

January 19, 1981

LR 6  
LB 311-356

read some bills in now, we will recess until 3:30 and come back and hopefully there will be more bills to process and then I would like to have a meeting with the chairmen in Room 1520 at 9:00 tomorrow morning. The Clerk now will....Senator Carsten.

SENATOR CARSTEN: Mr. President, I am hopeful to have a meeting of the Revenue Committee at 3:00. We may be a little late getting back in Exec Session, so I just wanted to alert you of that.

SPEAKER MARVEL: Okay. Senator Carsten is calling a meeting of the Revenue Committee for three o'clock this afternoon. In which room? 1520. Okay, Mr. Clerk, go ahead.

CLERK: Mr. President, first of all, Senator Marsh has an explanation of vote to be inserted in the Journal. (See page 244 of the Legislative Journal.)

New bills, Mr. President. Read by title LB 311-355 as found on pages 244 through 255 of the Legislative Journal.

Mr. President, new resolution. (Read LR 6 as found on pages 255 and 256 of the Legislative Journal.)

Mr. President, Senator DeCamp asks unanimous consent to have the names of all the members added as co-introducers to LR 6.

SPEAKER MARVEL: Okay, the motion before the House is the unanimous consent request that all names be added to the resolution which was just read. Is there objection to that motion? If not, the motion is so ordered.

CLERK: Mr. President, pursuant to our rules....

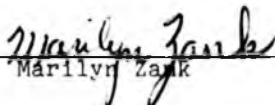
SPEAKER MARVEL: It will be in the Journal?

CLERK: Yes, sir, it will be taken up some time later.

Mr. President, LB 356. (Read title to LB 356 as found on pages 256 and 257 of the Legislative Journal.)

SPEAKER MARVEL: Okay, the motion by Senator Marsh to recess until 3:30 p.m. All those in favor of that motion say aye. Opposed no. We are recessed until 3:30 this afternoon.

Edited by:

  
Marilyn Zark

February 12, 1981

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Monsignor Charles J. Keenan of the Blessed Sacrament Parish, Lincoln, Nebraska.

MONSIGNOR KEENAN: Prayer offered.

SPEAKER MARVEL: Roll call. Will you please record your presence. Have you all recorded your presence? Record the vote.

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

SPEAKER MARVEL: Do you have some items to read into the record?

CLERK: Yes, sir, I do. Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined and reviewed LB 336 and recommend that same be placed on Select File with amendments; 336A Select File; 33 Select File; 96 Select File; 31 Select File, 214 Select File, 120 Select File and 85 Select File with amendments, (Signed) Senator Kilgarin, Chair. (See pages 512-513 of the Legislative Journal.)

Mr. President, your committee on Banking, Commerce and Insurance whose chairman is Senator DeCamp to whom is referred LB 195 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; 272 General File with amendments; 273 General File with amendments and 355 General File with amendments, (Signed) Senator DeCamp, Chair. (See pages 512-514 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 14 and find the same correctly engrossed; 18, 41, 51, 64, 65 and 121 all correctly engrossed.

And finally, Mr. President, I have a lobby registration report covering the week of February 6 through February 11, 1981. (See page 515 of the Journal.)

SPEAKER MARVEL: Okay, we will go to item #4, introduction of new bills.

CLERK: Mr. President, Senator Nichol moves to suspend Rule 5, Section 5 so as to permit the introduction of Request 889 by himself.

SPEAKER MARVEL: Senator Nichol.

SPEAKER MARVEL: LB 355.

CLERK: (Read title.) The bill was read on January 19, referred to the Banking, Commerce and Insurance Committee. It was advanced to General File. There are committee amendments pending by the Banking Committee, Mr. President.

SPEAKER MARVEL: Senator DeCamp, do you want to move the adoption of the committee amendments?

SENATOR DeCAMP: I move the adoption of the committee amendments, Mr. President. I've got to see what they do though. Well, once again, this is one of those bills that is a national model bill and I think you have probably read in the media and other places that the insurance industry is trying to get this bill or variations of it passed in every state in the United States this year. What it does is it is going to change the interest system that is involved in certain insurance policies. It is Senator Clark's bill. I will let him explain it further. Basically the amendments make again, some technical corrections. They change, well it corrects something that was left out of the initial draft, mandates that the policy loan rate be decreased if there is a decrease in one-half of one percent in the published monthly average for the rate being charged on the loan. We reinstated some language to assure that the policy will not lapse because of a policy loan unless certain conditions occur but all of these things only make sense in the context of the entire bill and I will defer to Senator Clark to address the bill itself and assist him in any way there and think we should adopt the committee amendments first and then let him go on with the bill.

SPEAKER MARVEL: Senator Dworak, do you wish to speak to the committee amendments? Okay. Senator Clark, do you wish to speak to the committee amendments? The motion is the adoption of the committee amendments to LB 355. Those in favor vote aye, opposed vote no. Have you all voted? We are voting on the committee amendments to LB 355. Record.

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

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Clark, do you wish to speak to the bill?

SENATOR CLARK: Mr. President, members, I move that LB 355 be advanced to E & R initial. What this bill does is to put a variable interest rate on the cash loans of insurance policies after the bill goes into effect. Any contract in

effect at the present time at 6% or 4½% or 8% will not be affected, only those policies sold from now on. Now what they are going to do is to use by the amendments that you adopted from the committee amendments probably use the Moody's Index on Bond Yields. Last year they were 12.75% which is certainly below the current amount of money that you can borrow or the percentage that you are going to have to pay at a bank. The only thing that they could charge would be this index and it is set by the Commissioner, the Insurance Commissioner of the State of Nebraska. It is a model bill. It brings the insurance industry in line with stopping a run on the insurance company. If they have a \$100,000 cash value on their policy they are borrowing it. The insurance companies do not question that. The contract said they could borrow it at 6% or 8%, whatever their policy had at that time and consequently they were making a run on the insurance company to put this money out at 14%, 15%. That is all this bill does. It just does it from now on, not in the past and I will be glad to answer any questions.

SPEAKER MARVEL: Senator DeCamp, do you wish the floor?  
Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I just have one question. Senator Clark, I don't oppose your bill. I just have a question. You say that they set a rate of interest. Would this be done once a year or would this be flexible so they could do this several times during the year or could they do it day to day or...?

SENATOR CLARK: The interest rate could only go up when that bond interest rate went up by a half point or more. It could not go up any more and it must come down also if it comes down.

SENATOR NICHOL: But could this be done daily or...once a year?

SENATOR CLARK: No, no. In the first place it takes about, one company I charge with, about \$35,000 to send notices to every policyholder would have to be notified, what they are doing, what the rate would be at that time and they have to be notified. That costs about \$35,000 to notify these people so consequently, the only notice I think that they are going to get is going to be the original notice when they raise it up to 12.5 or whatever that point is allowed by the Commission. That is all it is going to do.

SENATOR NICHOL: But what you are saying is they may change this as often or as seldom as they choose but they still must go through the routine of doing it.

SENATOR CLARK: It can go up quarterly if it goes up quarterly but it could go up no oftener than quarterly but you have to remember if they are going to do it quarterly and it goes up by a half point, the chances are they wouldn't even do it then because of the cost.

SENATOR NICHOL: Yes, that is what I wanted to know. It can go up no oftener than quarterly.

SENATOR CLARK: That is right.

SENATOR NICHOL: Thank you.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, just to say this is, so nobody is deceived or has a question later or says they didn't understand or if anybody has any questions, this is a very major, major bill. I believe it is a proper bill. I believe it is a necessary bill. It will help our insurance industry and make it stronger and it will help the public so I urge the bill be advanced.

SENATOR HEFNER: Mr. President, I have a few questions of Senator Clark if he will yield.

SENATOR CLARK: Yes, I will yield.

SENATOR HEFNER: I notice in this handout that you gave to us, you say that usually it is just the more affluent people or the ones that have larger insurance policies that borrow on their policies. You say here that the lower and middle income people who own smaller sized policies do not borrow as much. Can you tell me why this happens or don't they know about this or...?

SENATOR CLARK: I would like to explain that to you. That is a good question, Senator Hefner. Usually the people have smaller policies. You are talking about two, three, four hundred dollar cash value on a policy. Those people are not drawing those out unless it is absolutely necessary. They use it. They don't have to worry about it. They can get it any time they want to. Their stove blows up or something, they have to have a new stove, they borrow it against that. It is a fund that they can borrow any time they want. What they are worried about is 30% of the people that have these policies over \$10,000 have been making a run on the company in order to borrow that money and put it out at 14% in money markets. This is what the problem is. The people that do not borrow on their policy are

actually in trouble many times because they don't borrow. They have to pay a higher interest rate because of that.

SENATOR HEFNER: Okay, in other words what you are saying that it doesn't hardly pay the small policy owner to borrow on his because it is such a small amount?

SENATOR CLARK: They cannot take that money out and put it at 14% when it is that small.

SENATOR HEFNER: Because it wouldn't be large enough. Okay, do you know what the ratio of loans of an insurance company to their assets is, the ratio of loans to their assets?

SENATOR CLARK: I have no idea.

SENATOR HEFNER: Okay, I noticed here that you say that it could be real rough on some of these insurance companies if the run is kept up.

SENATOR CLARK: Well the reason for that is that some of these smaller insurance companies had to go out and pay 16%, 17%, 18% for money in order to affectuate the contract they put out originally so that they can put that money out because they did not have that money in reserve. They had to go out and borrow money to loan the money at 7%, at 8%, 6%, whatever the contract called for and what they had to do was go out and borrow the money to put that money out and that is the bad thing about it.

SENATOR HEFNER: Okay, thank you, Senator.

SENATOR CLARK: It is not going to stop that either because those policies will still be in effect, they are contracts and you cannot abrogate the contracts.

SENATOR HEFNER: Okay, thank you, Senator Clark. I fully support the bill because I think that we in the Legislature need to do something about this and I think this would correct some of the inequities that we have.

SENATOR CLARK: Thank you. I would move the bill to E & R.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: We are now voting on the advancement of the bill. All those in favor vote aye, opposed no.

ASSISTANT CLERK: Senator Nichol voting aye.

February 25, 1981

LB 355, 114

SENATOR NICHOL: Have you all voted? Record please.

CLERK: 26 ayes, 2 nays, Mr. President, on the motion to advance the bill.

SENATOR NICHOL: The bill is advanced. We will move on to LB 114.

CLERK: Mr. President, LB 114 was offered by Senator Wagner (Read title.) The bill was read on January 13, referred to Public Works for hearing. It was advanced to General File. There are committee amendments pending by the Public Works committee, Mr. President.

SENATOR NICHOL: Senator Kremer, are you going to take the amendments? Okay.

SENATOR KREMER: Mr. Chairman, I move the amendments to LB 114. These are strictly technical amendments, not substantive at all. It makes clear the Department of Water Resources has the discretion to require acreage reports from some but not all irrigators in any one given year. Technical in nature only. I move the adoption of the amendments.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 114. All those in favor vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays on the adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: The motion is carried. The committee amendment is adopted. Senator Wagner.

SENATOR WAGNER: Mr. Speaker, members, I would move LB 114. A little comment about 114 is really it's a money saver. It is kind of a housecleaning bill for the Department of Water Resources. The bill relates to acreage reports. They essentially mail out something like 6,000 reports each year. Really they only use about 2,000, so really they have 4,000 that they handle, and really there is no necessity for it. What the bill does is give the Department of Water Resources the discretionary power whereby they can go ahead and just essentially ask for the ones that they use. If there are no questions, I would move the bill.

SPEAKER MARVEL: The motion is the advancement of 114

February 27, 1981

LB 34, 58, 114, 125, 144,  
195, 205, 246, 272, 273,  
273A, 325, 355, 359, 388,  
409, 491, 546

the motion is the suspension of the rules to introduce a bill as explained by Senator Newell. All those in favor of suspending the rules vote aye, opposed vote no. Record the vote, Mr. Clerk.

CLERK: 30 ayes, 11 nays to suspend the rules and offer introduction, Mr. President.

SPEAKER MARVEL: The motion is adopted.

CLERK: Mr. President, a new bill, LB 546. (Title read.) While we are waiting, your committee on Urban Affairs whose Chairman is Senator Landis to whom we referred LB 58 reports the same back to the Legislature to General File with amendments; 359 General File with amendments; 491 General File with amendments. (Signed) Senator Landis.

Senator DeCamp would like to print amendments to LB 34 in the Journal.

Mr. President, your committee on Enrollment & Review respectfully reports they have carefully examined and reviewed LB 205 and recommend that same be placed on Select File with amendments; 409 Select File with amendments; 195 Select File; 272 Select File; 273 Select File with amendments; 273A Select File; 355 Select File with amendments; 114 Select File; 246 Select File, 325 Select File, 388 Select File with amendments. (Signed) Senator Kilgarin, Chair.

SPEAKER MARVEL: May I have your attention to discuss item #6 and item #6 has to do with the continuation of the discussion on LB 125. There is a request that the bill be laid over until Monday. I have contacted two of the introducers. They are amenable to laying it over until Monday. If we do this, I think we must do it with the understanding that we are not establishing a precedent. But anyway, is there objection to laying over 125 until Monday? Senator Higgins.

SENATOR HIGGINS: Mr. President, who requested that we lay it over?

SPEAKER MARVEL: Senator Haberman.

SENATOR HIGGINS: Thank you.

SPEAKER MARVEL: Any other discussion? Okay, the bill will be laid over until Monday. We now move to General File, LB 144, Mr. Clerk.

March 3, 1981

LB 273A, 355

CLERK: I have nothing on the bill, Senator.

SENATOR KILGARIN: I move LB 273A be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced, 355.

CLERK: Mr. President, I have a series of amendments on LB 355. We do have E & R amendments, however, first, Senator.

SENATOR KILGARIN: I move the E & R amendments to LB 355.

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

CLERK: Mr. President, the first amendment I have is from Senator Kilgarin. (Read Kilgarin amendment found on page 734 of the Legislative Journal.)

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Mr. Speaker and members of the Legislature, if you will turn to page 5 on LB 355 you will note that after the word "act" it says, "unless the policyholder agrees in writing to the applicability of such provisions." Now, I don't feel that any policyholder who has acquired their policy before the date this act takes effect should, even by agreeing in writing, have to comply with the variable interest rate provisions in this bill. Now with this, unless the policyholder agrees in writing is stricken and taken out, there is a chance that policyholders who acquired their policies before the effective date of this act will be held to the variable interest rate provision. So I feel we should amend this particular statement out of the bill.

SPEAKER MARVEL: The motion is the adoption of the amendment to LB 355. All those in favor of that motion vote aye, opposed vote no. Yes.

SENATOR DWORAK: A point of clarification. What are we voting on?

SPEAKER MARVEL: We are voting on the Kilgarin amendment to LB 355.

SENATOR DWORAK: Well, Mr. President, did you ask for to close debate?

SPEAKER MARVEL: There were no lights on, Senator Dworak.

SENATOR DWORAK: Well I have a malfunction back here. My white button is detached and I was trying to get my light on and I couldn't get the light on.

SPEAKER MARVEL: Clear the board. The Clerk will clear the board. Do you have a malfunction similar to the one last week? Oh, okay. Clear the board. The Chair recognizes Senator Dworak.

SENATOR DWORAK: I can't get my light on so, okay, thank you.

SPEAKER MARVEL: You are recognized.

SENATOR DWORAK: I have several questions of Senator Kilgarin. It seems to me, Senator Kilgarin, that you are taking the option away from the insurance companies to charge a lesser interest rate. In other words, if the section you are amending is that the rate of interest charged on a policy loan made under subdivision (1) (b) of this section shall not exceed the higher of the following: The published monthly average for the calendar month ending two months before the date the rate is determined or the rate used to compute the cash surrender values under this policy. If the bill passes in its existing form, the insurance company cannot pay any more or cannot charge on policy loans any more than those two levels. You are saying they cannot charge any less than those two levels, forcing those interest rates maybe higher than should be charged. Am I correct in reading your amendment and would you please give me your reasons for insisting that these interest rates be at that high level?

SENATOR KILGARIN: Thank you, Senator Dworak. Yes, I will address your questions. The high levels you are talking about are the policies that are out presently and they are at 5% interest, 6% interest and some 8% interest rates right now and I seriously doubt, Senator Dworak, if the interest rate in the near future or even in the long range future is going to return to that level or that rate of the highest being 8% and I don't even think the interest rate is going to go down to 8%. Now the reason I am striking this is...

SENATOR DWORAK: ...Kilgarin, we are talking about only policies issued on or after the effective date of this act. So the policies now out at 6 or 7 or 8% are not affected at all and the argument you are giving me for your amendment

is that you feel it is affecting those policies now issued and I question whether you are in the right section because those policies are grandfathered out of this particular piece of legislation.

SENATOR KILGARIN: As I read the bill, Section 4, it says, "unless the policyholder agrees in writing to the applicability of such provisions." I see...possibly I am reading it wrong, Senator Dworak, but the way I see it that means that if a policyholder received a form in the mail and it is sent to him by his insurance agent or the insurance company and it says you have to sign this and mail it back in, I am wondering if this is going to affect some of the policyholders who acquired their policies before the effective date of this act.

SENATOR DWORAK: If they agree in writing to the higher interest rates on the money that they may desire to borrow it would affect them but if they don't agree in writing, they are held harmless. So, again I have a lot of difficulty in you putting an arbitrary level that interest rates shall be that high. I think it is not in the best interest of the policyholder necessarily unless there is a tradeoff for some additional cash values, additional nonforfeiture values, additional...or affecting the reserving of the premium to have the higher interest rates and that is the reason this bill is going in conjunction with another bill which is going to be heard this afternoon. So, in my opinion, I think this would be a serious mistake to tamper with this bill because it is a national model act that is proposed by all of the insurance commissioners in the United States and this bill is a very complicated bill because it is running in tandem with another bill which affects policyholder benefits such as the nonforfeiture value and the nonforfeiture values like paid-up additions...

SPEAKER MARVEL: You have ten seconds left.

SENATOR DWORAK: ...and extended term insurance and lower premiums. So, I would urge this body not to adopt this amendment because it is tampering with a very technical and complicated portion of the insurance mechanism and I think it would be a serious mistake and, in effect, seriously hinder what this bill is attempting to do.

SPEAKER MARVEL: Senator Clark, we have time for your discussion and then we are going to have to pass over the other bills and move to General File. The Chair recognizes Senator Clark.

SENATOR CLARK: Mr. President and members, I would urge you to vote against this. I don't think that Senator Kilgarin

really understands what we are doing here in this. Policies that are out today are not affected whatsoever unless you would agree to the higher interest rate. There is only one way that you would abrogate a contract is by both parties abrogating the contract. I mean, there is no other way you could do it. The only way that you would do would be a trade-off as Senator Dworak has said. If you have a \$10,000 policy and the company says we will give you \$11,000 worth of insurance for the same price, if you agree to go to the higher interest rate, fine. If you don't want to do that you don't have to do it. There is nothing in the books there that says you have to do anything. That is inviolate, that contract. You cannot abrogate that at all and this bill does not intend to do that, only from those policies written from now on. That is the only thing it does. The only other way you could do that would be to agree to the fact that you wanted a higher interest rate. I don't think anyone is stupid enough to do that unless they got something for it. The only way you could do it is to have the insurance company tell you that they are going to give you something for a trade-off to go to the higher interest rate. That is the only thing it would do. I urge you to vote against that.

**SPEAKER MARVEL:** The Chair would suggest that since we have to stop and move to General File that Senator Clark and Senator Dworak and Senator Kilgarin and anyone else who is interested in LB 355 get together and discuss the matter and it will be on the agenda for tomorrow. So we will now move to General File and the first bill is LB 476.

**CLERK:** LB 476 was introduced by the Constitutional Revision and Recreation Committee. (Read title.) The bill was read on January 20. It was referred to the Constitutional Revision and Recreation Committee. The bill was considered on the floor on February 27. At that time the committee amendments were adopted, Mr. President.

**SPEAKER MARVEL:** Motion on the desk.

**CLERK:** Mr. President, since we last considered the bill and you have had a motion filed by Senator Beutler, or Senator DeCamp to indefinitely postpone the bill. I'm sorry. Excuse me, Senator.

**SPEAKER MARVEL:** The Chair recognizes Senator DeCamp.

**SENATOR DeCAMP:** Mr. President, members of the Legislature, in all my five years since Bernice has been here, I would never even dream of putting a motion to kill one of her bills because of the potentially high liability resulting

March 3, 1981

LB 476, 354, 355, 390

will work with Bernice and try to work something out on a separate bill, on a separate addressing of the Tort Liability Act but I don't think you ever would want to pass this.

SENATOR CLARK: The question before the House is the indefinite postponement of LB 476. All those in favor vote aye, all opposed vote no.

CLERK: Senator Clark voting aye.

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

CLERK: 27 ayes, 6 nays to indefinitely postpone LB 476, Mr. President.

SENATOR CLARK: The bill is indefinitely postponed. Senator Nichol, would you like to...? We have something to read in first.

CLERK: Mr. President, I have a motion from Senators Carsten, Newell, Fowler, V. Johnson and others that LB 390 be placed on General File pursuant to Rule 3, Section 19(b).

Senator Landis would like to print amendments to LB 354. Senator Burrows would like to print amendments to LB 355. (See page 735 of the Legislative Journal.)

SENATOR CLARK: Senator Nichol, would you like to adjourn us until nine o'clock tomorrow morning?

SENATOR NICHOL: Mr. Chairman, I can't think of anything I would rather do. I move to adjourn until tomorrow morning at nine o'clock.

SENATOR CLARK: All those in favor of adjourning say aye, all those opposed nay. We are adjourned.

Edited by

*La Vera M. Benischek*  
LaVera M. Benischek

March 18, 1981

LB 17, 157, 334, 355

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: ...Ray F. Daniel, pastor of College View Seventh Day Adventist Church.

PASTOR DANIEL: Prayer offered.

SPEAKER MARVEL: Please record your presence.

CLERK: Mr. President, Senators Pirsch and Hoagland would like to be excused until they arrive; Senators Schmit, Higgins, Kilgarin and Kahle until they arrive; Senators Nichol and Hefner all day.

SPEAKER MARVEL: Record.

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

SPEAKER MARVEL: Item number three.

CLERK: Mr. President, your committee on Appropriations whose chairman is Senator Warner reports LB 157 on General File and LB 334 to General File with amendments, (Signed) Senator Warner. (See pages 987-988 of the Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Kilgarin regarding LB 355. (See pages 988-990.)

Mr. President, two new resolutions, LR 41 by Senator Carsten. (Read.) Mr. President, that will be laid over. LR 42 offered by Senator Clark. (Read.) (See pages 990-991 of the Journal.) That will be laid over as well, Mr. President.

Mr. President, finally, Senator Howard Peterson would like to be excused tomorrow and Monday and Tuesday of next week.

SPEAKER MARVEL: Okay are we all ready now? Ready for item number four?

CLERK: Yes, sir.

SPEAKER MARVEL: We are ready for item number four, General File, priority bills.

CLERK: Mr. President, LB 17 was a bill introduced by Senator Jerry Koch and Senator Cal Carsten. (Read.) The bill was first read on January 8 of this year, Mr. President. It was referred to the Revenue Committee for a public hearing. The bill was advanced to General File. I do have committee amendments pending by Senator Carsten's Revenue Committee.

March 25, 1981

LR 46  
LB 355

SPEAKER MARVEL: All those in favor of the resolution as presented by Senator Lamb vote aye, opposed vote no. We are voting on LR 46. Have you all voted? Record the vote.

CLERK: 38 ayes, 0 nays on the adoption of LR 46, Mr. President.

SPEAKER MARVEL: Are you ready for Select File? Okay, item #5, Select File, one hour and thirty minutes.

CLERK: Mr. President, LB 355 was considered by the membership on March 3rd at which time the E & R amendments were adopted. I now have a series of amendments. The first is offered by Senator Kilgarin and it reads as follows: Read Kilgarin motion as found in the Journal on page 734.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: The motion I am offering, Mr. President and members of the Legislature, was offered simply because in all the material I read on LB 355, they said, quote, this is from a synopsis of 355 passed out by Senator Clark, first paragraph, "It applies only to new policies and not to policies already owned by people". Well, in the bill the way it is presently written, on page 3, where I am planning on amending it, excuse me, on page 5, Section 4, it says, "The provisions of", and this is as we amended it with the committee amendment or as it probably will be, "The provisions of Sections 1 to 4 of this act shall not apply to any insurance contract issued before the effective date of Sections 1 to 4 of this act unless the policyholder agrees in writing to the applicability of such provisions". Now in all the material I received on 355, it said nowhere that it was going to be retroactive in any way whether or not the policyholder agreed in writing. Once again the synopsis says it applies only to new policies and not to policies already owned by people. Well, the bill obviously proves that that is not true. It can apply to people who have bought or obtained policies before the effective date of this act. You will also note in the analysis submitted by John Haessler of Woodmen Accident and Life, the very first statement after general background and purpose of his analysis of 355 is "This bill would permit policy loan interest rates on policies sold after its effective date to be more flexible and more reasonably related to current economic market conditions". Down at the bottom in section by section analysis, "Section 1. This section sets forth the intent of the bill which is to permit an adjustable policy loan interest rate in policies issued after", and that is underscored, I am not

adding any emphasis, that is underscored, "after the effective date of this act". Turn to page 2 of Mr. Haessler's analysis of 355, subsection 1 of Section 3, again sets forth that the act only applies to policies issued after the effective date. They forget to tell you that on page 5 in Section 4, it says, "unless the policyholder agrees in writing to the applicability of such provisions". What I am doing is I am striking the "unless the policyholder agrees in writing to the applicability of such provisions". I am just trying to amend it into the form that they have described to us, that it will not apply to any policies issued before the effective date of this act. I urge your adoption of this amendment. Thank you.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I think that this is what I refer to as the Northwest Mutual amendment whereby if a company wants to offer incentives to an individual now at the low policy loan to take a higher policy loan in addition for some benefits, increased benefits from that company, they can do it. It is voluntary. I have no objection to this amendment. I might just comment that the only potential problem if, and I think I am stretching a little bit is that this is a model act that will be attempted to be put in effect across the United States, and I am always just a little bit skeptical to tamper around with model legislation, but in this case I think Senator Kilgarin has brought forth a well thought out good amendment and I personally am not going to oppose it. In fact I am personally going to vote for it.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, Senator Kilgarin, I don't really think the amendment is necessary and I would like to explain why I don't think it is necessary. No way can this be retroactive. In fact what it is saying is that there can be some paperwork saved if a policyowner chooses to have it done. The other alternative is a policyowner may choose to turn in the current policy and have the company reissue another policy from the angle that if you do not intend to borrow on the insurance, you may be financially better off to have an insurance policy where the loan cost would be higher because the cost of the insurance would be lower. I don't have a problem with the amendment. I just don't really think it is necessary, and since it is a model act, I probably will vote against it. I understand what you're saying. I think it is a technicality that really is not a problem because it

has to be agreed to in writing and that a policyowner is not going to agree to it in writing unless there is an advantage for the policyowner and I think there can very well be advantages to the policyowner.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Will Senator Kilgarin yield to a couple of questions? Senator Kilgarin.

SENATOR KILGARIN: Yes.

SENATOR HIGGINS: Tell me again, your amendment says that if you buy a life insurance policy, and this will apply only to life insurance policies....

SENATOR KILGARIN: Excuse me?

SENATOR HIGGINS: This applies to life insurance policies, if you buy a life insurance policy, then your amendment says that the insured has to agree to any increase in the interest rate?

SENATOR KILGARIN: No, Senator Higgins.

SENATOR HIGGINS: That is what I am trying to get at. The amendment isn't clear enough to me to know what I am voting on.

SENATOR KILGARIN: Okay, page 734 of the Journal and it goes back to page 5 of the bill, 355, and it is striking language that presently gives the insurance companies the advantage or the possibility of going to a policyholder who bought his policy when the policy loan rate was like five percent or six percent or eight percent, you know, going to that policyholder and saying, "Well, gee, you know, we have got this really neat new thing where we can charge you approximately Moody's corporate bond yield average on you borrowing your own money in cash values from your policy", which, you know, we are talking about thirteen, fourteen percent interest to borrow your cash money. So this is giving the insurance companies the option to persuade, possibly, policyholders to agree to go under the new variable interest rate which in my estimation is of course going to be much, much higher than the old policy's set forth interest rate.

SENATOR HIGGINS: Senator Kilgarin, as you probably know, an insurance policy is a legal contract. Policies are written spelling out what the interest rate will be if you

March 23, 1981

LB 355

want to borrow money.

SENATOR KILGARIN: Not with this bill.

SENATOR HIGGINS: Well, I am saying with present day life insurance policies, they spell out in the bill, I mean in the policy, if you want to borrow money, it will be at this rate of percent. They also, you know, are very vague. They don't tell you what rate of interest they will pay you on your policy.

SENATOR KILGARIN: That is right.

SENATOR HIGGINS: They don't spell out what dividends they will pay you but they do say this is the rate of interest you will be charged if you borrow money.

SENATOR KILGARIN: But they won't be doing that if this bill is passed, Marge, Senator Higgins.

SENATOR HIGGINS: In other words this bill is going to say that they can actually write policies and leave a blank space.

SENATOR KILGARIN: Adjustable interest rates. They are going to tie it supposedly, although you cannot say it in statute, they are supposedly going to tie it to Moody's corporate bond yield, okay, and that is basically what the provisions lay out. There is certain qualifying provisions that were adopted through committee amendment.

SENATOR HIGGINS: Senator Kilgarin, how would you feel about an amendment to your amendment that says whatever rate of interest they are going to charge a policyholder to borrow their own money, they must also pay that rate of interest to people who don't borrow?

SENATOR KILGARIN: I think that is a wonderful idea and I would be more than happy to support that amendment, Marge, and I just think you ought to put that up there right now. I would stop all argument if we could do that.

SENATOR HIGGINS: Thank you, Senator Kilgarin.

SPEAKER MARVEL: Senator Kilgarin, do you want to make a motion to adopt your amendment?

SENATOR KILGARIN: Yes, Mr. Speaker, I move adoption of the amendment found on page 734 of the Journal.

March 23, 1981

LB 355

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. The motion is the Kilgarin amendment to LB 355 as discussed. Have you all voted? Have you all voted? Senator Kilgarin.

SENATOR KILGARIN: A Call of the House and a roll call vote, please.

SPEAKER MARVEL: I will call your attention to the fact that yesterday we did practically nothing, the day before the same, and if we are going to have roll call votes, we have got to get in a position where we can be here on time. Otherwise we are going to waste another week and it is all right with me because it is your bills. You just as well recognize it. Shall the Legislature go under Call? All those in favor vote aye, opposed vote no. Shall the Legislature go under Call is the motion. Have you all voted? Have you all voted? Record the vote.

CLERK: 15 ayes, 21 nays to go under Call, Mr. President.

SPEAKER MARVEL: Motion lost. Senator Kilgarin, did you ask for a roll call vote?

SENATOR KILGARIN: Yes, Mr. Speaker.

SPEAKER MARVEL: Okay, call the roll.

CLERK: (Roll call vote taken. See page 1123, Legislative Journal.) Mr. President, 14 ayes, 29 nays.

SPEAKER MARVEL: Motion lost. Do we have another amendment to 355?

CLERK: Yes, sir. Mr. President, Senator Kilgarin moves to amend the bill. (Read Kilgarin amendment offered on page 1124, Legislative Journal.)

SPEAKER MARVEL: The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: Mr. Speaker, there is an amendment I think in the Journal on page 735 which should probably be dealt with before the amendment that I have offered after the amendment on page 735 of the Journal. There is an amendment in the Journal on page 735, Senator Burrows amendment, which I think came before my amendment.

CLERK: No. I have got two more from you, Senator, that were here before Senator Burrow's were.

SENATOR KILGARIN: They are not printed in the Journal?

CLERK: No, ma'am. You can temporarily withdraw yours if you are so inclined.

SENATOR KILGARIN: Yes, please. Thank you.

CLERK: Mr. President, Senator Burrows moves to amend the bill and the Burrows amendment is found on page 735 of the Journal.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, this amendment would require the insurance companies account to the Insurance Commissioner in the State of Nebraska and assure that the additional monies they would receive from the higher interest rates be distributed as additional dividends. Now the proponents of this bill have sold the bill on the advantage that this money would turn back to dividends, that it was the little policyholders bill that didn't bother to borrow that money, his own money, back from the insurance policy. If they really feel true to this, the proponents of the bill, I am sure they will not mind seeing this spelled out in law that the additional monies that are received by the higher interest rates under the variable interest rates are by supervision of the Insurance Commissioner returned as dividends, dividends to the policyholders. This amendment ties down the promises, the commitments and the intent of this bill before the Legislature. I think it is quite simple, do we want to trust...is it all in trust of the great insurance companies or do we want to take their promise and by this we can put their promise in law that they will account to the Insurance Commissioner and he will assure that those additional profits by the insurance company, additional monies be returned as dividends and not be taken as profits to the insurance companies. Really I have no problems with this bill except for the problems it may cause some homebuyers in future years, ten, fifteen, twenty years down the road, when they have to go to the insurance company for high interest money for the down payment on a home. The homebuilders really ought to be looking at this bill as it is going now but this, at least, will get it back to the policyowner in the State of Nebraska. If you cannot accept this amendment, I think it is an indication there is not good faith that this money is supposed to go back as dividends. The indications were that when we moved from six to eight percent that about half of that money was taken as profits by the insurance company. Now I am simply asking you to spell out as a commitment to the

insurance companies that they will do exactly what this bill has been sold as being intended to do by assuring the State Commissioner will supervise this. I thank you and urge your support of this amendment. Incidentally, it is on page 735 of the Journal.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I even hesitate to speak on this amendment to...Senator Kilgarin's amendment I took very seriously and I thought it was well thought out. I don't know where Senator Burrows got this idea but he is fooling around here in an area that I really question whether it has constitutional problems. You know the courts have ruled exactly as to what dividends are in an insurance policy and now he is trying to make interest dividends and interest and dividends aren't the same thing but that is essentially what he is trying to do with the stroke of a pen. I guess a rose is a rose by whatever name you call it, but what Senator Burrows is attempting to do here doesn't even make any sense if you know what interest is and you know what dividends are and you know what premiums are and you know what loans are and he is trying to statutorily here through a will of the pen combine two or three totally unrelated concepts and it is just completely unworkable, not to mention the fact that the bureaucracy he would create for the Insurance Commission, getting them involved in collection of interest payments if that is in fact what he intends to do, this is not a well thought out amendment as Senator Kilgarin's was. I can't support this amendment and I don't think anybody...this amendment, frankly, doesn't even deserve much time on debate. If I hadn't talked on it, I would call for the question.

SENATOR NICHOL: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker. I would ask Senator Clark to yield to a question please?

SENATOR NICHOL: Senator Clark, would you respond please? Senator Clark. Senator Clark, Senator Kilgarin would like to have you respond to a question please?

SENATOR CLARK: I will try.

SENATOR KILGARIN: Senator Clark, are you aware of the 1976 Senate subcommittee investigation of the insurance industry and the life insurance policies?

March 25, 1981

LB 355

SENATOR CLARK: I was not a part of it, no.

SENATOR KILGARIN: Do you know what action resulted from that...from that investigation?

SENATOR CLARK: No, but if you know, I wish you would tell us.

SENATOR KILGARIN: Okay, thank you, Senator Clark. I want to quote something to you out of the Wall Street Journal from... about life insurance and I think at least Senator Burrows' amendment gives me a chance to expand on the Senate investigation of insurance companies. Let me just quote from the Wall Street Journal. "Several State Insurance Commissioners admit privately that they are concerned about insurance pricing methods but they hesitate to open investigations for fear of political consequences and as one commissioner pointedly notes 'A good number of our State Legislators sell insurance themselves, thus, presumably they aren't eager to impose regulation on the industry'". Now there is also a quote in here from Consumer Reports. It is quoted in the Wall Street Journal, though. "The agent sells a confusing array of wares, says Consumer Report, and he seems to have a habit of keeping his peer protection, which is known more prominently as 'term policies' out of sight. A possible reason, commissions on permanent policies generally average fifty-five percent of the first year premium. That is something he has been indoctrinated with. Also, he adds, in most cases you aren't making a living selling term insurance." But basically the point I really wanted to make on this is that during the Senate investigation hearings in 1976 on the insurance industry, the biggest problem that was brought out was the lack of regulation, the lack of disclosure by the insurance companies to the policyholders and I think Senator Burrows amendment at least addresses or tries to address that problem, the problem of insurance companies not telling the policyholders what they are getting or what they are not getting. Also I would like to quote from the Omaha World Herald, August 8, 1978, this is the headline, from the Omaha World Herald, "Buyers Kept Uninformed on Insurance", that is the headline, "Because consumers are generally kept in the dark about the true cost of their life insurance, cost for similar coverage vary by more than a hundred and sixty percent a Federal Trade Commissioner said Monday. Consumers may pay billions of dollars as a result of uninformed purchase decision. The central cause of this extraordinary consumer loss is lack of adequate and meaningful information, Albert H. Kramer, Director of the FTC's Bureau of Consumer Protection told a house panel." I am just trying to make some points about the lack of infor-

mation that the insurance companies seem to constantly adhere to. They refuse to inform the policyholder exactly what he is getting. Also a quick quote from the Minneapolis Tribune, "Senate Panel is told life insurance is one of the leading consumer frauds."

SENATOR NICHOL: One minute.

SENATOR KILGARIN: And I just want this one quote to finish up in the close and then I will stop. "For almost seventy years the life insurance industry has been a smug sacred cow feeding the public as a steady line a sacred bull." Thank you.

SENATOR NICHOL: Senator DeCamp. The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed no. Have you all voted? Have you all voted? Record.

CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

SENATOR NICHOL: Motion carries. Senator Burrows, did you wish to close please?

SENATOR BURROWS: Yes, Mr. Chairman, members of the body, I would just like to remind the body of the legislative history of the Legislature here in Nebraska. For years we rode on a six percent limitation by law on the interest that could be charged on a person's own money and this is what we are talking about in the bill. The whole thing is about that, the money a person has earned, their own money, on what is going to be charged when they want to borrow it back and use it. We are not talking about insurance, free insurance company funds that were put out without any tie-up. They are that person's funds that are earmarked to them and by law we kept that money available to them at six percent. A few years ago we went to eight on that, but for years we had a source of funds built in on life insurance policies for people to go borrow when they wanted to get the down payment for a home, so they had some cheap money there for a nest egg to go buy a home or take out in an emergency for themselves, that they could get their own money back without disrupting their policy and borrow it as a cheap source of funds available regardless of their other credit or anything else. Now this bill comes in and scoots in a variable insurance rate which means whatever the insurance companies decide they want it to mean. Now the arguments have been that they are large borrowers and they generally are people of modest means that maybe have fifty or a hundred thousand dollar insurance policies are borrowing

that and the small insurance policies do not have their loans. Now if this is all they are interested in is assuring that these small policyholders get it back in dividends, the amendment I have offered you simply by law requires that the benefits of the higher interest rates to the insurance company be paid back as dividends. It is a simple assurance in law that the proponents of the bill do what they have stated on this floor to make it a people's issue of small policyholders. It takes away most of my objections to the bill although I still think that a cheap source of money would be desirable to the people of the state. I really ask you and plead with the members of this body to look at it. Why don't we tie up the insurance companies to the arguments they have sold the bill on. The amendment simply does this. If not, they have the right to cream and take off half of the money they get through higher interest rates into profits for the insurance company and maybe return half as dividends to the borrower or dividends to the policyholders. I urge you to adopt this amendment. It is not all that complicated. It is simply spelling out by law what the proponents of the bill have already suggested. I might remind you, you look at some of the proponents of the bill, some of them have opposed higher interest rates all of the time but suddenly this year things have scuttled around. I urge the adoption of this amendment and thank you for your time.

SENATOR NICHOL: We are voting on the Burrows amendment to LB 355. All those in favor vote yes, all those opposed nay. Have you all voted? Record please.

CLERK: Mr. President, Senator Dworak requests a record vote. (Record vote read. See page 1124, Legislative Journal.) 5 ayes, 28 nays, Mr. President.

SENATOR NICHOL: Motion fails.

CLERK: Mr. President, Senator Kilgarin moves to amend the bill. (Read Kilgarin amendment on page 1124, Legislative Journal.)

SENATOR NICHOL: Senator Kilgarin.

SENATOR KILGARIN: Mr. Speaker, on page 2 of LB 355, line 21, we are talking about Section 3. It says, "The rate of interest charged on a policy loan made under subdivision (1) (b) of this section shall not exceed the higher of the following:" What the amendment will do is it will change one word. Instead of saying "shall not exceed the higher of the following", it's going to say "shall not exceed the lesser

of the following:", so instead of charging them the higher rate with regard to the (a) and (b) under subsection (2) of Section 3, you will be charging the policyholder the lower, the lesser interest rate. In the synopsis again they said that this was to put a floor on the interest rates charged. Well, if we are going to put a floor, that is fine, but I would rather see a ceiling and I really think that that is a ceiling and I think if you are going to have a ceiling it should be the lesser of the interest rates not the higher of the two interest rates. I would urge your adoption of this amendment. It is for the policyholder. It is for your constituents. Thank you.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I will be brief, maybe briefer than I should be because Senator Kilgarin very cleverly with one word has gutted the bill. If this passes, this in effect totally negates the bill because when you study that criteria below "higher", there is three or four criteria by which we can establish an interest rate. If you pull out one of those criteria, that if you say "lower" in effect locks it in where we are today. So I think Senator Kilgarin has an IPP amendment up there coming up and I think it would be much more forthright, if that is what, in fact, we intend to do, kill the bill, gut the bill. Let's do it straight out with the IPP amendment and not do it right here because this is sort of a subterfuge because essentially what we are doing is negating everything the bill does. We freeze in the interest rates with the word "lower" where they are right now. If we do that, there is no absolutely need for the legislation.

SPEAKER MARVEL: Senator Clark, your light is on.

SENATOR CLARK: I call the question.

SPEAKER MARVEL: The question has been called for, do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Voting on ceasing debate Record the vote.

CLERK: 29 ayes, 1 nay to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker and colleagues. I

March 25, 1981

LB 355

would like to ask Senator Dworak to yield to a question.

SPEAKER MARVEL: Senator Dworak.

SENATOR KILGARIN: Senator Dworak, could you please point out the sections that you feel because of this amendment from "higher" to "lesser", point out the section that says that is going to gut the bill. You are wrong, Senator Dworak, unless you can show me the section. Then I will admit I am wrong but I don't think I am and I don't think you can show me the sections.

SPEAKER MARVEL: Senator Dworak, do you yield?

SENATOR DWORAK: Yes, I yield but I am looking at the bill. What amendment is this, printed in the Journal on what page?

CLERK: It is not in the Journal, Senator. It is on page 2, line 21, strike the word "higher" and insert "lesser". Page 2, line 21.

SENATOR DWORAK: Section 3, Senator Kilgarin.

SENATOR KILGARIN: What about Section 3, Senator Dworak.

SENATOR DWORAK: It effectively freezes the interest rates in where they were as I said in the debate.

SENATOR KILGARIN: I don't see that. All I see is it says, "The rate of interest charged on a policy loan made under subdivision (1) (b) of this section shall not exceed the lesser of the following:" and then it gives (a) and (b) and (a) and (b) says "The published monthly average for the calendar month ending two months before the date on which the rate is determined; or (b) The rate used to compute the cash surrender values under the policy during the applicable period plus one per cent per annum." And that one percent by the way is for administrative cost. Now I don't see where it guts the bill and it doesn't gut the bill that I can see.

SENATOR DWORAK: Are you still talking to me? Mr. Speaker, is this all right to dialogue like this back and forth?

SPEAKER MARVEL: As long as we can keep it under control, if it gets to be an overpowering dialogue, then we will have to move...

SENATOR DWORAK: I was called down the other day, Mr. Speaker, and if it gets out of control, I....

SPEAKER MARVEL: It is up to the Chair to handle that but go ahead.

SENATOR DWORAK: Thank you. Changing a "higher" to the "lesser" guts the bill as I said before. The lesser of the monthly average of the percentage used to compute cash values plus one percent, that equates to five and a half percent interest rate and as you know the one percent is in the reserve function in which we are working on LB 426 which isn't with us right now. Under present law the percentage used to compute cash values, Senator Kilgarin, is four and a half percent. Now, of course, this would change if LB 426 is passed, but if it isn't passed, in fact we are gutting the bill right now and I think it would defeat our purpose so I stand by my original statement. I think I have answered your question adequately. I would accept an apology but that is fine.

SPEAKER MARVEL: You have thirty seconds in which to close.

SENATOR KILGARIN: Thank you, Mr. Speaker, and, Senator Dworak, 426 is not a priority bill so I don't think it is going to pass this session. We just talked about that this morning. I don't think we are going to get to it and all I keep hearing is that 355 and 426 are sister bills and I don't think 355...I know 355 is not going to be beneficial to policyholders unless 426 is passed. So I think they should be debated at the same time. We had agreed to that previously when 355 came up and I ask your support of this amendment. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Kilgarin amendment to LB 355. All those in favor, and she had closed, all those in favor of the motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 9 ayes, 21 nays, Mr. President, on the motion to adopt.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, Senator Kilgarin moves to amend the bill. (Read Kilgarin motion found on page 1125 of the Legislative Journal.)

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you. If you will turn to page 2 of LB 355, lines 26 and 27, you will see that it says "during the applicable period plus one percent per annum". Now I mentioned this in previous debate. That is administrative

cost. There is really no reason for (b) to even be in here. As Senator Dworak said, five and a half percent, I will take my chances. I really don't think interest rates are going to go down to five and a half percent forever. So really it is an unnecessary part of the bill. I would urge your adoption of striking the "plus one percent per annum".

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Well, here again we are trying to eliminate the spread between the reserve and the cash surrender values and that is the intent of the whole bill is for solvency and I think anybody understands that a bank has to have a spread between what they pay for interest and what they loan money out. I don't think anybody would ask banks to pay fourteen, fifteen percent on CDs and new forms of interest and then loan money out at sixteen and seventeen percent. I don't think that is in the cards. I just think it is a matter of common sense and that is what Senator Kilgarin is trying to do in the insurance industry. I think it is a great idea. I would like to be able to be a banker and pay twenty percent for money and loan it at twelve. I think probably I would be the most popular guy in town for about fifteen minutes and then the debtors would come and get me. But essentially that is the same principle here is we are trying to establish a one point spread and I don't think that is excessive and I would urge your rejection of this amendment.

SPEAKER MARVEL: Senator Burrows, your light is on.

SENATOR BURROWS: Mr. Chairman, members of the body, I think this is a reasonable amendment again. I think we have forgotten that this was the individual's money we are talking about on interest rates all the time throughout the bill. It is not something set off to the side that belongs to the insurance company that they are loaning out to the individual. I think the arguments that were just given you don't address this whatsoever. It is the individual's money that he is borrowing back on deposit really for him at the insurance company. So I think taking this one percent service charge out is very proper. There are some real problems coming with the issue constitutionally I feel attaching to indicators that were probably declared unconstitutional to attach to when we had a banking bill up last year that would have set the prime rates on national indicators and I think that should be addressed later but I think the bill has serious constitutional problems as it is drafted which will probably come forth with an Attorney General's opinion later

March 25, 1981

LB 355

on. But I think it is reasonable and proper to take this one percent out and Karen has a very good amendment here. I urge the body to support it.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker and colleagues, Senator Dworak, you gave me a perfect opening wherever you are wandering about there, a perfect opening to call to your attention some of the handouts I gave you. The first one is on a plain white sheet of paper and it says, "Library of Congress, #A347352, Norman F. Dacey. This is the title of the article on Library of Congress. "To the Great Northern Insurance Company, I bequeath the cash value of all my life insurance policies. When you buy life insurance, you are insuring your future income against your dying before you have had time to earn it and you should give the company just the cost of insuring you and not another penny. Remember it is an insurance company and not a savings bank. Life insurance companies encourage you to regard them as both a savings bank and as insurance company. Whenever you need to use some of the money you have accumulated in your savings account with the insurance company, you may borrow it back at two or three times the interest rate at which you are lending it to them. If a savings bank offered you two and a half percent interest and suggest that if you needed the money at any time they would gladly loan it back to you at six percent interest, you would leave immediately, taking your money with you. Fancy them offering to lend me back my own money for three times what I am lending it to them for, you would exclaim. If you wouldn't think of doing it with a savings bank, why do you do it with an insurance company and why do we let the insurance companies continue with this practice that has many times over been attacked on consumerism grounds and in the Senate investigation, on and on. The verdict of consumerism is likely to make cash value life insurance illegal." I also handed out a little sheet, a transcript from a Donahue interview on August 16, 1979. I just want to quote from that for a moment. The whole point we are trying to make here is those cash values, that savings account the insurance agent sold you when you bought your whole life cash value policy, your permanent policy, he sold it to you saying, "Hey, this is a great chance to open a savings account and, by golly, not only will we let you open the savings account but we will even let you borrow from it if you pay us five, six, eight percent interest rate depending on when you bought your policy", and who knows what the interest rate will be after 355 passes if it is tied to Moody's corporate bond yield average or some such

March 25, 1981

LB 355

thing. Let me quote from the Donahue handout that I gave you. It should be on your desk.

SPEAKER MARVEL: State your point.

SENATOR MARSH: Mr. Speaker, is it true that the person who was just speaking is acknowledging that these things were handed out without initials?

SPEAKER MARVEL: Senator Kilgarin, are these your handouts, the ones you are quoting from?

SENATOR KILGARIN: Doesn't it have my initials on it, Senator Marsh. I am sorry. I did write the initials on it. It was in blue ink. Maybe it didn't come out. I think all the rest of my handouts the initials came through and I am sorry about that. Well, it was done in blue ink and I know sometimes copiers don't come through. I am sorry, Senator Marsh. But let me quote from this Donahue transcript just very quickly. Well, let me illustrate it this way. Fire insurance companies don't sell savings accounts but let's pretend for a moment that they do and some years ago you took out a fire insurance policy and you also opened a savings account with the company. You had a fire at your house last month. It did \$5,000 worth of damage and you put in the claim. This morning in the mail you had a letter from the insurance company with two checks in it. One of the checks said here is your \$3,000 and it is your savings account. The other check said here is the \$2,000 insurance money. You say, "Well, that is funny. I had a \$5,000 damage claim and I understood that the company was going to take the risk. Actually what we are doing here is using my money to pay for the fire insurance."

SPEAKER MARVEL: You have thirty seconds.

SENATOR KILGARIN: Well, that kind of combination fire insurance companies don't sell but life insurance companies do sell it and that is what you people bought, a package deal, protection plus savings, and if you die the insurance company uses your savings account to pay the claim. The more savings you build up, the less risk the insurance company takes. Once again, that is your savings account, that is your money and you are going to allow them to say, "Gee, you know, you can borrow from your savings account. We will only charge you eight percent interest, thirteen percent interest". Mr. Speaker, colleagues, I urge your adoption of this amendment. Thank you.

SPEAKER MARVEL: Senator DeCamp, do you wish to be recognized?

March 25, 1981

LB 355

The question has been called for, do I see five hands? Okay. Shall debate cease? All those in favor vote aye, opposed vote no. Shall debate cease. Record.

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

SPEAKER MARVEL: Okay, debate has ceased. Senator Kilgarin, you are recognized to close on your amendment.

SENATOR KILGARIN: Thank you, Mr. Speaker. Colleagues, I will make this very brief. Please look at the handouts I gave you. Please. There is a letter there from many, many insurance agents across the state representing many, many insurance companies. We are talking about Prudential who is not supporting this bill. In the letter on the top sheet you will see it says, "We believe a great deal of additional public discussion and debate is needed to assure legislation which protects the needs and expectations of over one and one half million Nebraskans." Now these are a lot of firms represented here and I hope you look at it. We are talking about Occidental Life; E. Benjamin Nelson, former Nebraska's Director of Insurance; American National; Jefferson-Otis and Company; United Benefit Life; Sharp, Ross, Browning & Mundy; the Franklin Life Insurance Company; Bankers Life of Iowa, the list goes on and on; Financial Architects Inc. These are insurance agents who are concerned about this bill. Please take note of these handouts. Let's not in our urgency and the feeling of priority that we have with this bill, let's not do something that we are going to regret later. Please look at the handouts. Please realize what you are voting on, and if you don't understand it, don't vote for it. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Kilgarin amendment to LB 355. Those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? Record the vote.

CLERK: 7 ayes, 26 nays, Mr. President.

SPEAKER MARVEL: Motion lost.

CLERK: Mr. President, Senators Kilgarin and Burrows move to indefinitely postpone the bill. Pursuant to our rules, that would lay the bill over, Mr. President.

SPEAKER MARVEL: For what purpose do you rise?

SENATOR CLARK: I would move that we take the kill motion up right away. This is a stalling tactic. It has been

going on now for an hour and I would certainly move that we take it up. I realize it takes 30 votes to take it up but we ought to get it up and get it out of the way. I mean we can't stall this off every day, all these different bills. Thank you.

SPEAKER MARVEL: The motion before the House is to suspend the rules and take the kill motion up today. All those in favor of that motion vote aye, opposed vote no. Excuse me. Okay. Clear the board. Senator Barrett, your light was on. I will recognize you first.

SENATOR BARRETT: I want to speak to the kill motion. What is the present status, Mr. Speaker.

SPEAKER MARVEL: The motion before us that we are speaking to is the suspension of the rules to bring up the kill motion today.

SENATOR BARRETT: I will wait.

SPEAKER MARVEL: Okay. Senator Burrows, do you wish to speak on the motion to suspend the rules?

SENATOR BURROWS: Yes, Mr. Chairman. Mr. Chairman, members of the body, I don't think there is any panic butter in getting this bill sailed across the floor. For one thing there will be a letter written to the Attorney General's Office asking an opinion on the constitutionality of this measure in regard to attachments of interest rates because there was one written last year when we attached indicators and attempted to attach indicators to usury rate ceilings and the Attorney General's Office opinion that those that we attached to were an unconstitutional delegation of authority. Second, the main point on this that I think we should hold off a little bit is that the companion bill supposedly of Senator Dworak's that would make this somewhat compatible possibly is setting way back and possibly will not come across and have a chance to be voted on this session. I think the two bills should come across together because if the members of this body are voting this one across on the assumption that the second bill will make this palatable to their constituents, it is a sad mistake to take it and pass it into law upfront. I think this should wait and that time is to the interest of the taxpayers of this state, to all the constituents in the state that they hear this. Another point, as far as this bill solving any immediate problems for insurance companies where some have tied up some assets that were pledged back to their policyholders, it does not do that until they do what they have

said they don't claim to do in the bill because the bill supposedly does not upset the previous policies that have been written in the state. It does not change this and does not affect the interest of the insurance companies for five to ten years until future dividends are accrued unless they go back to the previous policyholders and get them to sign off their rights of borrowing at the lower rates. So any immediate effects of this bill that would enhance the insurance companies' problems or detract from the insurance companies' problems depend upon renegotiating old policies which have not been generally proposed one of the things they are going to do with this. But that is the only way it would immediately help them. There is no immediate need for the bill for an insurance company bailout or anything else. What we are doing are giving by this bill, in effect, are giving our sons and daughters.... taking away the opportunity for them to buy insurance policies that give them downpayments in the future. It's really not affecting the members of this body very much because they have got policies intact already, most everyone in the body does, but their children and their grandchildren are the ones that are going to be affected by this bill. I urge you to not take up...to override or give the 30 votes to take this up today. Give it a little time to think it over. Thank you.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker, and colleagues, please listen because I do not want to mislead you. I want to be honest. So I ask for your attention just for a moment. Thank you. I have requested an Attorney General's opinion and it did come back and it came back saying the bill is constitutional. Now in all honesty and fairness I have to tell you that but I also have to tell you I disagree with the Attorney General. I am not a lawyer but that probably gives me an advantage. I would also like to ask you not to take up the kill motion today. Please take time to review those handouts I gave you. Think this over. This is a very, very important bill. You don't realize the farreaching effects it is going to have, not only on our economy, but also on all of your constituents. Please look at this carefully. Also note that both Senators Dworak and Senator Clark are tying LB 355 to LB 426. Now LB 355 is a priority bill. LB 426 is not a priority bill. Possibly, if we debate these two bills at the same time and they are passed at the same time with some amendments with regard to the effective date of both acts so that they are the same, so that the policyholder receives not only this higher interest rate but also

some benefits he could derive from 426. Let's at least wait until we can get the consecutive dates the same, talk about the bill on the same day or so and then I will go ahead with it. If we can clear up the effective dates and other things like that, I will go ahead with it but take time to think this out. Remember, this is going to upset your constituents. Be fair to them. Be fair to yourself. How many of you in here can honestly say you understand what LB 355 is going to do, all of its implications. If you don't understand LB 355, its implications, its farreaching effects, you simply should not vote to take up the kill motion today. I would appreciate talking to any of you off the floor later today or this evening about the bill and I am sure Senator Clark and Senator Dworak would do the same so you could maybe learn a little bit more about it but this is a very complicated bill and Senator Dworak said, "Karen, you will never understand it. It took me five years to understand it." Well, Senator Dworak, if it takes five years, maybe we ought to wait five years before all of us understand it. Please do not vote to suspend the rules and take up the kill motion today. Thank you.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Well, Mr. Speaker and colleagues, I listened intently to Senator Burrows and Senator Kilgarin and I understand their concerns about 426 and I am a little bit, however, concerned about the constitutional question because there is an Attorney General's opinion on page 988 of the Journal that Senator Kilgarin received that sort of cleared this up, Senator Burrows. I am going to yield the rest of my time to Senator DeCamp because I think Senator DeCamp came up with an idea to take away all your objections. We have got the Attorney General objection taken care of and now, Senator DeCamp, if you will take the rest of my time and eliminate the rest of the objections.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, as you know, we are getting into the last half of the session and anything we can do to kind of resolve problems, particularly if there is thirty, thirty-five votes in agreement on a particular subject, I think we should do, and if you have listened pretty carefully to the various amendments offered and objections, Senator Kilgarin just raised it again and I think legitimately so and I am agreeing with her and the objection was well, you are going to do one without the other and these are two intimately related bills. In fact, probably they

should have been put together in one bill originally but they had different sponsors coming from a slightly different direction so they were two separate bills. My suggestion is that we just marry the two now at this time and run it on across. In other words, put the 426 into this bill, it is completely compatible, same sections. As I say, they were, originally, were going to be drafted as one bill and we clear up the issue and go onto something else. So I have got an amendment up there, if the kill motion fails, in other words if we suspend the rules, take up the kill motion, unless with that understanding Senator Kilgarin might even be in the mood to withdraw her kill motion. No?

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker. Senator DeCamp, I would be willing to sit down and work with you on that but we can't do it today because there is a problem with the effective date in LB 355 as opposed to the effective date of 426. If we can work those out, I will go for it.

SENATOR DeCAMP: Bob, do you want to wait overnight? I think we have got those dates pretty well straightened out with the committee amendments, so if we put it, in you will get your shot later on to make any corrections but why don't we go ahead and get her done instead of spending another two hours on it.

SENATOR KILGARIN: I really think we need a little bit more time because of the effective dates. Right now an amendment I am working on and until I review Senator Dworak's LB 426, I didn't notice the discrepancy in the effective date, Senator Dworak. But I am working on an amendment that will provide for an effective date of the act on 355 to be consistent with LB 426, January 1, 1985 and/or January 1, 1989 which is consistent with the provision of LB 426 and I would ask you to wait. If we can work these out, I would be happy to work with Senator Clark, Dworak, and work these out, the effective dates, so that they are consistent across the board, and if you are willing to do that, that is fine. But if they are not, I urge you not to take this up today because there are a lot of discrepancies within these two bills. They are the ones that tied them together. They are the ones that called them sister bills. Remember that. Thank you.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I...

SPEAKER MARVEL: The motion is to suspend the rules.

SENATOR HOAGLAND: Let me address myself to Senator DeCamp's suggestion. Why don't we marry the bills today and then have a white copy be printed and have the combination then held over and then we can debate it on Select File in a week or so after we have seen what the two look like together. But these are major pieces of legislation. I think to marry them and put them over to Final Reading at the same time is maybe asking too much.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, only in the interest of conserving what time there might be left today, it would seem to me that they could just go ahead and not suspend the rules on the kill motion and that would make the bill lay over and that would give the people time to try to get together and work something out. But if you go through the motions of suspending the rules which you probably have enough votes to do, there will be a debate and discussion of the kill motion, a rehashing of the proposition offered by Senator DeCamp and Senator Dworak. Time will be lost and whatever is going to be done will be put off anyway, so my suggestion would be that you simply not suspend the rules. That would make the kill motion lay the bill over for a day and then these warring parties can perhaps get together and bring about peace.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I support LB 426 and I support LB 355 and I don't support marrying them in the same bill. I have been in committee. I know what those two bills are about and they are not sister bills in that they do not deal with the same issues. They are sister bills only in the fact that they both stem from the National Association of Insurance Commissioners, the NAIC. They came out at about the same time and they are introduced, not only in Nebraska, but in a number of states throughout the country but, in fact, they have two very different objectives. The reason that they are melded together as sister bills, however, is because different power actors want one and are willing to give up the other and it involves the internecine fight between insurance companies and insurance agents. Insurance agents want LB 426 because LB 426 makes insurance cheaper in the long run quite possibly and easier to sell. LB 355 makes insurance more

difficult to sell because it takes away the selling strategy of being able to tell a consumer that they will be able to borrow at six or eight percent, and so insurance agents don't like LB 355 because they have been utilizing that selling strategy and now that selling strategy is going to dry up. Now insurance companies want LB 355 because they are losing money when they have to borrow money to give back to the people that they have cash values with, they are borrowing twenty percent money to loan back to their policyholders at six and eight percent. So, of course, LB 355 gets them out of that problem. That is why they love the bill. Insurance agents don't love the bill, however, because it takes away a terrific selling strategy for them. Insurance companies don't mind LB 426. It is probably a wise change. On the other hand, it makes excellent trading stock with insurance agents. They are sister bills only because of that political nexus. They are not sister bills because of the subject matter. They are sister bills only because one party is scratching another party's back and that is fine if they want to do that out in the rotunda but I am going to stand and object to that being our process on the floor and for us to buy that kind of a fish story. It is just not so. Read the bills. You will find they are different bills for different purposes and it is only because two potential combatants find something valuable in only one of the two pieces that you have this kind of marriage being propositioned here on the floor. Now John may be a likely panderer for such a proposition. However, I, for one, and I hope the body will resist such a change. This does not tax our understanding so greatly that we can't spend the time to understand these bills and pass them on their own merits. I think we do ourselves disservice at this point to take two bills of disparate subject matter, marry them for political convenience of combatants that are out in the rotunda now fighting this issue. We need to exercise our own independent judgment. I am going to support the motion to override or to suspend the rules so we can debate LB 355 today and let LB 426 come up either on consent calendar, which it can, or let it come up in the normal course of events. But the Legislature should not be jimmied into the position of making a political marriage on a bill when, in fact, there is no subject matter marriage between the two bills.

SPEAKER MARVEL: Senator Clark.

SENATOR CLARK: Mr. President, I am going to have to agree with Senator Landis. The two bills are not the same. I never said they were married together. Someone else said that. I didn't say they were that way. In the first place, the

March 25, 1981

LB 355

only reason Senator DeCamp brought that up was if they think they are married together let's let them go together. I have no objection to LB 426 at all. The only reason that 355 was up here is because it was drafted first. I had it in first. It was heard first and it was brought out and it came up on the file. I didn't ask it to be brought up as a special bill or anything else. It was brought up. That is the reason we did it and I still think we ought to clear the docket today and get it out. If you don't think the two of them are the same, one of them has to do with interest, the other has to do with reserves, and he is right, they are scratching each other's back someplace. These are both model bills, national bills, and I don't see anything wrong with either one of them as far as I am concerned. So, consequently, I really think we ought to go ahead and take it up. What do you think, Senator DeCamp? You can have the rest of my time if you like.

SENATOR DeCAMP: I would...

SPEAKER MARVEL: Do you yield?

SENATOR DeCAMP: I still think that you can resolve the problem and save an awful lot of hours by meshing them but then you folks do whatever you want.

SPEAKER MARVEL: Okay, the motion is to suspend the rules. Senator Clark.

SENATOR CLARK: Mr. President, I will withdraw my motion on there and we will go ahead and put them together and then we'll take it up in the next day or two.

SPEAKER MARVEL: Your motion is simply that you withdraw...

SENATOR CLARK: To suspend the rules, yes.

SPEAKER MARVEL: Okay, the bill will still have to be laid over. The bill will not be debated today. So the motion before the House...all right, Senator Clark withdrew the bill and the bill is laid over. Before we go to the next piece of legislation, in the South balcony, it is my privilege to introduce fifteen students from Nebraska Wesleyan and their instructor, Professor John Vermeer, and it says here that Senator Wesely is taking credit for the students. I think Dr. Vermeer and I might object to this and indicate that we would take credit for the students. Anyway, will you hold up your hands so we can see where you are and welcome you to the Unicameral. What is the next item? The next bill on Select File is LB 174.

Mr. President, received from the State Claims Board, "All claims processed and paid under the State Tort Claims Act for the period of July 1, '79 to June 3, 1980." We will acknowledge receipt of that report in the Journal and the report will be on file in my office. (See page 1140 of the Legislative Journal.)

SPEAKER MARVEL: Okay, if we may have your attention will you please take your seats so we can proceed with the business of the morning. The first order of business is item #4 which is Select File with a time period of one hour and thirty minutes. After we complete the one hour and thirty minutes we will move to General File priority bills. The first item of business is LB 355.

CLERK: Mr. President, LB 355 was considered by the membership yesterday. At that time the E & R amendments were adopted. There were several amendments considered. I now have pending, Mr. President, a motion to indefinitely postpone the bill and that is offered by Senators Kilgarin and Senator Burrows.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, I think at this point we should indefinitely postpone this bill and really there are two basic reasons. The first is, when we are involving national stock companies, if they return dividends as the bill was sold for, it depends merely upon the compassion and the generosity of the stockholders of a stock company. With mutuals generally the money would be returned in the form of dividends but in a stock company, and this covers both, whether it comes back to the State of Nebraska is going to depend solely on the generosity of the stockholders. The other reason is the fact that I have been able to find no assurance that mutuals are run on a basis where there is a classification based on the interest rates charged on this loan fund. Now if they are not classified on this basis, if we put our money, loan it out in the State of Nebraska at 12% and give an additional \$40 per thousand to the national company, it can well be put in the pool and those share equally that have held their state to an interest rate of 8%. If this is the case we should be the very last state to pass a bill where we put the higher interest rates upon our Nebraska constituents. I think you should seriously look at it because I feel that it is going to be a general rip-off of the insurance policy holders in the State of Nebraska to the advantage of a combination of insurance companies and possibly the insurance patrons at other states that can borrow the money at 8%. Thank you.

March 26, 1981

LB 355, 426

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN. Thank you. Mr. Speaker and colleagues, I would like to withdraw my name from the kill motion. I would ask Senator Burrows to do the same with regard to the kill motion that we talked yesterday about combining LB 426, Senator Dworak's bill, and Senator Clark's bill, LB 355, and I think once they are combined it will be a little bit easier for me to swallow the whole package. I do still have some questions but I would ask Senator Burrows if he could go along with that and we could combine the two and then go from there.

SPEAKER MARVEL: Go ahead.

SENATOR BURROWS: I will agree to withdraw the kill motion if Senator Kilgarin wants to and we can work on the bill from here.

SPEAKER MARVEL: Okay, if there is no objection, so ordered. What is the next...?

CLERK: Mr. President, I now have a motion from Senator DeCamp to take the contents of LB 426 as amended by the committee and insert them in LB 355 as new sections in the bill.

SENATOR DeCAMP: Mr. President and members of the Legislature, you may recall yesterday when we got tied up and it looked like we were going to spend the rest of the day on this, I suggested that there may be a simple solution that we were all ignoring. We have bills dealing with Chapter 44, with life insurance, different aspects of life insurance, reserves, investments, so on and so forth. LB 426 was a separate major committee bill sponsored by Senator Dworak. The other bill that we have got before us is 355 is, so to speak, the other half of the question, the other side of the issue. They are both national model bills that have been adopted by the various insurance companies across the United States and agents and my thought is by putting them both together now, we avoid repeated hours of debate. We avoid problems of one side mistrusting the other about whether the bill will pass and we get this issue solved and we get on other things. I would urge you to adopt the amendment, advance the bill and go on to other things and I just got a feeling this could be one of our best days if we can process this one and a couple others here coming up and really get the Legislature back on track.

SPEAKER MARVEL: Okay, you have heard the motion. You have heard the discussion. Senator Dworak, do you wish to be recognized?

March 26, 1981

LB 355, 426

SENATOR DWORAK: Mr. President and colleagues, I think some comments need to be made for the record. First of all, I would like to thank Senator Kilgarin and Senator Landis for spending about an hour and a half last night in my office with the various sides of this bill, working out this compromise and I think we have reached a compromise. I do want to make a couple of comments that I do think that LB 426 is germane and that it is proper that it be in the same bill with LB 355. The subject matter of both bills relate to insurance and both amend the same chapter of the Nebraska Insurance Code, Chapter 44. The subject matter of both bills relate to life insurance. Both bills relate to life insurance policy provisions. Both bills relate to life insurance contracts and both bills relate to the concept of life insurance reserves. Both bills were drafted from the National Association of Insurance Commissioner Model Acts and both employ the use of variable rates and/or schedules. As a matter of fact, at one time it was contemplated that the two bills be introduced as one package of legislation, however, because of drafting problems with one bill we got delayed and they got split apart. Further refinement in drafting of what now is 426 was evident and I think it was wise and prudent that we took the time early to get a solid, sound, workable piece of legislation which gives us, really puts us in a position to amend 426 into LB 355 at this point. So, I don't believe, in my opinion, there is absolutely no question as to the germaneness of the two bills. So I would urge the adoption of Senator DeCamp's amendment.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker and members, I did not have an opportunity to speak yesterday on the matter so I want to take just a moment this morning to urge support for the DeCamp motion to merge the two bills. I was a little surprised yesterday at the hassling on 355. I was pleased to hear of the agreement to merge 426 and 355. In my humble opinion they are both good bills, both excellent bills and if in this effort there will be an opportunity to move both the bills, I am in full support. I urge the body's support for the motion. Thank you.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you. Mr. Speaker and colleagues, I would urge your support for Senator DeCamp's motion to merge these two bills. Since they are germane they do tie together. They reflect upon one another and the way 355 was moving through like a steam roller without 426 was one of the main concerns that I had and was trying to express yesterday. By tying the two together we can see both an advantage and

March 26, 1981

LB 355, 426

what I consider a disadvantage passed at the same time and under the same bill and hopefully 426 then will not get lost in the shuffle as I felt it would. I would urge your support. Thank you.

SPEAKER MARVEL: Okay, the motion is the adoption of the DeCamp amendment. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 26 ayes, 1 nay, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted and now there is another amendment on the desk.

CLERK: Mr. President, Senator Hoagland and Senator Kilgarin move to amend: (Read Hoagland-Kilgarin amendment as found on page 1141 of the Legislative Journal.) That is offered by Senators Hoagland and Kilgarin.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues...

SPEAKER MARVEL: Excuse me just a minute, (gavel), we are dealing with very difficult and important business and we would appreciate your attention. Go ahead, Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, we are currently preparing a brief memorandum to distribute which explains the effect of this amendment. I am not sure it is going to be done in time unfortunately. What the amendment does, it amends Section 4 of 355 which indicates that these changes in interest rates can affect existing policies. Now as a philosophical matter I have no problem in the change in interest rates affecting future policies. That is a freedom of contract matter between the insurance company and the new policy holder. Likewise I have no problem with the new interest rate affecting existing policies. That is also a freedom of contract matter providing the existing policy holder is fully understanding and fully knowledgeable of what the change is. Specifically what I am concerned about is the possibility of our getting a small little proxy-like statement in the mail like a lot of us do, small print, little slip saying, please sign and return, and people without really understanding what they are doing are signing and returning a proxy slip and signing away their rights to an 8% interest rate in favor of a 15% interest rate on these loans. Now what this amendment does, if I can find the current version of it, is it adds to Section 4 of the bill on page 5 which says that if the policy holder agrees in writing the new interest rate can go into effect. It adds a sentence and that sentence says, "Any such agreement

shall be void unless it is entered into by the policy holder voluntarily and following full disclosure of its effects, pursuant to the rules of the Department of Insurance." All right, any such agreement shall be void unless it is entered into by the policy holder voluntarily following full disclosure of its effects, pursuant to rules of the Department of Insurance. So all it does is put a little bit more language in there in case we do have an insurance company, and I am not suggesting the companies are going to do this but there is a possibility one company in a minority might do this, send out little proxy statements, asking people to return them without people really understanding what they are doing, just putting a little bit more assurance in there that if they are going to make that kind of waiver, they understand what they are doing. I would ask your support of this amendment. Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator Clark, do you wish to deal with the Hoagland amendment?

SENATOR CLARK: Thank you, Mr. President. I would certainly agree with this. That was the intent of the bill in the first place and if it makes it clearer to other people I would certainly agree with the amendment.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: I support Senator Hoagland's amendment and I feel that it might be redundant also but I have no objection to it and if Senator Hoagland is more comfortable and he is very prudent in scrutinizing, I compliment him for it and support the amendment.

SPEAKER MARVEL: Senator DeCamp. The question has been called for. Do I see five hands? I see five hands. All those in favor of ceasing debate vote aye, opposed vote no. Record the vote.

CLERK: 29 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. I'm sorry, I got ahead of myself. Debate has ceased. Senator Hoagland. Pardon? Waive closing?

SENATOR HOAGLAND: I will waive closing, Mr. President.

SPEAKER MARVEL: Senator Kilgarrin, do you waive closing? The motion then before the House is the advancement...do we have any other amendments? Okay, first of all, we will adopt the amendment. All those in favor of adopting the

March 26, 1981

LB 355

Hoagland-Kilgarin amendment vote aye, opposed vote no.  
Record the vote.

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER MARVEL: The motion is carried and the amendment is adopted.

CLERK: Mr. President, Senator Kilgarin moves to amend the bill: (Read Kilgarin amendment as found on page 1141 of the Legislative Journal.)

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. Speaker and colleagues, this is an amendment that Senator Dworak and the insurance industry and myself talked about last night at a meeting we had with regard to merging the two bills. It has been agreed upon by Senator Dworak and the insurance industry and we just got the draft this morning and basically what it is doing is it is saying that the Director of Insurance will have the power to advance the operative date of the section with regards to 426 so that if they are going to have the higher interest rates they are also going to give the policy holder the benefits that are found in LB 426 and it also says that they can not do this until a majority of the states in which an insurance company is doing business have adopted this same model legislation. So I would urge your support of this amendment. Thank you.

SPEAKER MARVEL: Senator Dworak, do you wish to be recognized on the amendment?

SENATOR DWORAK: I would call for the question.

SPEAKER MARVEL: There are no more lights so...okay, the motion is the adoption of the Kilgarin amendment. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER MARVEL: The amendment is adopted.

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

SPEAKER MARVEL: Senator Clark, do you want to advance the bill?

March 26, 1981

LB 355

SENATOR CLARK: I would move to advance LB 355 to E & R engrossing.

SPEAKER MARVEL: Senator Kilgarin, your light is on.

SENATOR KILGARIN: Thank you, Mr. President and colleagues, one agreement we did reach is that I would have ample opportunity to ask a few questions. Since the bills are merged I want to make sure I understand the provisions and how they reflect so I would like Senator Clark to answer just a couple of questions if you would yield.

SENATOR CLARK: If they are technical you are going to have to get them from Senator Dworak.

SENATOR KILGARIN: Excuse me? No, they are from your bill, Senator Clark. Do you know what percentage of the loan values are being borrowed presently industrywide?

SENATOR CLARK: I can't understand you. You are a little too close to the microphone.

SENATOR KILGARIN: Okay, do you know what percentage of the loan values are being borrowed presently industrywide?

SENATOR CLARK: The loan values? On what?

SENATOR KILGARIN: On permanent coverage.

SENATOR CLARK: On the bonds?

SENATOR KILGARIN: On permanent whole life insurance policies.

SENATOR CLARK: No, I don't.

SENATOR KILGARIN: Okay, would you agree that at the committee hearing Mr. Hassler representing the industry said 45 billion. Is that correct?

SENATOR CLARK: He says 30. You can ask Senator Dworak. He knows that.

SENATOR KILGARIN: Okay, Senator Dworak, do you know?

SENATOR DWORAK: ...(mike not turned on immediately.) percent.

SENATOR KILGARIN: Excuse me?

SENATOR DWORAK: Approximately 30%.

SENATOR KILGARIN: Okay, in the committee they said 11.2%.

SENATOR DWORAK: It was my understanding it was at a high of 30% during the peak. Maybe that is from...(interruption.)

SENATOR KILGARIN: Okay, thank you very much. That leaves the company, let's see 45 billion out of 400 billion total assets, leaves the company about 355 billion to invest. Is that correct, Senator Dworak?

SENATOR DWORAK: Sure those figures, if you say those figures are true I will accept your word for it.

SENATOR KILGARIN: Okay, Mr. Hassler from the insurance industry said that.

SENATOR DWORAK: Well I am sure Mr. Hassler would be right on target.

SENATOR KILGARIN: Okay, and out of that 355 billion dollars they have to invest, do they have to hold any back in reserve or anything or is that all for, I mean that is their total assets?

SENATOR DWORAK: I can't answer that question. That is too technical...I don't know. I am not going to try to answer it.

SENATOR KILGARIN: Okay, I just have a couple of questions of Senator Dworak about 426 and how it relates to LB 355. Okay, because of the very real probability that interest rates are going to be hiked because of provisions of 355, what offset effect does 426 carry with regard to the surrender penalties? Just briefly could you explain that?

SENATOR DWORAK: 426 essentially reduces the reserve requirements which could indirectly result in lower premiums and higher dividends. It also enhances the computation of nonforfeiture values which is your cash surrender value, your paid up additions, your extended term insurance which is benefits that benefits the policy holder. So I think the net result of 426 conceivably could be lower premiums, greater nonforfeiture values.

SENATOR KILGARIN: Okay, I was talking about policy termination. That is what I am concerned about because of the high interest rate, Senator Dworak. I am wondering if we are going to run into a problem with people's policies lapsing.

SPEAKER MARVEL: You have one minute left.

SENATOR DWORAK: Well I can't think through right immediately how it affects terminations other than the fact that existing cash values could be used to pay or extend delinquent premiums to extend the current coverage. That would be a possibility

March 26, 1981

LB 355

what essentially is taking a loan so I suppose you could argue that it might accelerate forced terminations on the differential, say between 10 and 8% and assuming that interest rates go up. Now but if you make the assumption that interest rates go down which is just as valid as interest rates going up because this slides down just as easily as it slides up. It could be very favorable as far as terminations. You know, I think we have a tendency to be a little negative, Senator Kilgarin, and we always look at the bad things and I think it all right to be conservative. I kind of like to wear the conservative cloak and I kind of like to see you in conservative garb like you are this morning but I sometimes think that our conservative approach to things might be, even though we want to be very cautious and careful, these interest rates could go down just as easy as up and in fact, with the present administration, President Reagan, there is a good chance in my opinion that that is going to happen if we can curtail government spending and keep going on the route we are going.

SPEAKER MARVEL: Your time is up. Are we ready to advance the bill? The motion is the advancement of 355 to E & R for engrossment. All those in favor of advancing the bill vote aye, opposed vote no. Record the vote.

CLERK: 31 ayes, 1 nay on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now before we go to the next item of business it is my privilege to introduce a guest of Senator Kilgarin, Camy Peterson from Kearney State College underneath the North balcony. Will you show us where you are so we can welcome you. And underneath the South balcony from Senator Cope's district 14 students from Kearney State College with their instructors, Dr. Maureen Ekloff and Dr. Harold Ahrendts. Will you show us where you are so we can welcome you. Yes, go ahead, Mr. Clerk.

CLERK: Mr. President, first of all Senator Cullan would like to have an executive session of the Public Health and Welfare Committee in the West Lounge at 10:00 a.m., Public Health and Welfare in the West Lounge at 10:00 a.m.

Mr. President, Senator Beutler moves to reconsider the body's action of Final Reading of LB 5. That will be laid over and LR 46 is ready for your signature, Mr. President.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LR 46.

March 31, 1981

LB 197, 197A, 266A, 290,  
LB 245, 291, 311, 355

things going for you. Number one, the fact that the industry itself is willing to put some money into it. Now if at this time when we have been guaranteed that the 2 million will be there provided by the industry, is going to be a signal to our people at the federal level that we have lost our interest, we are pulling back. The second thing she said you have got going for you, that under the present attempt to put some state money into it is going to be of great help for me if you expect me to do something for you. I think it is unwise at this point to say we are not going to put that in and I think that it is something that is positive that will be used if we expect to get any federal funds. I do oppose your amendment, Senator Koch, at this time.

SPEAKER MARVEL: If there is no objection we will stop here and come back after one-thirty and wind up the discussion because we are not going to get it done before noon. So, if there is no objection we will recess. Senator VonMinden, will you recess us until one-thirty? While we are waiting for that the Clerk has some things to read in.

CLERK: Mr. President, new A bill, 266A by Senator Wesely. (Read title as found on page 1220 of the Journal.)

Your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 197 and find the same correctly engrossed, 197A, 291, 290, 311, 355 all correctly engrossed, (Signed) Senator Kilgarin, Chair. (see pages 1220-1221 of the Journal.)

SPEAKER MARVEL: Senator Von Minden.

SENATOR VON MINDEN: Yes, Mr. Chairman, I move we recess until one-thirty.

SPEAKER MARVEL: Okay, the motion is to recess until one-thirty. All those in favor say aye, opposed no. The motion is carried. We are recessed until one-thirty.

Edited by:

*Marilyn Zank*  
Marilyn Zank

April 6, 1981

LB 311, 355, 56, 327

with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 311 on Final Reading. Have you all voted? Record the vote.

CLERK: 43 ayes, 3 nays, 1 excused and not voting, 2 present and not voting. Vote appears on pages 1293-94 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Next bill on Final Reading, LB 355. Clerk will read.

CLERK: (Read LB 355 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading. LB 355. Those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? The Clerk will record the vote.

ASSISTANT CLERK: 41 ayes, 4 nays, 2 excused and not voting, 2 present and not voting. Vote appears on page 1295 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared pass on Final Reading. Finally LB 56. The Clerk will read on Final Reading.

CLERK: (Read LB 56 on Final Reading.)

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

ASSISTANT CLERK: 39 ayes, 8 nays, 1 excused and not voting, 1 present and not voting. Vote appears on pages 1295-96 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Do you want to read some items in?

CLERK: Yes sir. Mr. President, I have a Attorney General's opinion addressed to Senator Vard Johnson (Pages 1296-98 of the Legislative Journal). And, one addressed to Senator Landis regarding 327 (Page 1298-99 of the Legislative Journal).

Mr. President, the Government Committee will meet in Executive Session at the noon recess underneath the north balcony. The Government Committee at the noon recess underneath the north balcony.

April 7, 1981

LR 48, 49  
LB 56, 209, 291, 311, 355

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Morning prayer is to be given by the Reverend T. M. Rollerson, the Pastor of God's Missionary Baptist Church.

REVEREND T.M.ROLLERSON: Prayer offered.

SPEAKER MARVEL: Please record your presence. Are you ready to record? You've got a quorum, I think.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: How about number 3?

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read communication as found on page 1321 of the Legislative Journal regarding LB 446.)

Mr. President, your Committee on Government, Military and Veterans Affairs reports LB 209 to General File with amendments. (See pages 1322 and 1333 of the Legislative Journal.)

Mr. President, LB 291, 311, 355, and 56, as well as LR 48 and 49 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 291, LB 311, LB 355, LB 56, LR 48, LR 49. Do you have anything else under item 3? Okay, item 4. Item #4.

CLERK: Mr. President, the Public Health and Welfare Committee reports on the appointments of M. L. Chaloupka, John Estabrook, Ramona Freeman, Dwaine Peetz, Robert Quick and Tod Voss. That report is found on page 1299 of the Journal, Mr. President. Signed by Senator Cullan as Chair of the Public Health and Welfare Committee.

SPEAKER MARVEL: The Chair recognizes Senator Cullan. Item #4 on the agenda.

SENATOR CULLAN: Mr. President and members of the Legislature, I believe this is the Committee on Committee reports from the Public Health and Welfare Committee. I would ask you to adopt the nomination to...in this particular case these are individuals from the Rural Health Manpower Commission, and one individual from the Board of Health that the committee heard. The committee sent these recommendations to you and asked for your approval.

April 7, 1981

LB 477, 291, 311, 355, 56,  
157, 157A, 158, 200, 243,  
280, 371, 407, 427, 427A

SENATOR PIRSCH: Okay, ther are. . . .

SENATOR WESELY: Or based on what sort of effort did you. . . .

SENATOR PIRSCH: There are three states which presently have about the same thing, Wisconsin, California and I'll look up the other one, Connecticut.

SENATOR WESELY: Okay, thank you. I would just like to rise in support of the bill. I think that clearly this is an effort that needs to be undertaken by the State of Nebraska that for to long we have ignored the problems that have been experienced by our witnesses and victims of crime and certainly want to commend Senator Pirsch for her efforts in this area. It seems to me that the bill is a step in the right direction.

SPEAKER MARVEL: Senator Pirsch, do you wish to close?

SENATOR PIRSCH: Yes, thank you Mr. Speaker, I'll close just by saying that I am proud to have had Nebraska in the forefront in helping other victims and I think that this will be a continuation of our sincere desire to help those victims and witnesses in the criminal justice system. I urge your passage of 477.

SPEAKER MARVEL: The motion is to advance the bill, 477, all those in favor of advancing the bill vote aye, opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: Motion is carried, bill is advanced.

CLERK: Mr. President, you Enrollment Clerk respectfully reports that she has presented to the Governor LBs 291, 311, 355 and 56.

Committee on E & R respectfully reports that we have carefully examined and re-engrossed LB 290 and find the same correctly engrossed. 157, 157A, 158, 200, 371, 407, 280, 427 and 427A, all corrected engrossed. (signed) Senator Kilgarin, Chair.

Senator Schmit would like to print amendments to LB 243 in the Journal, Mr. President.

April 13, 1981

LR 56  
LB 72, 329, 333, 355

PRESIDENT LUEDTKE PRF IDING

DR. ROBERT PALMER: (Prayer offered.)

PRESIDENT: Roll call.

CLERK: Mr. President, Senator Burrows would like to be excused until he arrives along with Senators Schmit and Hoagland; Senators Kremer, Cullan and Clark all day.

PRESIDENT: Has everyone registered your presence? Record the presence, Mr. Clerk.

CLERK: A quorum present, Mr. President.

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

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

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

CLERK: Mr. President, yes, sir, there are. I have two letters from the Governor addressed to the Clerk. (Read. See pages 1423 and 1424, Legislative Journal. Re: LB 72 and LB 355.)

Mr. President, LR 56. (Read. See pages 1424 and 1425, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, LBs 329 and 333 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 329 and LB 333. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: You will note that we have seated up here beside the Chair, former Chair and former Lieutenant Governor Frank Marsh, now Treasurer Marsh. We figured it might be a pretty tough day beginning this week and so we thought we would double up on you. He will handle the gavel and I will just tell you when he is going to strike the gavel down. No, Treasurer Marsh has brought with him some special guests which we could like to introduce to the Legislature at this time. They include Mr. Rodolfo Cerdas, member of the National Legislative Assembly, Costa Rica. He is a Professor of Political Science, an attorney, at the University of Costa Rica. He is accompanied by his escort-interpreter Paul Leach