we don't. We have got the hammer if we have got enough guts to use it. LB 150 at 18% means profitability for banks. It also lets a brigand outlaw renegade bank continue to charge the amount of money that it has been charging...

PRESIDENT: About a half a minute, Senator.

SENATOR LANDIS: Thank you, and let it stew in its own juices and let the marketplace take its own effect. If we believe in free enterprise and allow that market rate to stand and the competitors to profit by that kind of a rate. We do not, however, have to give in to the implicit threat of the federal most favored lender doctrine by granting, in this case, a 19% charge. 18% means profitability. The threat is not a fair one. It is not a genuine one. We have the power if we wish to exercise it and if we only will be courageous enough to do it and if we have that experience in this year if that is the case, we can come in next year and drop that hammer any time we want to. I will vote against this amendment to LB 150.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Is it too early to call for the question?

PRESIDENT: All right, you can call for it and try? Do I see five hands? All right, the question is, shall debate cease. All those in favor vote aye, opposed nay. Have you all voted? The motion is to cease debate. Have you all voted? Record the vote.

CLERK: 15 ayes, 15 nays to cease debate, Mr. President.

PRESIDENT: Motion fails. The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I would have a couple of questions of Senator DeCamp please.

PRESIDENT: Senator DeCamp, will you respond?

SENATOR NICHOL: Senator DeCamp, I was distracted when you were explaining the amendment. Does it provide that they shall charge for the card to start with and also a charge from the time you make each purchase?

SENATOR DeCAMP: No. Let me hit the bill again real briefly.

SENATOR NICHOL: Just very briefly.

SENATOR DeCAMP: Number one, it says they have an option, a right if they choose to make a charge for the card of up to \$24. Now that doesn't mean they have to and it also means they could make it \$2, \$5, \$10 a year, whatever. From what I understand they are talking less than \$24 by a considerable amount. That is what it does. On transactions, no transaction charge. That was taken out of the bill.

SENATOR NICHOL: All right. Okay, that is fine. Now the other question I have is, I have a credit card here from Visa that says Rocky Mountain on it. That means that comes out of Denver and as I understand they are now charging for the time of purchase. Now if we pass this amendment and the bill, does that include all of the banks in Nebraska or just those that wish to abide and those that are in the perimeter like this one who choose to come out of Denver are governed by Colorado law? Would you explain that please?

SENATOR DeCAMP: Exactly. This bill will have no effect whatsoever upon your card. I suspect they are already charging you the things that we are just talking about here. There are only three states in the United States whose credit card laws are now as restrictive or more restrictive than Nebraska. The rest have all adapted to the situation. That is why you are getting cards out of Rocky Mountain states, others are getting cards out of elsewhere and Nebraska banks are thinking of getting out of the business but you are not paying any less money with that card than you would under our law that I am proposing. You would pay less under our law than you are under the card you have got.

SENATOR NICHOL: That is my point. I think I am, too, paying more for this, so what I am concerned about is whether the banks in Nebraska will stick together and do as they all do or whether those around the periphery of the state will do as they darn well please and we don't know what they will be doing individually as banks, or are they all going to stick together and do the same thing?

SENATOR DeCAMP: The one bank in Omaha that elected to go under the federal law is going to basically and has basically bypassed Nebraska law. They are going to charge their 24%. They are going to essentially do what they want. The other four banks, the National Bank of Commerce, First National of Lincoln, Omaha National and U.S. National are planning if this law passes to operate strictly under this law, however, one exception to this might be U.S. National who is saying, we can't wait to see. We are right now starting to move our operation to Iowa.

SENATOR NICHOL: Thank you very much, Senator DeCamp. I appreciate it. What we are really saying is, it does not make too much difference what we do. Banks are going to do as they darn well please anyway and if they want to be under the law of Nebraska and it is as advantageous as it can be anywhere else, they perhaps will be under the Nebraska law, otherwise they will go somewhere else and do as they darn well please and we are just stuck.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, I also have some questions of Senator DeCamp.

PRESIDENT: Senator DeCamp, will you respond?

SENATOR LAMB: Are we talking about interest from day one or a month later under your amendment? Or are they going to charge interest from the day of the transaction or from the usual billing date which is about a month later?

SENATOR DeCAMP: Okay, banks now have that option. Some of them are charging from the date you get it or the mailing date, whatever it is. Others have initiated a policy of charging from date of transaction as I understand it. I can check this out in more detail and find out exactly which banks are doing what if you would like and I will do that.

SENATOR LAMB: So, you are saying then that this increased interest rate could be from the date you make your purchase, not from the date that you, for instance, the tenth of the following month or whatever the billing date is of the credit card. Is that right? It could be either way at the option of the bank?

SENATOR DeCAMP: I think so, Senator Lamb, but I will have to check in detail. At the present time as you know, I mention there is a float period of about anywhere from thirty to an average, as I understand it from the data,

of fifty-five days between the date you actually make that transaction and the date you ever get your bill. So, somebody has to pay interest on that money.

SENATOR LAMB: Presently that float period works to the consumer's advantage in that...(interruption)

SENATOR DeCAMP: That is correct.

SENATOR LAMB: ...no interest is charged.

SENATOR DeCAMP: Correct.

SENATOR LAMB: But you are saying under present law that the banks could be charging for that period of time?

SENATOR DeCAMP: Yes.

SENATOR LAMB: But they are just not doing it because they don't want to.

SENATOR DeCAMP: I'm not sure about that. I think some of them have changed their computers and have speeded up the process to really expedite things because they realized they were losing a lot on the float with high interest rates so they have tried to shorten that period and some may already, I don't know which ones but I will check for you, some may already be charging from date of transaction. Why don't you let me check it and get you the exact information.

SENATOR LAMB: Well what I am really getting down to is this. I was under the impression that we were trading this charge of up to \$24 for the credit card for the assurance that there would not be this higher interest charge from day one, but now I understand you are not sure about that so, in effect, we may be allowing the banks to charge the \$24 plus higher interest from day one. It looks to me like they are getting the best of all worlds. I have very serious reservations about the bill. I think my opinion is not changed from the other day when I said, heck, this is no emergency. Let's let her go. Let's see what does happen. I really don't think the banks will take those credit cards away from us because they are such a convenience to everyone and the retailers will kick like a bay steer because that will hurt their sales.

PRESIDENT: The Chair recognizes Senator Cope.

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

PRESIDENT: Senator DeCamp, will you respond?

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SENATOR COPE: He is in the back room.

PRESIDENT: He is coming. Here he comes.

SENATOR COPE: Senator DeCamp, what happened to the 16% interest we were talking about the last time? I supported the bill. I think it was good with the charge for the credit card and we were talking 16% as I remember. Where did that go?

SENATOR DeCAMP: Okay, Senator Cope, I don't recall a 16% discussion on credit cards. Maybe it is some topic of conversation I missed. We do have a 16% usury limit, general usury. In other words, that is the maximum amount under certain circumstances from zero to \$25,000 for example...

SENATOR COPE: I know.

SENATOR DeCAMP: ...that they can charge. To the best of my knowledge this was never involved in credit cards, to the best of my knowledge.

SENATOR COPE: What is the limit on credit cards as now?

SENATOR DeCAMP: The limit now is 18% and over \$500 it goes to 12%. One bank has used a loophole and automatically charges 24%. I am trying to set a flat fee of 19%, I think Senator Landis suggested 18 was more reasonable, across the board to prevent them from going to 24. That is my goal.

SENATOR COPE: All right, if we pass the law at 19% that will prohibit them from 24, can't we pass a law for 18% just as well?

SENATOR DeCAMP: Indeed we can if that would make you happy. I would here and now make it 18% across the board and I offer that amendment and I just happen to have it ready here.

SENATOR COPE: Get all you can. If we stay within the limit that we now have on credit cards exactly, 12% the whole bit as we are now but make a up to \$24 charge for a card, then I can support the bill.

PRESIDENT: All right, amendment on the desk, Mr. Clerk. There is an amendment on the desk for amending the DeCamp amendment.

CLERK: Mr. President, Senator DeCamp moves to amend his own amendment. (Read DeCamp amendment as found on page 727 of the Legislative Journal.)

PRESIDENT: All right, Senator DeCamp.

SENATOR DeCAMP: Mr. President, upon the recommendation of Senator Cope and the rather firm suggestion of Senator Landis, I think it wise at this time to change the 19 to 18 and make it across the board. That is what my amendment does. Move it be adopted.

PRESIDENT: Senator Beutler, do you wish to speak to the amendment to the amendment?

SENATOR BEUTLER: No, Mr. Speaker, I would reserve a chance to talk on the bill as a whole. I was going to ask for a division of the question but I think I will not do that now.

PRESIDENT: Okay, any further discussion on the DeCamp amendment to the DeCamp amendment? Does anybody want to speak to that? Senator Marsh and then Senator Landis and then Senator Cope.

SENATOR MARSH: Mr. President and members of the Legislature, I have some questions I would like to ask Senator DeCamp.

PRESIDENT: Senator DeCamp, will you respond?

SENATOR MARSH: Senator DeCamp, money is a commodity such as other items and when a bank borrows money, what does the bank have to pay to borrow money?

SENATOR DeCAMP: Senator Marsh, needless to say that depends upon the circumstances existing at the time such as now, what is prime rate now? I don't even know any more. It changes from day to day.

SENATOR MARSH: 19%.

SENATOR DeCAMP: No, I think it is higher than that, isn't it?

SENATOR MARSH: It just dropped this morning.

SENATOR DeCAMP: I think prime is higher than that, I may be wrong. I think you are talking about another rate. It varies and depending upon whether they are borrowing short term, long term, so on and so forth. In summary, however, the banks now on credit cards, as I understand it, within recent weeks have been paying anywhere from 15% to 17% for the money. Previously for a long period of time they were paying as much as 18, 19, even 20% for the money that they were turning around and charging 18 and 12 on. Like you said, it is a commodity. So if you pay 50¢ for the loaf

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of bread and you process it and have a grocery store and everything, you sell it for 50¢, you lost money and that is the situation. But right now I think they are paying I am going to guess 15 to 17%.

SENATOR MARSH: Well I had some questions because I thought perhaps they were having to pay more and that actually 19% to stay in business might be a reasonable figure.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I will support the DeCamp amendment to the amendment. There is no 12% money any more anywhere practically and it would be unconscionable to require a business to form its function at a less than profitable rate by law which is what we do when we state 12% over \$1,000. I will support the DeCamp amendment to the amendment and if that passes I will be able to support the DeCamp amendment which makes some very valuable technical changes in LB 150.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Senator DeCamp, one question, if I may? I assume in playing around with all of these figures that the banks have done calculations as to how much of a dollar amount difference some of these changes make. I would guess I would ask you this question, with regard to the five banks that we are talking about, if you had taken the interest that they earned in their last completed fiscal year which was based on, I assume 18% for the first \$1,000 and 12% for amounts over that, and if they had applied an across the board 18% to their figures for that year, what kind of a dollar difference would that have made?

SENATOR DeCAMP: Okay, Senator...

SENATOR BEUTLER: What kind of overall money are we talking about here?

SENATOR DeCAMP: First of all, you would have to know the exact amount that each bank has out, the exact amount that each bank has out. They will not give those figures publicly. They give approximations in terms of how much they have out in credit cards, what the average balance at a particular time is, so on and so forth. I will try to get you the exact information but I am sure it will be a pretty complicated figure, the spread between 18 and 12 you are talking about basically, that difference. I can see if I can get you that information pretty quick, at least a rough figure.



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SENATOR BEUTLER: Basically what you are telling us is that we really don't know how many dollars we are adding to their coffers and this by doing this? Is that correct?

SENATOR DeCAMP: Yes.

SENATOR BEUTLER: Okay, thank you.

PRESIDENT: All right, Senator DeCamp, do you wish to close on your amendment to your amendment?

SENATOR DeCAMP: Mr. President, it makes it 18% across the board. The factor that would cause it to be functional is, of course, the charge. That is still in there. I believe if we will employ this technique that I am offering we will do three things. Number one, we will keep a couple, more than a couple, several hundred million dollars in Nebraska. Nebraska will have that access to it rather than take that money and put it somewhere else in another state in credit cards in other states under their laws. We keep the money at home. It is Nebraska money in most cases to start with. Number two, it will offer to Nebraska citizens and those who want to use Nebraska credit cards out of Nebraska banks, a lower rate overall than they are going to get if we do nothing or if they have to use Rocky Mountain or other state credit cards from other states and, number three, I think it will make it possible for the average Nebraskan who might not be able to even get a credit card because if they can't survive, as I say, they are going to take the system elsewhere. That will mean certain people are going to lose their credit cards that now have them for nothing. I think it will solve that problem. So I urge you to adopt, first of all the amendment, then the amendment to the amendment and that is all.

PRESIDENT: All right, the question then is the adoption of the DeCamp amendment to the DeCamp amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 1 nay, Mr. President, on adoption of the DeCamp amendment to his amendment.

PRESIDENT: Motion passes and the amendment to the amendment is adopted. Now we are on the amendment. Before we do this, Senator DeCamp, the Chair would like to introduce up here in the North balcony guests of Senator Koch, 50 fourth grade students from Ralston with Shirley Johnson and Dan Mussman teachers, here in the North balcony. Would they wave down here to the Legislature. Good morning and welcome to your Legislature. And there are guests of Senator Hoagland, six ladies from the American Association of University Women from Omaha are under the South balcony.

Would they stand up over here and be recognized. Welcome to your Legislature, ladies. They are under the South balcony. Okay, Senator DeCamp, I guess...Senator Beutler, did you wish to speak again now on this? So, I guess we are ready then for a closing on the amendment, Senator DeCamp.

SENATOR DeCAMP: Mr. President, we have pretty well reviewed the situation but let me give you a few additional facts so you put things in context when somebody comes and confronts you and says, how come you voted to charge me for my credit card? At the present time in Nebraska, if you take your Penney's card and other things, they can already charge 21%. Remember, the business community came in last year and you passed it. You gave them that authority. So, you are actually by this system setting up a lower rate so they can use their Visa or MasterCard and keep their charge and pay less interest. Additionally, in answer to Senator Landis' observation that this session, last session, we spent a lot of time on what what we call banking issues. I would say that I did not personally create the economic conditions of this country that have given rise to all of the matters involving the most fundamental part of your life, finance, money, cost, inflation. All I have tried to do with the things offered is to address the problems that were created by a variety of others and other factors. Finally, in answer to Senator Beutler's question, I have learned that the average outstanding balance is about \$400 on a credit card, therefore, the 18-12 difference is essentially very small. The exact number I couldn't give you but with that average outstanding balance you can see it would not be much of a change. I urge you to adopt the amendment.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is the DeCamp amendment to LB 150. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 27 ayes, 2 nays, Mr. President.

SPEAKER MARVEL: The motion carried. The amendment is adopted. Now do we have another amendment?

CLERK: Mr. President, Senator Beutler moves to amend: (Read Beutler amendment as found on page 728 of the Legislative Journal.)

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature,

the effect of the amendment is simply to reduce the \$24 fee for the issuance of the card to \$18. I am not privy to all the information apparently that the Banking Committee is to the information hopefully that the Banking Committee is privy to with regard to private financial statements of all five of the banks and an analysis of their profits and of their transactions but I was able to see one of them and I know for example, in that particular instance they had seventy-six thousand cards outstanding. And if you multiply that and made the assumption that every one of those people would hold onto their card which is perhaps not accurate, and you multiply that times twenty-four, you would be up in the neighborhood of 2 million dollars you are adding to their operations. I think that is way too high. I am not sure what the right figure is because I don't have the information to make that kind of very rational decision but if you change it to \$18 then you are adding to that particular operation an amount in excess of a million dollars, about a million, point two million dollars. Now I know from seeing their figures that their losses were not in the seven figures and were not close to the seven figures. So what I am telling you is, we are, in fact, making at least that one operation profitable by what we are doing and I am of the opinion that \$18 makes it plenty profitable. We have just passed an amendment which helped them out a little bit in addition to what the original bill does. So I am merely suggesting to you that this is a more appropriate figure based on what little information I have. Now if somebody else has some other information that indicates it is not appropriate, I would like to hear it. Thank you.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I have an amendment up there and it changes 18 to 20. It now is at 24. He is trying to go to 18. I am suggesting 20. What are my reasons for saying 20 rather than 30, 15, 18, whatever? My reasons are very simple. I have to trust to a degree the people that I have talked to. I asked them, can you live with 18? Their exact words to me after a group of them, and let's make no secrets about it, I have to get my information from the banks on this particular thing, from the people that represent the banks and the people involved in the business, and what they said to me was, we can live with 18 for a year but then we are going to be back here next year undoubtedly having to go to at least 20 or 21. I suggest to you that 20 is reasonable or as reasonable as anything else and it is a major decrease, what, 20-25 percent from the 24. So I urge you to adopt the 20.

SPEAKER MARVEL: The motion before the House is the DeCamp amendment to the Beutler amendment. Senator Beutler, do you wish to close on your amendment? Senator Beutler, do you want to be recognized?

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, it seems like Johnny is always a few numbers higher than I am. A speed limit bill he wanted 65, not 60. Now he wants 20 instead of 18. I am just asking you one thing. If somebody is going to come in here asking you for something at least make them give you some hard information. My amendment is based on some figures. I would think it would be at least appropriate to ask for some figures on the information that some other people are using. So, please base your vote at least on the information available. Thank you.

SPEAKER MARVEL: Okay, the motion before the House is the DeCamp amendment to LB 150. All those in favor of that amendment vote aye, opposed vote no. Have you all voted? Have you all voted? Senator DeCamp.

SENATOR DeCAMP: I will take a sip of Pepsi and hope that five more votes come. How many are excused? We will go through that routine for a while.

SPEAKER MARVEL: One excused.

SENATOR DeCAMP: Mr. President," since we will obviously, whatever we decide, want to have a full body here when we vote, maybe we ought to go ahead and have a Call of the House and take call-in votes until such time as we get most people rounded up so we can make a final disposition of the bill. Is that okay?

SPEAKER MARVEL: Okay, the Clerk is authorized to take call-in votes. Shall the Legislature go under Call? All those in favor of going under Call vote aye, opposed vote no. Record.

CLERK: 11 ayes, 2 nays to go under Call, Mr. President.

SPEAKER MARVEL: The Legislature is under Call. All legislators return to your seats, record your presence. Unauthorized personnel please leave the floor. Senator Fenger, Senator Goll, Senator Burrows, Senator Wiitala, Senator Koch, Senator Kilgarin, Senator Cope, Senator Schmit, Senator Rumery, Senator Kahle, Senator Hefner, Senator Vard Johnson, Senator Sleck, Senator Chronister, Senator R. Peterson, Senator Goodrich, Senator Barrett, Senator Newell, Senator Chambers, Senator Marsh, Senator Pirsch, Senator Carsten, Senator Higgins, Senator Clark. The Clerk is authorized to accept call-in votes.

March 3, 1981

LB 5, 55, 76, 83, 128,  
136, 144, 150, 217, 279,  
354, 379, 457, 462

CLERK: Mr. President, Senator Kahle voting aye, Senator Wiitala voting aye, Senator Barrett voting aye.

SPEAKER MARVEL: Senator Goodrich, would you record your presence.

CLERK: Senator Vard Johnson voting aye.

SPEAKER MARVEL: Record the vote.

CLERK: 25 ayes, 13 nays on adoption of Senator DeCamp's amendment to the Beutler amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Do we have other amendments? Senator Beutler.

SENATOR BEUTLER: (Mike not turned on.) ...now, I would move the amendment be adopted.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the Beutler amendment as amended.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. The motion is the advancement of the bill to E & R for engrossment. A machine vote is requested. All those in favor of advancing the bill vote aye, opposed vote no. Record.

CLERK: 27 ayes, 13 nays, Mr. President, on the motion to advance.

SPEAKER MARVEL: The motion carried. The bill is advanced. Items on the Clerk's desk before we go to the next bill. I would suggest to you that in ten or fifteen minutes we will move into General File as per the agenda.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 144 and recommend that same be placed on Select File with amendments; 354 Select File; 55 Select File 76 Select File with amendments; 83 Select File with amendments; 217 Select File; 457 Select File; 136 Select File; 128 Select File; 462 Select File with amendments; 279 Select File and LB 5 Select File with amendments. (Signed) Senator Kilgarin. (See pages 728-730 of the Legislative Journal.)

Mr. President, your committee on Public Health and Welfare whose chairman is Senator Cullan reports LB 379 to General

LB 9, 34, 51, 78, 91, 124,  
125, 133, 150, 178, 195,  
205, 223, 272, 273, 273A  
277, 317, 320, 321, 345  
363, 376, 409, 439, 459

March 6, 1981

PRESIDENT LUEDTKE PRESIDING

REVEREND GERALD LUNDBY: (Prayer offered.)

PRESIDENT: Senator Higgins, do you want to put your light on and then we will make sure we have got enough. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections to the Journal, Mr. President.

PRESIDENT: All right, the Journal will stand correct as published. Any messages, reports or announcements?

CLERK: Yes, sir, I do. Mr. President, first of all, your committee on Education whose Chairman is Senator Koch to whom was referred LB 78 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 317 General File with amendments; 320 General File with amendments; 321 General File with amendments; 91 Indefinitely postponed; 223 Indefinitely postponed; 363 Indefinitely postponed; 439 Indefinitely postponed. (Signed) Senator Koch, Chair.

Mr. President, your committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp to whom was referred LB 376 reports LB 376 to General File with amendments; LB 133 Indefinitely postponed; and 277 Indefinitely postponed. (Signed) Senator DeCamp, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 51 and find the same correctly engrossed; LB 125 correctly engrossed; 150 correctly engrossed; 195 correctly engrossed; 205 correctly engrossed; 272 correctly engrossed; 273 correctly engrossed; 273A correctly engrossed; 409 correctly engrossed; and 459 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 9, 34, 124, 178 and 345 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 9, LB 34, LB 124, LB 178, and LB 345.

March 11, 1981

LB 51, 150 E, 195 E

I would remind the Legislature that if this technique continues, there are going to be several hundred bills that are not going to be heard. Senator Wesely.

SENATOR WESELY: Okay, Speaker Marvel, I am sorry to take the time I did but, again, just to call your attention to what we are trying to do is return it to Select File to reinsert the fact that there wouldn't be a preference for counties receiving this incentive pay as Senator Rumery would have in the bill if they didn't have a full time county engineer. We are just trying to leave it across the board equal in terms of what money you get back from the state on this. So that is what we are trying to do.

SPEAKER MARVEL: All those in favor of returning the bill vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 5 ayes, 24 nays on the motion to return the bill, Mr. President.

SPEAKER MARVEL: Motion lost. We are back to Final Reading. The Clerk will read LB 51.

CLERK: (Read LB 51 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. Record the vote.

CLERK: (Record vote read. See page 849, Legislative Journal.) 45 ayes, 2 nays, 2 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill passes on Final Reading. The Clerk will now read on Final Reading LB 150E.

CLERK: (Read LB 150E on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading with the emergency clause attached? All those in favor vote aye, opposed vote no. Have you all voted? Record.

CLERK: (Read record vote. See page 850, Legislative Journal.) 34 ayes, 12 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk will now read on Final Reading LB 195E.

March 12, 1981

LB 51, 104, 150, 151, 154, 179, 190,  
195, 204, 204A, 205, 220, 272, 409,  
403.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: (Microphone not on)...Tom Huxtable who is the Minister of the Eastridge Presbyterian Church.

REV. TOM HUXTABLE: Prayer offered.

SPEAKER MARVEL: Will you all record your presence, please.

CLERK: Mr. President, Senator Vard Johnson would like to be excused until he arrives. Mr. President, Senator Burrows would like to be excused until he arrives. Senator Wagner and Senator Labeledz until they arrive.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: A record attendance, please. A record vote on attendance, please.

SPEAKER MARVEL: Record the vote.

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

SPEAKER MARVEL: Do you have any other items on your desk?

CLERK: Yes, sir, I do. Mr. President, I have several matters to read in. Mr. President, LBs 51, 150, 195, 272, 409, and 154 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 51, LB 150, LB 195, LB 272, LB 409, LB 154.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports LB 104 is correctly engrossed and LB 205 correctly engrossed. (Signed) Senator Kilgarin as Chair. (See page 874 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 190 and recommend that same be placed on Select File with amendments; 220 Select File, 151 Select File with amendments; 179 Select File with amendments; 204 Select File with amendments; 204A Select File. (Signed) Senator Kilgarin, Chair. (See page 873 of the Legislative Journal.)

Your Committee on Banking reports LB 403 to General File



LB 51, 63, 74, 94, 106, 113A, 150, 154,  
190, 195, 225, 261, 272, 281, 284A, 351,  
409, 418, 421, 426, 466, 229

March 12, 1981

Mr. President, some items to read in, LB 113A by Senator DeCamp. (Read LB 113A for the first time by title.) LB 284A by Senator DeCamp. (Read LB 284A for the first time by title.)

Your Enrolling Clerk respectfully reports that she has on this day presented to the Governor LB 51, 150, 195, 272, 409 and 154.

Your Committee on Education reports 63 indefinitely postponed. (Signed) Senator Koch.

Your Committee on Public Works reports 229 to General File and 94 General File with amendments. (Signed) Senator Kremer.)

Your Committee on Banking reports 421 to General File with amendments. (Signed) Senator DeCamp.

Your Committee on Public Health reports 261 and 466 to General File with amendments.

Mr. President, Senator Nichol would like to print amendments to LB 74 in the Journal. Banking, Commerce and Insurance Committee sets hearing. Senator Koch would like to print amendments to LB 190. Senator Kilgarin asks unanimous consent to be excused tomorrow. I have notice of priority bill designation of the Speaker. Your Committee on Banking, Commerce and Insurance reports 426 to General File with Amendments. (See pages 882 through 896 of the Legislative Journal.)

Mr. President, Senator Schmit would like to have the Ag and Environment Committee tomorrow morning at eight o'clock in Room 1520, Ag and Environment Committee tomorrow morning.

Mr. President, your Committee on Government, Military and Veterans Affairs reports 281 to General File with amendments; LB 351 General File; LB 418 to General File; LB 106 as indefinitely postponed; and LB 225 as indefinitely postponed. Those are all signed by Senator Kahle as Chairman.

Mr. President, the Business and Labor Committee will have an Exec Session at 1:00 p.m. today in Room 1019; Business and Labor at 1:00 p.m. today.

Mr. President, Senator Vard Johnson asks to be excused tomorrow.

March 17, 1981

LR 21, 30  
LB 24, 38, 51, 55, 83, 114, 128,  
136, 150, 154, 195, 217, 246, 250,  
272, 275, 279, 288, 302, 325, 354,  
388, 409, 434, 444, 457, 462, 515

SPEAKER MARVEL PRESIDING

REVEREND RON WASIKOWSKI: (Prayer offered. Microphone not on. See page 951, Legislative Journal.)

SPEAKER MARVEL: Record your presence. Record.

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

SPEAKER MARVEL: Did you have any other items?

CLERK: Yes, sir, I do. Mr. President, first of all, the Journal is without error this morning.

Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LBs 55, 83, 114, 128, 136, 150, 154, 195, 217, 246, 272, 275, 279, 288, 325, 354, 388, 409, 434, 457, 462, 24, 38, and 51. See pages 951 and 952, Legislative Journal.)

Mr. President, I have a series of Attorney General opinions. One to Senator DeCamp regarding the Executive Board and the powers thereof; one to Senator DeCamp regarding payment of salary; one to Senator Nichol regarding LB 515.

Mr. President, your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle reports LB 250 to General File with amendments; LB 444 to General File with amendments. Signed Senator Kahle as Chair.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 302 to General File with amendments and Public Works reports LR 21 back to the Legislature with amendments. Signed by Senator Kremer as Chair.

SPEAKER MARVEL: From Senator Barrett's District in the North balcony it is my privilege to introduce 19 senior high students from St. Ann's Catholic School, Lexington, Nebraska. Mr. Roger Lucas, Government teacher; Dr. Phillip Vreeland, English teacher. Will you hold up your hand so we can see where you are and greet you? Okay, we will go to item #4.

CLERK: Mr. President, the first resolution is offered by Senator Dworak. It is LR 28. It is found on page 737 of the Journal.

Mr. President, while Senator Dworak is missing, LR 30 by Senator Vickers. It is found on page 787. (Read.) That resolution, Mr. President, is found on page 787 of the Journal.