

your presence, please. Thank you. Senator Labedz, would you record your presence, please. Senator Robak, record your presence, please. Senator Bernard-Stevens. Senator Chambers, would you record your presence, please. Thanks. We're looking for Senator Lynch, Senator Owen Elmer, Senator Peterson, Senator Pirsch. Senator Kristensen, record your presence, please. Thank you. Okay, we're looking for Senator Bernard-Stevens is all. Senator McFarland, shall we go ahead with your roll call vote?

SENATOR MCFARLAND: That would be fine.

PRESIDENT: All right. The question is the advancement of the bill. Mr. Clerk, please.

CLERK: (Roll call vote taken. See page 297 of the Legislative Journal.) 21 ayes, 25 nays, Mr. President, on the advancement.

PRESIDENT: LB 180 fails to advance. Mr. Clerk, do you have anything for the record, please?

CLERK: Yes, Mr. President, I do.

PRESIDENT: The call is raised.

CLERK: Mr. President, new bills. (Read by title for the first time LBs 600-647. See pages 298-308 of the Legislative Journal.)

Mr. President, in addition to those items, I have hearing notice from the Natural Resources Committee, signed by Senator Schmit. Notice of hearing from the Revenue Committee. That is signed by Senator Hall. Notice of hearing from the Government Committee. That's signed by Senator Baack.

Mr. President, that's all that I have at this time.

PRESIDENT: We will progress on to LB 190.

CLERK: Mr. President, LB 190 was a bill that was introduced Senator Withem. (Read title.) The bill was introduced on January 9, referred to Education, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: (Gavel.) Senator Withem, just a moment, maybe we

February 23, 1989 LB 247, 312A, 357, 452, 555, 606, 809
LR 35

Senator Smith would just wait a little bit, since it is noon, maybe we could work this out over the evening and we could just come back tomorrow with a different version. I would be willing to pull my amendment at the present time, if that would help, and then we could work something out and come back tomorrow.

SPEAKER BARRETT: Senator Schellpeper, I think the Chair at this point will leave the amendment as is.

SENATOR SCHELLPEPER: Okay.

SPEAKER BARRETT: And I would, after asking for messages on the President's desk, ask you to adjourn the body until tomorrow.

SENATOR SCHELLPEPER: I would be glad to do that.

SPEAKER BARRETT: Messages on the President's desk.

CLERK: Mr. President, your Committee on Banking, Commerce, and Insurance, whose Chair is Senator Landis, reports LB 452 to General File with amendments attached. That is signed by Senator Landis as Chair. Mr. President, Senator Withem has amendments to LB 312A. (See pages 859-860 of the Legislative Journal.)

Mr. President, a new bill, LB 809 introduced by the Speaker and a number of members at the request of the Governor. (Read for the first time by title. See page 860 of the Legislative Journal.)

Mr. President, I have a series of adds, Senator Scofield would like to add her name to LB 555 as co-introducer; Senator Scofield to LB 247; and Senator Hannibal to add his name to LR 35, Mr. President, as co-introducer.

The last item I have, Mr. President, are amendments to be printed from Senator Landis to LB 606. See page 859 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Senator Schellpeper.

SENATOR SCHELLPEPER: I would move that we adjourn until February 24th at 9:00 a.m.

SPEAKER BARRETT: Thank you. You have heard the motion to

March 2, 1989

LB 421, 606

and LB 606 to General File with amendments. (See pages 956-57 of the Legislative Journal.)

And, Mr. President, Senator Abboud would like to add his name to LB 421 as co-introducer. (See page 957 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Senator Schimek, would you like to go to your microphone and adjourn us until tomorrow morning at eight o'clock.

SENATOR SCHIMEK: Yes, Mr. Speaker, so move.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. We are adjourned until eight o'clock tomorrow morning, eight o'clock.

Proofed by:

Arleen McCrory
Arleen McCrory

March 13, 1989

LB 95, 140, 257, 280, 289, 311, 330
336, 387, 395, 438, 444, 478, 561
588, 603, 606, 643, 683, 705, 710
721, 736, 739, 744, 761, 762, 767
769, 780, 807

indefinitely postponed; LB 478, indefinitely postponed; LB 561, indefinitely postponed; LB 387, indefinitely postponed, all those signed by Senator Chizek as Chair of the Judiciary Committee. (See pages 1081-82 of the Legislative Journal. Journal page 1082 shows LB 721 as indefinitely postponed.)

Mr. President, a series of priority bill designations. Senator Hall would like to designate LB 762 as a committee priority. Senator Hartnett designates LB 95 and LB 444 as Urban Affairs priority bills. Senator Hartnett chooses LB 603 as his personal priority bill. LB 739 has been selected by Senator Hannibal; LB 606 by Senator Schimek; LB 761 and LB 289 by the Natural Resources Committee, and LB 807 by Senator Schmit, personally. LB 769 by Senator Labedz; LB 705 by Senator Ashford; LB 438 by Senator Wehrbein; LB 710 by Senator Scofield; LB 643 by Senator Bernard-Stevens; LB 588 by Senator Chambers; LB 739 by Senator Hannibal; LB 330 by Senator Pirsch; LB 767 by Senator Smith; LB 736 and LB 780 by General Affairs Committee; LB 395 by Senator Peterson. Senator Lamb selected Transportation Committee's LB 280 as a priority bill. LB 311 has been selected by Senator Landis as his personal priority bill; LB 683 by Senator Schellpeper.

Mr. President, I have a series of amendments to be printed. LB 744 by Senator Withem; LB 336 and LB 257, those by Senator Withem. (See pages 1083-88 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Haberman regarding an issue raised by Senator Haberman. (See pages 1088-90 of the Legislative Journal.)

Mr. President, Natural Resources Committee will have an Executive Session at eleven-fifteen in the senate lounge, and the Banking Committee will have an Executive Session at eleven o'clock in the senate lounge. Banking at eleven o'clock, Natural Resources at eleven-fifteen. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding then to Select File, LB 140.

CLERK: Mr. President, 140 is on Select File. Mr. President, the bill has been considered on Select File. On March 2nd the Enrollment and Review amendments were adopted. There was an amendment to the bill by Senator Chizek that was adopted.

March 29, 1989

LB 569, 569A, 606

allows an opportunity to save lives and to let it go on another year without passage of this legislation would be a shame. I would urge the body's support of this legislation.

SENATOR LABEDZ: There are no further lights on the advancement of LB 569. Senator Morrissey, or Senator Rogers, would you like to close?

SENATOR MORRISSEY: Yes, Madam Chair, members, as I said, a lot of people have worked pretty hard on this, including Senator Remmers, Senator Rogers, Department of Health and Mr. Fankhauser and Mr. Beekman from my district and it's very important. We have a good chance here to do something really vital to the state and I would urge your adoption of this bill.

SENATOR LABEDZ: Senator Morrissey was closing on LB 569. We're voting on the advancement of LB 569. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Madam President, on the advancement of LB 569.

SENATOR LABEDZ: LB 569 is advanced. Mr. Clerk, LB 569A.

CLERK: 569A, Madam President, introduced by Senator Rogers. (Title read.)

SENATOR LABEDZ: Senator Morrissey or Senator Rogers, would you like to speak on the advancement of LB 569A?

SENATOR MORRISSEY: Yes, Madam Chair and members, I would just urge the support of 569A along with LB 569.

SENATOR LABEDZ: Any discussion on the advancement of LB 569A? Evidently not. We're voting on the advancement of LB 569A. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Madam President, on the advancement of LB 569A.

SENATOR LABEDZ: LB 569A is advanced. Mr. Clerk, LB 606.

CLERK: 607, Madam President, was a bill introduced by Senator Landis. (Title read.) The bill was introduced on January 19,

referred to the Banking Committee, advanced to General File. I do have Banking, Commerce and Insurance Committee amendments pending, Madam President.

SENATOR LABEDZ: Senator Landis, on the committee amendments.

SENATOR LANDIS: Madam Speaker, members of the Legislature, LB 606 is a measure that requires the credit agreements of certain kinds be in writing to be effective and that modifications to certain credit agreements be in writing to be effective. The committee amendments further spell out what kind of provisions need to be in writing and when that term applies. The committee amendments define what a credit agreement is. It indicates that a creditor or debtor may not maintain an action on the credit agreement unless it is in writing, expresses consideration, sets forth relevant terms and is signed by both the creditor and the debtor. Indicates that there are certain actions that do not create a new credit agreement but are modifications and that they need to be in writing if they are covered by an initial notice. Creates an operative date of January 1, 1990 so that this change in the course of conduct will become well known prior to the occurrence of a change. Provide a debtor and creditor may not assert a defense in an action as well as maintain an action on a credit unless it meets the requirements of being in writing. To require the creditor at the time of the initial loan or extension of credit to give the debtor a notice signed by the debtor stating that the credit must be in writing to be enforceable under the Nebraska law, and then indicate that this will apply only to credit agreements entered into or after January 1, 1990. Having told you what the committee amendments are, I would urge the body to adopt them and then when the bill is in its complete form, we then discuss the measure as to whether or not it is good policy. Thank you, Mr. Speaker.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Discussion on the committee amendments, Senator Lamb.

SENATOR LAMB: Mr. President and members, I have a question of Senator Landis, if I may.

SENATOR LANDIS: You bet.

SENATOR LAMB: My concern has to do with the unsophisticated borrower that goes into the banker and says, are you going to finance me for my farming operation this year? The banker says, yes, we'll take care of you again and so the borrower leaves the bank, thinks he's in great shape, everything is hunky-dory. He does not realize that he has to have a written agreement with the banker. He thinks that his needs are going to be taken care of, but then as time progresses perhaps the banker has second thoughts. He decides he would not finance this person for another crop year and so the next time the borrower goes...sends a check, and he writes a check for seed or some fertilizer or some other item, and the banker finally says, well, I was in error. My board decided that we're not going to finance you another year, and my only concern is, is there any provision in this bill whereby this unsophisticated borrower could, should or would be notified that anything that the banker tells him is not...well, it has to be in writing. He just cannot take the word of the banker because really when you get right down to it, it does not mean anything. And if he doesn't have it in writing, he doesn't have anything, period, that he has a false sense of security there that he may not realize he is at risk. Is there any way we can provide for that unsophisticated borrower?

SENATOR LANDIS: The unsophisticated borrower is recognized in the bill, however, the definition of what that constitutes probably doesn't appeal to you. You'll find it in the green copy of the bill on page 2. It says, and here it parallels, by the way, the basic notion of the usury statute, and it says in loans of \$25,000 or less which are used for personal family or household purposes this doesn't apply to. Secondly, if you're talking about a principal residence, a mortgage, this bill doesn't apply. Now those have been the historical acknowledgements of what an unsophisticated borrower is with respect to the usury statute. If you're asking me about a farmer who is doing a commercial loan to over a course of time, the first credit agreement needs to be in writing after 1990 and modification to that credit agreement will need to be in writing as well. Notice of the obligation to make modifications in writing will be given at the signing of the first writing given in the initial loan period. The answer to your question is, no, the farmer is not entitled to rely on that exchange with the banker on a verbal statement following the passage of 606.

SENATOR LAMB: And my concern then does remain, because

historically we have not required the banker to put his oral statement in...

SPEAKER BARRETT: One minute.

SENATOR LAMB: ...in writing. And I would hope that somewhere along the line we could have some sort of a requirement that would require the banker to tell or maybe we need a sign. We've got a couple other bills here that post signs, we could have a four foot by eight foot sign in the bank that says everything that we say in here cannot be taken for granted unless it's in writing, or something like that. Because I see a problem here because we have farmers that need to borrow \$100,000 but are still unsophisticated borrowers that will not realize that they are treading on thin ice when they go in there and they get an oral commitment from the banker. I think somehow we need some sort of notice to that person that he has to have in the first instance a written commitment, or he does not have a commitment.

SPEAKER BARRETT: Time.

SENATOR LAMB: Thank you.

SPEAKER BARRETT: Senator Schmit. Senator Schmit, discussion on the committee amendments? Senator Firsch.

SENATOR FIRSCH: Thank you. Question of Senator Landis, please.

SPEAKER BARRETT: Senator Landis, please, would you respond to a question.

SENATOR LANDIS: Yes.

SENATOR FIRSCH: Would you yield? Not being on the Banking Committee, could perhaps you give the rest of us some idea of why this bill is needed and why it was brought to us.

SENATOR LANDIS: Sure. As a matter of fact if I'd been recognized following the committee amendments as the principal introducer, which is the normal course of occasions, I would have had my ten minutes to open, which I've not been given.

SENATOR FIRSCH: Oh.

SENATOR LANDIS: Are we still on the....We haven't voted on the

committee amendments, I take it, huh? Well, yes, I guess getting past the committee amendments and to the reasons for the bill...

SENATOR PIRSCH: And you can speak to the committee amendments now because you added a new section which eliminated the credit extended under the Uniform Commercial Code, the credit card and the credit agreements, which I'm not real sure what those are as defined in subdivision (1). In other words, you added more exemptions to the (inaudible).

SENATOR LANDIS: Those, yes...I'll be happy to explain those exemptions, if that's the nature of the question.

SENATOR PIRSCH: Okay.

SENATOR LANDIS: The exemptions that are given are for your checking account that gives you a loan should you bottom out on the account.

SENATOR PIRSCH: Okay.

SENATOR LANDIS: That does not require a written agreement for them to make a modification and adjust your credit balance and to give you, basically, surplusage in your checking account. That's the first one. The second one has to do with loans initiated by credit card types. Once you take the credit card you're on notice that...to repay, and you needn't then, if you're making a loan pursuant to the credit card, make an additional written agreement pursuant to that as well. Those are exceptions to the normal rule of the bill, which is that credit agreements will be in writing. Now, the second question that you asked me was why, why have credit agreements in writing. The law has a series of steps in it called the statute of fraud, saying certain kinds of contracts are important enough that they ought to be in writing so both parties know what their rights are.

SENATOR PIRSCH: And this leads what kind of those agreements then that we want to make sure we get in writing.

SENATOR LANDIS: Credit agreements for commercial purposes, personal loans for household fixtures over \$25,000, those...loans over \$25,000 generally that fall outside that exception, and commercial exchanges of credit will be covered by

this. Which means if you want to go in and start a business, ask a bank for the extension of credit, before there is an agreement that contract needs to be reduced to writing so that both parties know what their rights are.

SENATOR PIRSCH: Is this because we have had, as tradition, oral contracts are valid unless they have (inaudible).

SENATOR LANDIS: What we've had is we've had lawsuits claiming that oral exchanges constitute contracts. But the normal practice is this, you want a commercial loan, you want to start a business, you come to see me, I'm a bank loan officer. We sit down, I ask you questions, we track out how you intend to repay it, how much you need, what it looks like to be your monthly costs. And I'm about to take it to my loan committee. I say to you, Carol, this looks good, I think we'll be able to do business. We shake hands. I go to my loan committee, they review it and say, ah, we looked at the financial form but we're not going to approve the loan. I come back and say, Carol, I'm sorry, the loan committee hasn't approved. And you say, Dave, we shook hands.

SENATOR PIRSCH: Okay.

SENATOR LANDIS: You told me that we were going to be able to do business, we've got a contract. I said, no, we don't. And you and I argue about whether a contract exists. Better that we write the contract out.

SPEAKER BARRETT: One minute.

SENATOR PIRSCH: I tend to agree and in fact I don't think I've ever been in a situation where until it was signed, sealed and delivered that I considered that I had a loan. So I appreciate your explanation. Thank you.

SPEAKER BARRETT: Senator Schmit. Senator Schmit, would you care to discuss the amend....Thank you. There are no other lights on. Senator Landis, would you care to close?

SENATOR LANDIS: I'll close. We'll adopt the committee amendments, and then I can try to explain the bill and its purposes fully to the body at that time.

SPEAKER BARRETT: The question is the adoption of the committee

March 29, 1969

LB 606

amendments to LB 606. All in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: The committee amendments are adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Yes, Mr. President, Senator Landis had an amendment that appears on page 859 of the Journal.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: That's not an amendment to the committee amendment, is it, Mr. Clerk?

ASSISTANT CLERK: No.

SENATOR LANDIS: In that case, could I open on the bill itself and then take up the amendment after having explained the bill?

SPEAKER BARRETT: Certainly, proceed on the introduction of 606.

SENATOR LANDIS: Thank you, because there is a chance for confusion, I want to try to explain the rationale for the bill and you can understand what we're doing and then I can take up the committee...the other amendment. There is a growing trend in this country to reduce credit agreements to writing so that both parties know what their rights are and to know when the contract is created. This is consistent with a very old series of common law principles called the statute of frauds. The statute of frauds says certain kinds of contracts are very controversial and a lot is at stake, and to assist us in seeing to it that both parties know their interests they should be in writing. The four basic principles are the sale of goods that cost more than \$500, contracts that take longer than one year to carry out, interests in land, or promises to repay the debt of another. Those are the four elements of the statute of fraud. Now to each of those elements there are some exceptions. For example, if you're making, in the case of the sale of goods, a specially made good, that contract need not be in writing to enforceable. But there is, for the last several hundred years, this basic set of rules that's saying these kinds of agreements, these kinds of exchanges ought to be in writing. LB 606 says

you know the extension of credit has become so common and so complex that it, too, ought to be in writing to be effective, so that you know when the contract is created and what the rights and remedies are thereto. States that have passed this kind of law include Minnesota, California, Kansas, Colorado, Oklahoma, Washington, New Mexico, Texas and now ourselves, and there are a number of other states that are considering the measures as well. I can tell you that this bill, 606, is drafted with more consumer protection than any other state bill that has been passed that I know of. For example, in Minnesota the bill only operates to limit the debtor, not the creditor. That is true in California as well. Here the statute is binding on the creditor as well as the debtor. In other words the bank cannot deny or claim that there is a contract absent a written agreement. I think that's appropriate. Secondly, there are a number of states that permit modifications only in the case of writing but without any notice to the party who is making the original commitment. As a matter of fact notice is only given in Kansas, Washington and New Mexico at the current times. Additionally, there are very few exemptions. Most states have no exemptions for certain kinds of credit agreements, such as unsophisticated credit agreements recognized in our statute. Where those credit agreements exist, however, they vary. In some cases, in the case of California consumer credit of less than \$100,000 is exempted, in Colorado the number is the same as in Nebraska, \$25,000, in Oklahoma it's \$5,000 and less plus overdrafts. In other words consumer rights are more adequately protected in 606 than in any of the other state pieces of legislation which have been passed in many of the states of the Midwest. How does this piece of legislation come to us? It comes to us in the example that Senator Pirsch asked me in earlier questioning. It comes in that opportunity for misunderstanding in which you go into a banking facility, talk about a loan, get a handshake, get some recognition that there may be a loan forthcoming. The borrower concludes they've got a contract. The banker goes to the loan committee and they say, no, we're not going to approve the loan, they come back and say there is no contract, the borrower thinks there is a contract, the borrower takes them to court and there is a lawsuit on whether or not the oral exchanges constitute a contract. Better that we adhere to the idea that credit agreements be in writing so that parties know when the contract is created, by signature, and secondly what the terms of the contract are, rather than to create them out of the oral exchanges between borrower and lender. That is the rationale for 606. There certainly is adequate precedent in the common

law and in the State of Nebraska under the statute of frauds, and there certainly is the growing precedent in other states that recognize this kind of transaction as one that needs to be in writing to protect the creditor and the debtor. Mr. Speaker, since I'm still recognized, I will ask to withdraw the amendment before the Clerk.

SPEAKER BARRETT: It is withdrawn. Thank you, Senator Landis. Anything further?

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

SPEAKER BARRETT: The question then is the advancement of LB 606. Senator Schmit, would you care to discuss the advancement of the bill?

SENATOR SCHMIT: Mr. President and members, I rise in support of LB 606. And I recognize the concerns of Senator Lamb, they are legitimate concerns. But hopefully the language in LB 606 will be somewhat binding, will be binding upon the banker and the banker will, of course, be in position to notify the borrower that there must be a written agreement, and that casual approval of a loan or application of a loan or line of credit is no longer sufficient. I think that we are entering into the kind of times every day that are making it more and more difficult for a line of credit to be sustained, and therefore certainly written agreements to outline the parameters of the agreement are probably more in order. Most bankers, I am sure, as do the borrower probably lament the need for that kind of situation, but the circumstances of the past five or ten years have probably been more indicative than anything else that we need to have some kind of a formal agreement. I think certainly over the years as times developed to become more involved in our various operations all of us felt the need for this sort of thing. But in a way it's unfortunate we had to put it in the statute, but probably it's a good idea, therefore I support the bill.

SPEAKER BARRETT: Thank you. Senator Schimek.

SENATOR SCHIMEK: Mr. Speaker, are there any other lights on?

SPEAKER BARRETT: There are none, Senator.

SENATOR SCHIMEK: May I close on this? It is my priority bill

March 29, 1989

LB 606, 628

and Senator Landis asked if I would close.

SPEAKER BARRETT: If Senator Landis has no objection, please proceed to close.

SENATOR SCHIMEK: Thank you, Mr. Speaker. I would like to very simply say that I think this is a good bill, both for consumers and for bankers. It puts loans on a more business like basis, it lets everybody know exactly what the terms are so that there cannot be any misunderstandings. And I think really it is to protect maybe that unsophisticated borrower. LB 606 will, of course, apply to those loans over \$25,000, will not apply to home loans. But I think those are the amounts that frequently the loans are over a period of years, sometimes the loan officers at the bank are no longer the same people that originally made the terms of the loan, and people's memories get fuzzy after a time. I think this bill will help put this on a more professional, business like kind of plane. I would urge your support for LB 606.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 606 to E & R Initial. All in favor vote aye, opposed nay. Record, please.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 606.

SPEAKER BARRETT: LB 606 is advanced. Anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Proceed then to LB 628.

CLERK: LB 628, offered by Senators Robak and Schmit. (Read.) The bill was introduced on January 19, referred to the Government Committee, advanced to General File. I have committee amendments pending by the Government Committee, Mr. President.

SPEAKER BARRETT: Chairman Baack, on the committee amendments.

SENATOR BAACK: Yes, Mr. Speaker and members, the committee amendment is quite simple. It was an amendment that was proposed by Senator Robak when she came into the hearing. The

April 3, 1989

LB 44, 44A, 47, 66, 75, 78, 87
220, 240, 262, 348, 372, 399, 401
431, 438, 438A, 546, 548, 569, 569A
582, 582A, 592, 606, 608, 628, 637
681, 706, 777, 790

the time Senator Abboud can have to finish his closing.

SPEAKER BARRETT: Thank you. The question is the advancement of the bill to E & R Engrossing. All in favor vote aye...thank you. Roll call vote has been requested in reverse order. So be it. Mr. Clerk.

CLERK: (Roll call vote read. See pages 1431-32 of the Legislative Journal.) 27 ayes, 10 nays, Mr. President, on the advancement 592.

SPEAKER BARRETT: LB 592 advances. Anything for the record, Mr. Clerk?

CLERK: I do, Mr. President, thank you. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 262 and recommend that same be placed on Select File; LB 569, LB 569A, LB 606, LB 628, LB 681, LB 78, LB 438, LB 438A, LB 706, LB 47, LB 75, LB 548, LB 582, LB 582A, LB 240, LB 790, LB 777, LB 44, LB 44A, LB 637, LB 66, LB 546, LB 87, LB 220, LB 372, LB 399, LB 401 and LB 608, some of which have E & R amendments attached, Mr. President. (See pages 1432-44 of the Legislative Journal.)

Mr. President, your Committee on Health whose Chair is Senator Wesely reports LB 348 to General file with committee amendments attached. That's signed by Senator Wesely as Chair. (See page 1444 of the Legislative Journal.)

That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. As announced before recess, we will move back to LB 431 and LB 431A. LB 431, Mr. Clerk.

CLERK: Mr. President, the first item I have on 431 are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 431 be adopted.

SPEAKER BARRETT: The question is the adoption of the E & R amendments to LB 431. Those in favor say aye. Opposed no. Carried. They are adopted.

April 19, 1989

LB 569, 569A, 606, 628

SPEAKER BARRETT: You have heard the motion to advance LB 569. Those in favor say aye. Opposed no. Carried. The bill is advanced.

CLERK: Senator, on LB 569A, I have no amendments to the bill.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: I move we advance LB 569A.

SPEAKER BARRETT: Any discussion on the advancement of the A bill? Senator Wesely, your light is on. Senator Schellpeper. Thank you. Shall the A bill, 569A, be advanced? Those in favor say aye. Opposed no. Carried. The bill is advanced. LB 606.

CLERK: LB 606, Senator, I have Enrollment and Review amendments pending.

SPEAKER BARRETT: Senator Moore, excuse me, Senator Lindsay.

SENATOR LINDSAY: Thank you, Mr. President. I move the adoption of the E & R amendments to LB 606.

SPEAKER BARRETT: Shall the E & R amendments to 606 be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: I have nothing further on that bill, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 606 as amended be advanced to E & R for Engrossment.

SPEAKER BARRETT: You have heard the motion to advance 606. Those in favor say aye. Opposed no. Carried. The bill is advanced. LB 628.

CLERK: LB 628, Senator, I have E & R, first of all.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move the adoption of the E & R amendments.

April 24, 1989

LB 429, 569, 569A, 606, 681, 683, 769
812

but if 18 and 6 makes 24, it probably won't work with a call of the house. So I will just sit down and unfortunately accept defeat.

SPEAKER BARRETT: Record, Mr. Clerk. A record vote has been requested.

CLERK: (Read record vote. See pages 1885-86 of the Legislative Journal.) 18 ayes, 21 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: Motion fails. Messages on the President's desk.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 569 and find the same correctly engrossed, LB 569A, LB 606, and LB 681, all correctly engrossed and all signed by Senator Lindsay as Enrollment and Review Chair. (See pages 1886-88 of the Legislative Journal.)

Mr. President, I have received a communication from the University of Nebraska regarding a proposed bond issue. That will be referred to Reference Committee for referral to the appropriate Standing Committee.

Amendments to be printed by Senator Lindsay to LB 429; Senator Withem to LB 812; Senators Withem and Hall to LB 812, and Senator Warner to LB 683. (See pages 1890-92 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Senator Labedz, for what purpose do you rise?

SENATOR LABEDZ: Thank you, Mr. President. I move that we adjourn until April 25th, nine o'clock in the morning.

SPEAKER BARRETT: Thank you. You have heard the motion to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed no. Carried. We are adjourned. (Gavel.) Thank you.

Proofed by:

LaVera Benischek
LaVera Benischek

May 2, 1989

LB 280, 606

RECESS

SPEAKER BARRETT PRESIDING

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Anything for the record, Mr. Clerk?

CLERK: One item, Mr. President. Senator Lamb has amendments to LB 280 to be printed. That's all that I have, Mr. President. (See page 2017 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Just one announcement. LB 262 will be read last, we'll begin with LB 606 on Final Reading, if members would take their seats, please. While doing so, Senator Peterson has some guests in our north balcony, 45 fourth grade students from Westside Elementary in Norfolk. Would you folks please stand with your teachers. Thank you, we're glad to have you. And are Senator Schellpeper's guests in the north balcony, 16 third and fifth graders from District 82, in Pender, Nebraska? Are you folks up there? Would you please stand and take a bow. Thank you, we're glad to have you students with us this afternoon. Our first item of business is Final Reading in which all bills must be read in their entirety by the Clerk aloud. Please bear with us. Members, take your seats please for Final Reading, (gavel) beginning with 606.

CLERK: Mr. President, on LB 606 I have a motion by Senator Landis to return the bill for specific amendment.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, thank you for your indulgence. I will withdraw this amendment. I had a question raised about a phrase in the bill and about whether a credit agreement had to be physically signed by both parties. And I said, no, under existing law a signature is merely some form of printing that has an intention to authenticate the document. And so the proposed amendment, which is on the Clerk's desk, is unnecessary since it is the intent that for the purposes of LB 606 a signed credit agreement includes both a credit agreement which is generated by a computer pursuant to duly licensed software of a lender and signed by the debtor,

because that would have the same intent of authentication, and the credit agreement showing a signature of a lender, which is transmitted via telephone, or Telecopier machine, rather, and is signed by the debtor, both of those documents would carry the requisite intent to authenticate, which would comport with the language in the bill on the signature by the creditor and the debtor. Therefore, the amendment language is unnecessary and I would ask to withdraw it at this time.

SPEAKER BARRETT: Thank you, sir, it is withdrawn. We'll proceed then to the reading of the bill, Mr. Clerk.

CLERK: (Read LB 606 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 606 pass? Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: (Read record vote as found in Journal on page 2018.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 606 passes. LB 681E.

CLERK: (Read LB 681E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 681 with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. See page 2019 of the Legislative Journal.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 681E passes. LB 78.

ASSISTANT CLERK: (Read LB 78 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 78 become law? All in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See page 2020 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 3 excused

May 2, 1989

LB 78, 175, 262, 588, 591, 591A, 606
646, 681, 767, 814

having been complied with, the question is, shall LB 591 with the emergency clause attached become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. (See page 2023 of the Legislative Journal.) 42 ayes, 2 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 591E passes. And let the record show that Senator Moore had guests in the north balcony. They are just leaving at the present time, 9 students and 2 sponsors from the seventh and eighth grades in Waco, from St. John's in Waco. Thank you, folks, for coming. We appreciate it. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 606, LB 681, LB 78, LB 646, and LB 262. (See page 2024 of the Legislative Journal.) The call is raised. I'm sorry, we have an A bill. The call is not raised, I'm sorry. Mr. Clerk.

CLERK: (Read LB 591A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 591A with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 2024 of the Legislative Journal.) 41 ayes, 2 nays, 3 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 591AE passes. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign, LB 591 and LB 591A, and the call is raised. Anything for the record, Mr. Clerk?

CLERK: I have amendments to be printed by Senator Coordsen to LB 814, Senator McFarland to LB 175, Senator Conway to LB 767. That's all that I have, Mr. President. (See pages 2025-27 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Proceeding then to General File, senator priority bills, LB 588.

CLERK: Mr. President, 588 was a bill introduced by Senator Chambers. (Title read.) The bill was introduced on January 18.

May 2, 1989

LB 78, 262, 429, 588, 591, 591A, 606
646, 681

further on it? The call is raised.

CLERK: Mr. President, Senator Labedz would move to amend the bill.

PRESIDENT: Senator Labedz, please.

SENATOR LABEDZ: Withdraw.

PRESIDENT: Withdrawn.

CLERK: Mr. President, Senator Ashford would move to amend.

PRESIDENT: Senator Ashford. It is withdrawn.

CLERK: Mr. President, Senator Hall...kill motion, Senator?

SENATOR HALL: Withdraw.

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

PRESIDENT: Okay, we're on the advancement of the bill. Senator Chambers.

SENATOR CHAMBERS: In view of the...Mr. Chairman and members of the Legislature, I will just make the motion, then see if it's necessary to discuss it further, but I move that 588 be advanced to E & R Initial.

PRESIDENT: You've heard the motion. Any discussion? If not, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 26 ayes, 8 nays, Mr. President, on the advancement of LB 588.

PRESIDENT: LB 588 is advanced. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do. Enrollment and Review reports LB 429 correctly engrossed.

Enrolling Clerk has presented to the Governor bills read on Final Reading today, Mr. President. (Re: LB 606, LB 681, LB 78, LB 646, LB 262, LB 591, LB 591A. See page 2028 of the

May 4, 1989

LB 78, 182, 262, 591, 591A, 606, 646
681, 813
LR 110-115

amendment is adopted. Do you have anything else on it, Mr. Clerk?

CLERK: Mr. President, Senator Wesely would move to amend Senator Bernard-Stevens' amendment.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Yeah, I move to recess till one-thirty.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. You are recessed until one-thirty.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: Record, Mr. Clerk, please.

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

PRESIDENT: Do you have anything to read in, Mr. Clerk?

ASSISTANT CLERK: One item, Senator Coordsen would ask unanimous consent to print amendments to LB 182.

CLERK: Mr. President, I have a series of things, a communication from the Governor to the Clerk. (Re: LB 606, LB 681, LB 78, LB 646, LB 262, LB 591, LB 591A. See page 2089 of the Legislative Journal.)

A new study resolution by Senator Rod Johnson, LR 110. LR 111 by Senator Johnson. LR 112 by Senator Baack. LR 113 by Senator Barrett. LR 114 by Senator Hefner. LR 115 by Senator Baack. (Read brief explanation of each. See pages 2089-93 of the Legislative Journal.)

Mr. President, received a report from U S Ecology which is filed pursuant to rule and reg. Senator Wesely has amendments to LB 813, as does Senator Bernard-Stevens... Senator Bernard-Stevens has amendments to LB 813, Mr. President. (See pages 2093-94 of the Legislative Journal.)