

January 16, 1990

LB 240, 514, 718, 855, 972, 1140-1147
LR 239

CLERK: (Roll call vote taken. See pages 330-31 of the Legislative Journal.) 16 ayes, 18 nays, Mr. President, on the advancement of the bill.

PRESIDENT: LB 514 fails to advance. Anything for the record, Mr. Clerk?

CLERK: Just one item, Mr. President.

PRESIDENT: The call is raised. Did you want to enter some bills, Mr. Clerk?

CLERK: Mr. President, I do. Thank you. Mr. President, new bills. (Read LBs 1140-1147 by title for the first time. See pages 331-33 of the Legislative Journal.)

Mr. President, in addition to those items, I have a new constitutional amendment, LR 239CA, offered by Senators Withem, Warner, Lindsay, Barrett and Weihsing. (Read brief summary of resolution. See pages 333-37 of the Legislative Journal.) That will be referred to Reference.

Finally, Mr. President, I have a notice of hearing from the Agriculture Committee, that's signed by Senator Rod Johnson as Chair of the committee. (Re: LB 855, LB 972, and LB 718.) That's all that I have, Mr. President.

PRESIDENT: Thank you. Senator Baack is not here at the moment, so we'll go to LB 240.

CLERK: Mr. President, LB 240 was a bill introduced by Senator Hall. It is on Select File.

PRESIDENT: Senator Hall, please.

CLERK: Mr. President, I do have an amendment. Senator, you want to take up your amendment, or you want to refresh the body as to the bill?

SENATOR HALL: Whatever you think is appropriate, Mr. Clerk.

PRESIDENT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. If I could

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LB 161, 1136-1171, 1181-1194

Mr. President, finally, I have a reference report referring LBs 1136-1171. (See pages 373-74 of the Legislative Journal.)

Mr. President, announcement, the Speaker would like to hold a chairmen's meeting tomorrow morning at eight-fifteen in Room 2102. The Speaker is calling a chairmen's meeting tomorrow morning at eight-fifteen in Room 2102. That is all that I have, Mr. President.

PRESIDENT: Do we have some new bills, Mr. Clerk?

CLERK: Mr. President, new bills: (Read LBs 1181-1194 by title for the first time. See pages 374-77 of the Legislative Journal.) That's all that I have at this time, Mr. President.

PRESIDENT: We'll move on to General File, LB 161, Mr. Clerk.

CLERK: Mr. President, LB 161 was a bill that was originally introduced by Senators Rod Johnson, Scofield, Coordsen, Baack, Weihing, Schellpeper and Elmer. (Title read.) The bill was introduced on January 5 of last year, Mr. President. It was referred to the Agriculture Committee for public hearing. The bill was brought to the floor with committee amendments attached. It was considered on April 5, Mr. President. At that time Senator Johnson made a motion to bracket the bill until January 1 of this year. I have pending the committee amendments. They have not been adopted yet, Senator.

PRESIDENT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. President and members, the committee amendments are relatively straightforward. It is simple but I would like to share them with you and indicate that hopefully they are noncontroversial. There are four parts to the committee amendment. The first requires the Department of Agriculture to use other agencies when enforcement is necessary in the question of water quality. The Department of Agriculture is the lead agency in implementing this bill, but in many cases we have expertise, especially with water quality and other areas including the Department of Environmental Control, through their work; the Department of Health for the Safe Drinking Water Act and the State Resources Office and there is just a variety of different agencies that I think the department could turn to for assistance and I think the important thing is to make sure that

January 30, 1990

LB 81, 239, 249, 299, 662, 832, 850
864, 871, 894, 915, 1034, 1047, 1059
1061, 1074, 1146, 1199
LR 8

CLERK: (Read record vote. See pages 573-74 of the Legislative Journal.) 9 ayes, 25 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: The amendment fails. Anything for the record, Mr. Clerk? The call is raised.

CLERK: Yes, Mr. President, Senator Scofield has amendments to LB 662 to be printed, Senator Korshoj to LB 81. See pages 574-75 of the Legislative Journal.

Banking Committee whose Chair is Senator Landis reports LB 1146 to General File, LB 1199 General File, LB 1061 General File with amendments, those signed by Senator Landis. (See pages 576-79 of the Legislative Journal.)

Mr. President, your Committees on Education and Revenue to whom was referred LB 1059 reports the same back to General File with committee amendments attached, signed by Senators Hall and Dierks as vice chair of the committee. (See pages 597-81 of the Legislative Journal.)

Revenue Committee reports LB 239 indefinitely postponed, LB 249, LB 299, LB 832, LB 850, LB 894, LB 1034, those are reported indefinitely postponed, all signed by Senator Hall. (See page 581 of the Legislative Journal.)

Health and Human Services offers a corrected committee report to LB 871. General Affairs Committee reports LB 1074 to General File and LB 864 indefinitely postponed. And Health and Human Services reports LB 1047 to General File. (See page 581 of the Legislative Journal.)

Last item I have, Mr. President is a request by Senator Nelson to add her name to LB 915 as co-introducer. (See page 582 of the Legislative Journal.)

PRESIDENT: No objections? So ordered.

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

PRESIDENT: Senator Emil Beyer, would you please adjourn us until tomorrow at nine o'clock.

February 16, 1990 LB 159, 163, 594, 656, 854, 989, 1018
1020, 1072, 1073, 1099, 1146, 1153, 1179
1221, 1222

problem. Thank you.

SENATOR LABEDZ: Thank you, Senator Wehrbein. Senator Schmit. Senator Schmit, on the Hefner amendment. Mr. Clerk, do we have anything for the record before we adjourn?

CLERK: Madam President, your Committee on Banking, Commerce and Insurance whose Chair is Senator Landis, to whom was referred LB 1072 instructs me to report the same back to the Legislature with the recommendation it be indefinitely postponed; LB 1073, General File, with amendments; LB 1153, General File with amendments. (See pages 851-52 of the Legislative Journal.)

Madam President, a couple of announcements. The Revenue Committee will meet in Executive Session; Revenue Committee, Executive Session in Room 1520 upon adjournment; Revenue upon adjournment in Room 1520.

Mr. President, a series of priority bill designations. Senator Wesely has selected LB 989; Senator Lamb, LB 1020 as one of the Transportation Committee priorities; Senator Lynch, LB 1146; Senator Nelson, LB 656; Senator Abboud, LB 1018; Senator Lowell Johnson, LB 594; Senator Hannibal, LB 1221; Senator Schmit, LB 854 as his personal priority, and LB 1099 and LB 1179 as committee priorities.

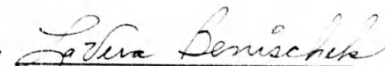
Mr. President, Senator Beyer would like to add his name to LB 159, an amendment; and Senator Beck to LB 1222. That's all that I have, Madam President.

SENATOR LABEDZ: Thank you, Mr. Clerk. Senator Langford, you have a motion up at the desk to adjourn. Would you like to make that motion, please.

SENATOR LANGFORD: Madam President, I move we adjourn until Tuesday, February the 20th at 9:00 a.m.

SENATOR LABEDZ: Thank you, Senator. We are...all those in favor say aye. Opposed. We are adjourned.

Proofed by


LaVera Benischek

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our Chaplain of the day, Father David Parrish of the Holy Trinity Episcopal Church in Lincoln. Would you please stand for the invocation.

FATHER PARRISH: (Prayer offered.)

PRESIDENT: We thank you and appreciate your coming this morning. Thank you again. Please come back. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports, or announcements?

CLERK: Mr. President, Natural Resources gives notice of confirmation hearing for February 28, signed by Senator Schmit.

I have an Attorney General's Opinion addressed to Senator Haberman regarding LB 1059. (See pages 854-58 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 256. Senator Lynch, your bill is up but we don't see Senator Schmit around and we can't find him. Are you prepared to handle that? You will try. All right. We will move on to LB 10.., rather, LB 1146.

CLERK: Mr. President, LB 1146 was a bill introduced by Senator Schmit. (Read title.) The bill was introduced on January 16 of this year, Mr. President, referred to the Banking Committee for public hearing. The bill was advanced to General File. I have no amendments at this time to the bill, Mr. President.

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: Yeah, Mr. President, and members, I will do my best. I think I can explain it so that lay people can

understand it. Lawyers and bankers in the crowd could maybe do a better job but I don't think there are that many of them there that need that kind of an explanation. It was my understanding there would be an amendment that at least on General File was agreed to by most of the banking and holding company interests in the state which changed the bill from 12 percent to 15 percent to 1 percent a year for the next three years, from 12 percent up to 15 percent. Here is Loran now. Loran, if...we are just talking about 11...Loran, we are talking about 1146, and it was my understanding there was an amendment, and I just was talking about that amendment. If you have it with you, I assume we would have to talk about the amendment first, Mr. President, and I would yield the rest of my time, then, now that Senator Schmit is here, to him to explain it. Loran, I did explain that the amendment simply, rather than...it was an agreement reached by most of the holding companies and banking interests that said rather than going from 12 to 15 the first year, it would provide for percent per year up to 15 percent in three years, and I will drop it at that, and let you take over.

PRESIDENT: Senator Schmit, would you continue on, please.

SENATOR SCHMIT: Yes, thank you, Senator Lynch. I appreciate your taking the amendment at this time. I appreciate the explanation you have given. The original bill, as you know, called for an increase from 12 to 15 percent, and that was to take place on January 1 of 1991. This bill, as you have indicated, provides for a 1 percent increase per year; 13 percent to take effect January 1, 1991; 14 percent on January 1, 1992; and 15 percent on January 1, 1993. As you know, the savings and loan industry has gone through some rather profound changes. There are a number of institutions, some of them substantially larger than some of our banking institutions, which are going to probably be for sale, and in order for one of our larger banks to be able to buy those, or to participate in the purchase, it is important and it is necessary for us to increase the deposit base that they can have under their control. I would be glad to answer any questions that you might ask; but if there are no questions, I am sure there are others who will have some comments, and I will speak again later.

PRESIDENT: Senator Landis, did you wish to speak about the amendment, please?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I understand that Senator Schmit is passing around on your desk the amendment and you will see that it is relatively short. There is two ideas in this amendment, and it is the second idea that I am most in accord with. If you will take a look at number two, it says, or which acquires any assets and liabilities from the Resolution Trust Corporation or the Federal FDIC, and what that language, and you will see, by the way, in number three, it says...it shows stricken, inserts January 1, 1999 (sic). Take those two together and it says this. It says you have got a 12 percent tap on what your holding companies can own, or in addition, the deposits, assets, liabilities, if you will, which you get when you buy a failed or failing S & L through the Resolution Trust Corporation or the FDIC. Now we did this several years ago when there were some failing banks in this state. We permitted the deposit cap that we have for bank holding companies, big conglomerates of banking power, we gave them a temporary window and said, listen, if you go out and buy a failing bank, that is okay. That doesn't count against your deposit cap, and we did that because we had some rural banks out there that were failing and this was the way to get them taken over, restructured, and opened up again to help people out. We gave a temporary window. That window was exercised. Those deposits don't count against the cap. We have got a similar situation right now. We have got some S & Ls that are failing out there, and in fact, we have got among the largest of our holding companies at least one holding company which is in danger if it were to buy these failed S & Ls of bumping up against this deposit cap. And for that reason, I think number two makes good sense. It is number one, however, that I have got some questions about and I don't understand it because if number two is, in fact, a blanket exemption for bank holding companies to go out and purchase failed or failing S & Ls and it gets them out of the cap altogether, what is number one all about? Number one is a three year staged-in increase in deposits without regard to number two. In other words, you could double the size of the holding company in number two because that is a total exemption, but in number one, you have also got this increase in deposits. Now I am not sure how many of us were here when we went through the bank holding company wars. It was a long protracted fight. And, frankly, what we finally got done doing is this. We said we are not crazy about holding companies but we will let them exist. It has been a fight between the rural interests and the urban interests but we will let them exist, but we will cap them to make sure that they

don't get so powerful that they become the sole voice in the state for financial opportunity, and we are going to cap them at 12 percent. As a matter of fact, there was a floor fight between Elroy Hefner and John DeCamp on the deposit cap of bank holding companies, and Elroy won and John lost, and the body followed Elroy Hefner's suggestions as I recall for the bank holding company deposit cap lid. Well, here we have got a, what, a 25 percent increase in the total amount of deposits that a bank can hold in a holding company, and I will tell you this, I sat in the Banking Committee and I didn't hear one explanation to justify it. I did, I mean I heard the RTC argument about the savings and loans and once we got that out of the way, then they said, well, yes, you are right. We would not want to restrict our ability to be purchased or to purchase others if we don't have room to grow.

PRESIDENT: One minute.

SENATOR LANDIS: Here is my point to you. This comes up on Monday morning. This is new language. We are talking about hundreds of millions of dollars in deposits here, and I will be fascinated to hear the rationale for number one, because, frankly, it was less than persuasively stated in the Banking Committee. And if there is new rationale, new justification for number one in this amendment, let's have it on the floor. I subscribe completely to number two. Want to vote for number two in this amendment, think it is a good idea, think it is good policy, we should enact it, but, number one, I want to hear about it, why we are adding hundreds and millions of dollars to the negotiated and hard-fought Bank Holding Company Act of several years ago. I don't know and I am up for hearing today as to why that should be. I will renew my light and I will look forward to a chance to hear from the proponents why we should do this.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Schmit and Senator Conway.

SENATOR WESELY: Thank you. Mr. President, and members, I appreciated Senator Landis pointing out the distinctions in this amendment which I had not, at first glance, recognized. Let me first begin by suggesting it is in order for us to make some adjustment in the cap on multibank holding company holdings in the state and go back to the beginning of the issue, because when we did pass multibank holding company's legislation, there

was a great concern about a conglomerate of banks and a holding company taking over the strongest market share of our financial institutions and, thus, dominating the market and hurting consumers in this state, and so that is why there is a cap, why it was 12 percent, and we have to keep ever in mind that the marketplace can be influenced tremendously by an institution becoming too dominant. And so if you go from 12 to 15 percent, the question is, do you then allow such a strong position by any particular institution to distort the market and not allow for the competitive forces that we need to have play to fully benefit the consumers of this state? I understand each percent increase is 200 million more dollars that a holding company can acquire, which is, of course, a significant amount of money, and to go then from 12 to 15 percent is 600 million more dollars available to be acquired by any particular bank holding company in the state. The fact is I think we do need to increase that amount from 12 to some position, and I think trying to compromise in this manner of a percent a year is a step in the right direction. The question about exempting completely from the cap does lead to questions about how ultimately you might distort the marketplace. If you have one institution acquiring a huge amount of these holdings from the RTC, it could, in fact, go above the 15 percent, and so I guess how that would interrelate, as Senator Landis's question, would be of concern to me. I will later, after we deal with these particular questions, come back to some greater concerns I have, which I will just mention at this time. The big reason we have this legislation is that we would like to allow our larger bank holding companies in the state to be able to acquire some of the savings and loans that are failing right now rather than having those savings and loans acquired from out-of-state interest. We would prefer in-state interest acquiring these institutions versus out-of-state interests. I think most of us would feel that way, that we want to have local control of our institutions, that we want to have local banking interests versus out-of-state banking interests if at all possible. That has been Nebraska's philosophy for a long time, but there are changes in the wind. There are circumstances that are not the same today as they were just a few years ago, and changes down the road that we have yet to anticipate, and those changes particularly tie back into the S & Ls where we are now talking about close to 150 to 200 billion dollars worth of institutions having to be bailed out by the federal taxpayers of this country, and those changes in Nebraska and elsewhere around the country are changing the way we look at financial institutions.

The borders of states are now thrown aside as this legislation indicates, that you are able to, on a failing S & L, come from out of state, enter into a state, not have any restrictions that we once had in out-of-state banks and what have you coming into our states, and those barriers, those protections are gone, and now we have to think, be very concerned as a state, about what happens as a result of that. What happens when potentially out-of-state interests come in? Yes, we would prefer in-state interests, but what about the possibility of an out-of-state interest coming in here outbidding our in-state people? What kind of situation do we face and, furthermore, if our in-state institutions are successful in bidding for these failing S & Ls, if they do expand in power and have greater asset and deposit bases, there is also the potential, because of legislation we passed a few years ago, to allow for first regionally this year out-of-state holding companies purchasing in-state banks, but also nationally...

PRESIDENT: One minute.

SENATOR WESELY: ...we are now going to allow next year the possibility for out-of-state institutions anywhere in the country to come in and purchase our in-state banking institutions, and so that concerns me. I think these broader issues as we go forward with this particular issue need to be kept in mind. There is in state versus out of state, and all the ramifications involved there. There is the commitment to community, commitment to the state, and concerns that even if our in-state banks are able to purchase these facilities, what is to say that down the road another out-of-state interest then purchases that in-state bank holding company. FirstTier is a stock hold company. There are other companies; obviously, NBC, that have been talked about as out-of-state interest might purchase, what happens when those institutions potentially down the road get bought by out-of-state firms? And I think those sort of questions need to be asked as well. At this time, I do support the Schmit amendment. I certainly think it is a step in the right direction and I will support at least some action on this legislation and support the bill's advancement today, but I do think broader issues need to be brought into it and understood as we move forward in very turbulent waters that are now boiling around us as we see the S & Ls,...

PRESIDENT: Time.

SENATOR WESELY: ...the banks changing laws and all the ramifications for our state and our future.

PRESIDENT: Thank you. Senator Schmit, you are next, but may I introduce our doctor of the day who lives in Senator Hannibal's District, and his name is Dr. Robert Beer. Dr. Beer, would you please stand up so we may recognize you, and we thank you for your services today. Senator Schmit, followed by Senator Conway.

SENATOR SCHMIT: Mr. President, and members, Senator Landis, of course, raised some good questions and those questions were discussed somewhat within the confines of the Banking Committee. He does have a legitimate concern. We did discuss on this floor I believe since 1973, when I introduced the first multibank holding company bill, that there needed to be some adjustment made in the bank structure in the State of Nebraska. I recall very vividly back in those days the almost avid opposition that we had to any kind of attempt to change the structure of banking in Nebraska. Rather ironically, then, as we proceeded into the seventies and into the early eighties, we did make some small amount of progress. One of the concerns relative to the passage of the Multibank Holding Company Act was what should the deposit base be? I believe the feds allow for a 20 percent, and I think that is where Senator DeCamp started out, and as was pointed out by Senator Landis, Senator Hefner and others compromised that down to 12. So it wasn't necessarily that 12 was the magic number or the correct number. It was what Senator DeCamp and others who supported the bill were willing to accept. As you know, Senator DeCamp, when he became Chairman of the Banking Committee, took over multibank holding company legislation from myself who had handled it prior to the time that he was promoted to that position. Once John gets in a position, he never, ever lets very much authority go to anyone else. Had they discussed it with me at some length, I probably would not have been quite so willing to acquiesce to the 12 percent limitation. I do want to point out several things. The concern relative to the acquisition of failed savings and loans, and it is somewhat I suppose the paradox that we say, well, in the event that an S & L has failed or that a group of S & Ls have failed, an institution can purchase those, notwithstanding the fact that, of course, there may be some times when a multibank holding company might want to purchase some strong institutions in a particular area that would give them a better base and make it possible for them to better serve their customers and the people

in the State of Nebraska. I think it is only fair to go back and it is pretty easy today, and I have done it from time to time myself, criticize the savings and loans because of the position in which they are in today. I want to say on the record here today that I do not blame the savings and loans for all of their problems, and I think that in all honesty we cannot blame the banks that did get into trouble for some of their problems. If you go back to October 6 of 1979, the day that I call the dark day for banking and the savings and loan industry, and in many cases, for the people of United States of America, Mr. Volcker and President Carter, decided on that day that they had to deregulate the cost of money to fight inflation. Loans that had been on the books of S & Ls for many years in the 6 percent range suddenly were in difficulty. Those loans had historically been financed by deposits paying slightly less than the 6 percent, 5 percent, 4 1/2, something in that area, a very competitive market. All of a sudden the banks found themselves, the S & Ls found themselves having to pay 8, 10, 12, 15, 16 percent for money. You don't need to be very much of a mathematician to figure out what happens if you are getting 6 percent and paying out 16. The same thing happened to a number of banks that did not have the reserves. Now our larger banks, our larger institutions that had the reserves were able to weather it. Some very fine small banks who did not have the reserves, did not have the size, could not weather those storms.

PRESIDENT: One minute.

SENATOR SCHMIT: Of course, as we know, once the S & Ls, in particular, got into difficulty, then they went...the Congress said, well, we have got some problems here, we have got to let them do things they didn't ordinarily do, and they did. They got into financing all sorts of enterprises which they normally would not finance. They also began to make investments themselves and take an equity interest. It is sort of like going to the race track and getting down to the last race and finding you are down to your last two bucks, and so you bet on a 40 to 1 long shot. The conditions fostered in some part, at least, by Mr. Volcker, and the money policy, were what led to the fueling of the fire that led to the situation we face today with the savings and loans. I am waiting for some member of Congress to stand before the House or the Senate and explain, yes, we had a part in the destruction of the savings and loan industry. When that happens, ladies and gentlemen, it will be the first time in my years on the floor that I bought the house

a treat, but I will be glad to do it. What we needed many years was, as I said, stronger institutions, not necessarily more. I still think we need stronger institutions. I believe that this bill as amended today provides for a stronger banking institution, a stronger banking industry and an industry that will lend itself better to the needs of the citizens of Nebraska. I have some more comments that I will refer to later on, but I do support the amendment and I hope you will support it also, and then support the bill.

PRESIDENT: Thank you. May I introduce some guests, please, we have in the south balcony. We have the Nebraska 4-H Awareness Team from across the state. Will you folks please stand and be recognized by the Legislature. I understand you will be spending the day here in the Capitol and the various places and learning more about how government works. We welcome you to our midst. Senator Landis, I understand you have a motion at this time.

SENATOR LANDIS: I simply ask for the question to be divided along the lines that separate the RTC question, the failing S & L question, which represents sections two, three, and four from section one, which is simply a change in the deposit cap for the Bank Holding Company Act.

PRESIDENT: So you want number one by itself, and two, three, and four in one section?

SENATOR LANDIS: Yes, and I think actually for the purposes of floor debate, two, three, and four should probably be taken first since, in fact, I don't think there is any difficulty with those sections.

PRESIDENT: I don't see any problem with that so, ladies and gentlemen, may I draw your attention to the fact...(Gavel.) Those of you who are interested in this bill, we are going to discuss the second part of the amendment which includes number two, three, and four at this time, and later on, we will discuss number one. So Senator Conway, do you wish to speak about the second half of this amendment including two, three, and four?

SENATOR CONWAY: Thank you, Mr. President, and members. It is my understanding now that the division is such that two, three, and four is one, and the other division is number one, and we are going to take up two, three and four first, is that where we

are at?

PRESIDENT: That is correct.

SENATOR CONWAY: Yes, Mr. President, I guess I would like to respond. I do not see the need for a division, although Senator Landis would rather take up the two, because they actually are somewhat different issues. Two, three, and four, basically, is the original bill, so to speak, is the way the original intent or the way it was lined out with...excuse me. Number one is really the original bill by raising the cap, but it has slowed it down. We originally had offered up a higher percentage than what we have. Speaking to the whole thing in general, and, again, basically in support of the division of two, three, and four, and these comments will also be used relative to when we get to vote on number one, as well, because I think it is a package as Senator Schmit has offered the amendment. If we look at what we have changed in the situation, we originally in committee had talked about making sure that we certainly had in-state institutions who had enough room within their deposit limitation, with the 12 percent limitation, to raise that limit in such a way that they could, in fact, bid on failing S & Ls and have room within that area to take it which would allow in-state institutions to acquire some of those S & Ls. That was originally the intent. I think, as I look at the amendment, I like the amendment even better. What it does is it gives us room to do that, but when we look at our largest financial institution, our largest bank, if you will, within the State of Nebraska, we are looking at about \$2.3 billion. The growth is such that with about a 15 percent increase on their deposits, whether those deposits are increased by enhancement through inflation, whether it is just growth, not even acquiring other institutions, but just a 15 percent growth rate, would run them up against the cap as we know it today. We originally put the cap in, I believe, at 10 percent, but that was during a period of time when we were changing a lot of things in our bank structure and people were quite concerned. You also have to remember if we go back a little bit farther than that, it was only about eight years ago we were arguing over how long a pneumatic tube could be from the main bank out to the drive-in window. We have come a long ways since that time and we have put ourselves in a situation where we have had slow monitoring and added and given a little more rope to the large institutions, given them a situation where they have been able to show us that they can handle their business in such a way

that it is to the benefit of the Nebraska depositors and the Nebraska economic environment that uses their services. So that is why I like the 1 percent, raising that cap, and allowing that opportunity, giving them a little bit more rope. We can monitor it as they go, giving them a little room to grow naturally, whether it's through acquiring an additional institution or whether it is just the internal growth of the institutions that are already on board, and then we also have this other issue of allowing the in-state institutions to procure some of the failing S & Ls that are out there. If we throw it all together, then we are probably in a situation where maybe we ought to be looking at a larger raising in our cap from 12 percent to 16 or 17, but at that point, I think what we are going to be able to do under the amendment and having them tied together is to monitor the activity, provide a little room for the procurement of the saving S & Ls as well as some natural growth that goes with it, and we can monitor both as they go. So I am rising in support of both parts to the division of the question, and would have been in support of the entire amendment, if it would have been left intact. So at this point, I would encourage the body to go ahead and support two, three, and four, and then, when we come back, to also add in the raising of the cap on a 1 percent incremental increase along with that to keep the package intact. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Lynch.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I am out in the Rotunda finding the reason for this bill. I have a darn tough time finding it on the floor but I guess I can hear about it in the Rotunda, and that is one of the difficulties I have got with doing business this way. You will recall when I ran for the Banking Chairmanship, one of the things I was hoping to have happen was that the negotiations that occur between various parties would be done in the presence of somebody from the committee so we would know what was going on. Frankly, we don't. Now I have been given some explanations as to why this is a good idea and why not. I have still got the issues separated. We are taking two, three, and four. I think it is good policy. I intend to vote for that. We will come back to section one. At this point, on the floor of the Legislature, there ought to be a darn clear explanation as to why we need that and need it now, and I have been listening hard, I have been doing my best, but I don't have it so far. Maybe the rest

of you have, or maybe the rest of you don't. I am particularly interested because it is tough sledding. It certainly is, but so far on the floor I haven't heard it. Anyway, I am here to be recognized on two, three, and four. I say it is good policy. It ought to pass. We ought to allow these transfers to take place without harming the availability of our existing bank holding companies to grow. Now there is an argument that our old Bank Holding Company Act is out of date and, in fact, the policy ought to be changed. We ought to allow it to expand so that we don't allow our biggest bank holding company to brush up against the deposit cap, limit its growth, and, therefore, make it susceptible to out-of-state takeovers of bigger banks. I can understand that argument but I will tell you this. It runs afoul of our existing policy and I am not so sure that that policy change ought to be made on the floor of the Legislature without greater study and greater awareness of what this body is doing all the way along the line, in other words, to come in and to explain to the body what that is all about. I am going to vote for two, three, and four. I will renew my light and inquire again as to the purpose of section one.

PRESIDENT: Thank you. Senator Lynch, please, followed by Senator Wesely.

SENATOR LYNCH: Mr. President, and members, probably now is a good time for me to explain two things. First of all, I will support the division of the question, obviously, and the sections two, three, and four. I took this as a priority bill and that is the reason it is on the floor for discussion now for a couple of reasons. Before I mention anything more though, I would like to also tell you how competent our Chairman of the Banking and Insurance Committee is. Dave probably understands these issues as well as anyone and I can certainly sympathize and appreciate his concern about a change on the floor this morning. David, and anyone else, when I took this as a priority bill, I think I understood the legislation and the intent of the legislation; and as we know at the hearing, there was not that much excitement over it. There was one opponent and two or three for it, but it did have to do with important policy. It came out of committee six to one, if I remember right, and one abstaining. When I took it as a priority, of course, the amendments as we are now discussing, did not exist but now that they exist I have to mention to you that I also, when I took it as a priority, did it for a number of reasons. We have an eminent problem in Nebraska that has to do with failing

institutions. We also have the problem of helping those institutions in Nebraska who are in the business helping us cope with those problems as well. It seemed to me to make sense that we have in place in Nebraska a policy that would permit, in this case, probably our largest holding company the opportunity to participate in the takeover of those obligations. Also in the process of that, the more we discuss this we understand the problems with a cap that taking over those institutions could create. So right now, rather than going into my support for the first section of the amendment, I would simply rise to say that the bill in its present form as I took as a priority, Senator Schmit's bill, should be approved, and I will discuss in my opinion justification for the first section as well when we discuss the divided question.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Schmit.

SENATOR WESELY: Yes, Mr. President, and members, I guess I would like to ask Senator Schmit to yield to a question but I don't see him on the floor. Well, I will frame the question, and when he gets to follow, then maybe he can address that. The question Senator Landis has asked is why do we need the increase from 12 to 15 percent when we can already provide for the RTC failing S & Ls to be purchased by the section of the amendment that we now are looking at. The question I have got is, if the bank holding company that is at over 11 percent, close to 12 percent, purchases a RTC failing S & L, thus going above 12 percent, let's say goes to 13 percent, maybe something like that, then does that get exempted out forevermore from that 12 percent lid so that they can go out and buy a healthy institution, and the answer is, probably not, that it would be too difficult to provide an ongoing evaluation of the exemption so that you would be able to allow that institution to purchase healthy institutions up to the limit that we had envisioned on previous legislation. So here is the problem, if you have a situation where you have got a holding company that wants to look at purchasing a RTC failing S & L versus a healthy institution, a bank or whatever, that they are now able to purchase, which way are they going to go? Well, most likely they will go with the healthy institution. They will most likely buy the bank that is healthy and not be as interested in the failing S & L. And so one of the things I think there may be some virtue in doing both is the question of being able to buy both a healthy and a weak institution, thus making it more

possible for our in-state financial institutions to purchase those failing S & Ls. That is conjecture on my part, but the only thinking I have at this point is that that would make some sense in combining these two issues. Of course, how far do you take that issue and how much do you open up that limitation, but I think there are complications when you provide this exemption for failing S & Ls, that I wonder how they work together with the other policy issues we need to evaluate, and I know that I have mentioned to Senator Schmit this concern privately, and I'd be interested in what his reaction would be, as well as Senator Landis's, but that would be my interest is, if we go with just this section, what are the implications down the road, and is there an exemption that carries on, or is it a one-time exemption allowing that purchase, and then once over that limit, that would cease the possibility of that bank holding company from purchasing any other institutions other than failing S & Ls?

PRESIDENT: Thank you. Senator Schmit, please. I don't see him. Senator Landis, you are next, would you like to go?

SENATOR LANDIS: Well, actually I don't have difficulty with sections two, three and four. I will renew my light and I will come back on for section one. I await an explanation of what the necessity of this first part of the bill is about on the floor. I will tell you this. No bank holding company is closer than \$400 million away from the cap. That is how far they are away, 400 million bucks. This year was one of the timed increases increasing the cap. I believe it came in at 10, I think it is now 12, and there were two timed-in increases, as I recall. One of those is this year. Now I have heard and can recall the argument that in the event you take in two, three, and four a failed S & L, buy it, its base deposits don't count against the Bank Holding Company Act, but should it grow, the growth would count against the bank holding company deposit cap. I think that is true. That certainly is a fair statement of the law, and a second thing that I have heard is, well, you know, we are in a national marketplace, our bank holding companies are peewees. If you don't allow them to grow and prosper and strengthen and get larger, they will get sucked up by somebody else. The policy of this state has been limited growth so that there is no major player in this state that controls the lifeblood of financial wealth, now that has been our policy. When we passed the Bank Holding Company Act years ago, that was part of our policy. If we are going to eschew that policy, fair

enough, but, gosh, should we be doing it on Monday morning at nine fifty-six in three or four lines in number one of an amendment that hasn't been explained to us? It is a reversal of our traditional policy. It may be justified. I am not exactly sure but, gosh, I have got to think with \$400 million to play with and no impending doom, a chance to buy any of these failing institutions so it doesn't apply to the cap, that we really aren't in a rush, and maybe the body is entitled to a little better explanation and study than what has happened this morning. That is my reaction. Now if there is a justification here, all right, but let's hear it. Let's have it before us before we act on this question. I will vote for two, three, and four. I need to hear more on section one.

PRESIDENT: Were you through, Senator Landis? Thank you. Senator Schmit, please.

SENATOR SCHMIT: Mr. President, and members, I would just like to agree with Senator Landis. I believe that he makes an excellent point when he discusses the various amount of negotiations that go on outside of the framework of the Legislature, itself, and outside of the framework of the committee, and I apologize to you, Senator Landis. I should have insisted that you be brought into the negotiations based upon the fact that you are chairman of the committee and, certainly, you are the individual who has, I think, in almost every instance, exercised strong leadership and strong support for some very good legislation for the past two years. And this is not the first time nor do I suppose it will be the last, if we allow it to continue, that legislators, myself included, will find on the floor of this Legislature that an agreement has been reached. Senator Landis has raised the point on a number of occasions over the last several years, and I concur with him, and I would just have to say that this is not the first time this year that it has happened, and that, from time to time, it has happened to me, also, and I don't appreciate it. I would also say that I did try to contact some individuals. Because of the constraints of time, I was unable to get a hold of everybody, but I would say that I would hope that I can explain to Senator Landis's satisfaction why I believe it is necessary to have part one of the amendment. As I stated earlier, since 1973 when I first spoke in support of multibank holding legislation on this floor, I insisted that we had to have not more institutions but stronger institutions. I insisted that a proliferation of small institutions could, in fact, be

detrimental to...not necessarily to banking but to the State of Nebraska as a whole. I am concerned, and Senator Wesely has expressed this concern, Senator Landis has expressed it, many others on this floor have expressed the concern of the concentration of power. My concern at this present time is this, that with the sad state of affairs that exist today among the savings and loans, that banks are being called upon to exercise responsibility which they did not normally under other conditions exercise. For example, banks are now financing many of the loans for homes that used to be carried out by the savings and loans. They are financing much of the business expansion that was formerly carried on by savings and loans. They are doing it in a direct manner. They are doing it because of the precarious situation of the saving and loan industry in many areas. We know that the passage of the Multibank Holding Company Act has allowed for banks to extend themselves across the State of Nebraska in a manner which would have been unheard of ten years ago, but I do believe that banking is stronger because of it. I believe that because of that, business is stronger. All of us on this floor from time to time like to take credit for the growth in business and the growth in industry. Ladies and gentlemen, that growth is not automatic. It does not occur without a substantial banking structure in place to finance that growth. We can take the taxes off. We can adjust the taxes. We can wipe out the taxes. But unless there is a strong financial institution to finance the expansion of industry, nothing is going to happen. Number two, we cannot expect that financing to come from outside of the state. It is not going to happen. It has to come from within the state. Number three, I have expressed my concern on many occasions and I will continue to do so about the need for additional emphasis upon banking facilities and banking resources to be made available in rural areas and...

PRESIDENT: One minute.

SENATOR SCHMIT: ...for agricultural purposes. I am not satisfied at this time yet that those needs are being addressed and I am going to continue to worry about that. I am going to continue to worry the banking system about that. I think we need to emphasize that and there are members on this floor who will talk about it some more. But I want, in closing, to say this, I believe that you need to allow, when you say we are going to adopt two, three and four of this amendment that allows for the takeover, if you will, of institutions that are in

trouble, I believe you need to allow for an expansion of the original base from 12 to 13 so that those institutions can acquire strong institutions with a positive customer base that can, in that manner, support the takeover or the acquisition of those that are not so strong. No one wants to be in a position, no institution wants to be in the position of only taking over those institutions that have failed.

PRESIDENT: Time.

SENATOR SCHMIT: From time to time, it is like picking apples off the tree. You will take those that are small and those that are out of shape, and once in awhile, you like to get a nice big, red, round apple.

PRESIDENT: Time.

SENATOR SCHMIT: well, I think this, I know that Senator Landis, being as gifted as he is, will find an opportunity to criticize me on that, and with a little bit of good humor, I am sure, but the facts are I think that by virtue of the fact that you adopt two, three, and four, it makes it more important that we adopt one. Thank you.

PRESIDENT: Thank you. Senator Landis is next, but may I introduce some guests of Senator Korshoj. Under the north balcony, we have Mrs. Dale Hilgenkamp and her daughters, Amy and Lorie, and also with her is their exchange student, Ana Gonzales from Costa Rica. She is here today learning about the Unicameral. Would you folks all stand up and be recognized by the Legislature. Thank you all for visiting us today. Senator Landis, followed by Senator Lynch.

SENATOR LANDIS: I will waive discussion of two, three, and four, and I will just keep my light on with respect to section one.

PRESIDENT: All right. Senator Lynch, please.

SENATOR LYNCH: Question.

PRESIDENT: 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 nay. We are voting to cease debate if you'd care to help. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Schmit, would you like to close on your...

SENATOR SCHMIT: I have no closing, Mr. President. We are voting on the second half of the amendment?

PRESIDENT: That is correct. Ladies and gentlemen, the question is the adoption of the second half of the amendment which is number two, three and four. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Schmit's amendment.

PRESIDENT: Sections two, three, and four of the Schmit amendment are adopted. Now we will move back to section one. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I heard Senator Schmit's speech and he was talking about the necessity of having strength in our financial communities. I swear I want that to be true as well. We have had two theories on how to get strength in our financial institutions. One of them is to compile them into large powerful entities capable of sharing in the national marketplace. That is one theory, and, frankly, we have allowed that to happen with interstate banking and with bank holding companies. But at the same time, it has had to tug with another theory on how you have strong financial banking interests, and that is to allow a marketplace that permits the smaller banks to succeed, do well, and service customers with their direct relationship. In the past, we have balanced those two. That is why we have capped our bank holding company because we have never thrown either one of those theories out. Now Senator Schmit made an argument there should be strength in these institutions and, frankly, I have suggested to Senator Schmit this. With respect to section one, I would support the very first part of this amendment, the 13 percent in January 1, 1991. Why? That represents \$200 million of additional deposits. The argument is, should a major bank holding company take over Occidental, let's talk these things, let's say these things out loud on the floor, let's talk to each other. If you buy Occidental, and it is a big, big institution,

you can do one of two things. You can sell it in pieces or you can hold it, but if you hold it or you hold a big chunk of it and it grows, it gets deposits back in, something that hasn't been happening, but if it does, that growth counts against your deposit cap. All right, fair enough. I would accept the notion of a 13 percent, January 1, 1991, to take care of that problem. That is \$200 million of growth where, in fact, historically you don't have growth, at least in the last couple of years, in the savings and loans deposit, but that is \$200 million of growth. But 14 and 15 percent in the next two years stretch out on the time line, they stretch out in the future when you don't know what the circumstances are. We have got plenty of time here. We just turned to 1990, right? This gets us all the way through 1991, that is two years away, totally. Then when we get into '92, we have got plenty of time to act. You are looking at \$600 million of deposits in this amendment. Have you had an explanation worth 600 million bucks? I didn't get it in committee and I sure haven't had it on the floor. I will recognize this concept sufficiently to make one step now in concert with two, three, and four, the taking over of the S & Ls, but, gosh, I suggest to you that we don't throw away our options or the demand for this Legislature rather than the lobby to make these decisions. Frankly, from what I can tell, there is a negotiated settlement out there out of the historical parts of the banking community that disagree with each other. That doesn't mean that we have to lay down. That doesn't mean that we somehow don't have to be brought into the loop and get told about these things, consulted, discussed, and explained to. Frankly, that is the message that I think would be appropriate to send to the lobby in this case. I have put an amendment on the desk. I will be happy to vote for 13 percent, January 1, 1991. After that, I'd suggest that they come and talk to us rather than talk to each other, that they deal with the Legislature rather than with the other parts of the lobby. That is not a bad message to send.

PRESIDENT: Thank you. Senator Hannibal, followed by Senator Schmit, Senator Conway, Senator Goodrich, and Senator Wesely. Senator Hannibal, please.

SENATOR HANNIBAL: Mr. President, and members of the Legislature, I was around and have been around for awhile and I have been involved in the discussions in the past on the concentration of wealth within a few distinct entities in the state, and, quite frankly, I have been with Senator Landis and

Senator Hefner and others who have felt that the 15 percent was too high of a concentration. And it became kind of an issue in the past as to how many banks you could have concentrate the wealth in the state, and the simple facts are we went from 9 to 12 percent, as I recall, and we cut from 11 banks possible down to about eight banks. And so under the 12 percent idea, theoretically, albeit a theory, excuse me, but theoretically you could have eight banks in the state control all the assets of the financial institutions in the state. What is going to happen under this amendment by increasing to 13, 14, and 15 percent, if you would go to the 15 percent, you would be down to as few as six entities in the state controlling all the assets, the financial assets of the state, and I have been opposed to that. I also am cognizant of what has happened with the failing bank legislation that we have passed, the failing savings and loan legislation we are considering now, and the interstate banking situation of the legislation that we have passed sometime ago, and it has been pointed out to me and to all of us that while we are talking about a high concentration of bank interests in a small amount of companies that, nevertheless, we are talking about no chance of these entities ever being large in relation to national interest. As I think it was explained to both Senator Landis and I that our largest institution is not even close to the top 100 banks in the nation right now. And with interstate banking coming on line, and I believe it starts, it triggers January of '91, and it will kick into our reciprocity agreements, that we really will be in a national banking market. So we do have probably only two choices, either allow our institutions to grow and be one of the players nationally, or to keep the grips on and possibly allow us to become a branch or be bought out by one of the larger banks in the country. Now I am not interested in doing that and I am not sure that any of you are as well. So I have mixed feelings on exactly which is the best way to go. I did support the first part of this. I think it is a good idea. As Senator Landis has pointed out, when you acquire a failing bank, those assets are not part of your concentration, your restrictions as far as percentage of wealth. Similarly, the failing institutions under the RTC will not be part of the concentration percentages, but in both cases, any growth, and there has been growth in the failing banks, and any growth in the failing savings and loans will be part of that cap. So I think we are in a little bit of a dilemma. I don't want to see high concentrations in a small number of entities in this state. I do, though, want to see us be competitive nationwide with the

big players in the nation. I think Senator Landis offers a pretty good compromise on section one by allowing the first phase to go into place, to go up to 13 percent.

PRESIDENT: One minute.

SENATOR HANNIBAL: That does allow for \$200 million of additional assets to be used and that would be only for growth, remember, only for growth, not for acquiring failing banks or acquiring failing savings and loans, but for growth. I think it would give us enough of an ability to move and move slowly and have ample opportunity for them to come back to us, and I do agree with Senator Landis that the Legislature is the place to make this decision, not a group of people that are working their interests and coming up with a compromise outside the Legislature. Present the argument to us and say we are up against it, we have this coming to us, we need to make this change, make their case. Let the Legislature decide. I will be supporting Senator Landis's amendment if he does bring it up and I think it is probably a pretty good compromise for us that won't curtail growth and will allow us to pass the failing savings and loan, the RTC acquiring type of legislation that I do think is very important.

PRESIDENT: Mr. Clerk, I understand you have an amendment to the amendment.

CLERK: Mr. President, Senator Landis would move to amend the Schmit amendment by striking all the language past January 1, 1991.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, to understand the amendment, all you have to do is take a look at the page that has been passed out to you under Senator Schmit's name, take a look at that number one, you drop down to the second line, and you read thirteen percent on January 1, 1991, period. Okay? That is what the amendment would do. Now why do I offer it? First, notice that it does not prejudice in any way the legitimate interest of this bill. Sections two, three, and four have already been passed, all green votes. Secondly, this is the first step of their suggested time line. Notice, as well, that there is time in the future to do, should we wish to, steps two and three if we are persuaded it is a good idea. We

can do that next year. There is no problem there. We can make sure that that happens. In other words, it doesn't prejudice the interests of the proponents. What it says is this, it says a loaf today, a loaf today, but let's wait on the rest of this because there is \$400 million in the rest of this package. Secondly, it allows the growth that they want. Actually, there is no historical growth in the area that they are looking at. The S & Ls are not taking in big deposits. They sure as heck aren't going to take in \$200 million of deposit in the coming year in Occidental or any of the other failing institutions. But, nonetheless, it says, yes, we will allow for that theory to go forward, yes, on growth. Third, it says come back and talk to us, come back and discuss this with the Legislature. Make your case for this future time line. Lastly, let me point out this argument, this question about the argument because I am sure people are disappearing out to the rotunda to get told the other side of the story. Our most major banking institution is not among the hundred largest banks of the country. It is true. And one of the arguments is you must allow us to grow in an unbridled way if we are to succeed. That, by the way, is an assumption I have not seen proved. Actually, what I would suggest to you is this. I think the argument really is and the unspoken argument is, if you take away our ability to grow, we are less attractive in the marketplace to be purchased. We will be a horse with a lame foot, and if that is the case, the price may not be as good as if, in fact, we can run on all fours, which means that we have unlimited growth in the state, or a great deal of growth permitted to us. I, frankly, don't see how this language is the difference between life and death for these institutions, when, in fact, they are among not the top 100 institutions of the country. If anything, laming the horse probably makes them less attractive to purchase than otherwise. If you wanted to keep control in the state, my guess is that you let these things bump up against the deposit cap and have some out-of-state institution say, well, there is no growth here, I guess I will go someplace with a big market and a future to it. But that aside, let me tell you that it seems to me that this is a fair exchange to make for today. It responds to the argument, it responds to the savings and loan situations. What it says, you got to bring the Legislature into the loop for these kinds of discussions, these kinds of agreements and, frankly, I understand you have got to choose here. You have got to choose between making the Legislature a viable entity in these kinds of issues, or you have got to choose your friends. Because my guess is that out there are a lot of your friends, no doubt

about it. Certainly, they are, but I would suggest that you stand up for the Legislature as an institution for making these decisions on the floor and among our number by adopting this amendment. Thank you.

PRESIDENT: Thank you. And I would remind the speakers coming up that we are talking now about the Landis amendment to the Schmit amendment. Senator Schmit, followed by Senator Conway and Senator Goodrich.

SENATOR SCHMIT: Well, Mr. President, and members, Senator Landis offers really sort of a fair compromise, and I am really kind of tempted to agree, and I visited with him just a little bit about it. I appreciate his willingness to recognize the need for some growth. Senator Hannibal also raises some legitimate concerns. I think we are all concerned, and I think to the extent that our debate on this floor conveys those concerns to the institutions who are interested in this bill, that the debate is very constructive. I would probably go along with the amendment, and I might settle for it yet before we get done, I am a great person to compromise, and Senator Landis knows that, but I guess I would just like to have some kind of a reading from the floor because I know that there have been significant changes in the attitude toward bank structure changes on this floor in the past 20 years, and I guess that having been alone in that area for so many years, I can be excused if I take some satisfaction that the temper of the body has shifted somewhat to my traditional position. I would just...my only concern, and I shouldn't say my only concern, my principal concern with Senator Landis's amendment to my amendment is this that we have had a lot of discussions on this floor about the necessity for planning for long-term growth, to be able to look into the future and to try to chart the course of the State of Nebraska, to try to chart the course of businesses, to try to chart the course of agriculture, and the university, and many other institutions. And one of the reasons why I accepted the one, one, and one proposal when it was first brought to me was that it does allow for some long-range planning by the financial institutions. It allows them to say that in 1991, this will be our limit; in 1992, if this happens, then we can do this; and in 1993, this will be a natural course that we can follow. And it allows for some decisions to be made relative to expansion and relative to the growth that are not going to be possible if, in fact, we just take Senator Landis's amendment. Now I can understand also the concern that Senator

Landis has, and I join him in that concern, and I would have to say, and I am not in a position very often where I can chastise the banking community, but I would just have to say that there have been some legitimate concerns expressed to me by individuals who do business with various institutions relative to whether or not the new structure is working as we had hoped when we enacted it into law. I think that in most instances it is. There are some noticeable gaps and there are some noticeable areas where we need to be making some improvements. Hopefully, the adoption of the Schmit amendment this morning as it was proposed would be conducive to the banks filling in those gaps and making it possible for industry, agriculture, and business to grow across the State of Nebraska. I would hope that what Senator Landis fears does not happen, and I know, Senator Landis, I am going to preempt your argument, that it is very, very difficult to roll back the clock, so to speak, and that if we adopt my amendment, and come in here next year and decide we need to do something different, it isn't as easy to say we are going to knock it off in 1991 or 1992.

PRESIDENT: One minute.

SENATOR SCHMIT: But I do believe this sort of amendment that I have proposed does provide for orderly growth, does provide for some long-range planning that we do not get under your approach. I would hope that we take a vote. I am not going to support Senator Landis's amendment at this time. I am going to vote against it, but I do want to say this, I appreciate Senator Landis's offer of compromise and I appreciate his remarks as I do those remarks of Senator Hannibal because I think they convey to the banking institutions the concern of the members of this floor relative to the needs of the State of Nebraska and as citizens in relation to banks, particularly as it pertains to our larger institutions. So at this time, I am not going to support the Landis amendment, and I would ask you not to support it either.

PRESIDENT: Thank you. Senator Goodrich, please, followed by Senator Wesely and Senator Landis. Senator Goodrich.

SENATOR GOODRICH: Mr. President, and members of the body, I would rise to suggest that we not do the Landis amendment. Now let me tell you why I say that. We have right now a choice. We can do nothing, and an out-of-state bank can go ahead and...and has the margin, in other words, to go ahead and do what is being

contemplated right now, and Senator Landis laid it right out openly on the floor, by acquiring of Occidental, which is a savings and loan that is in trouble, \$500 million. We know, for example, that this, the largest Nebraska-based financial institution has only got about \$400 million worth of margin. Consequently, they can't do it. By default, if we do nothing, by default the out-of-state bank will automatically be...is already in a position to do it and can and probably will do it. However, we are then exporting money from Nebraska if we do it that way. Now, for example, if we adopt the 15 percent, which I, frankly, see nothing wrong with, and I would suggest that that is the proper way to do it, but if we adopted Senator Landis's amendment, we are in a position where, yes, you add a little bit of margin to the FirstTier margin but you do not accommodate the future growth of either FirstTier or Occidental or any of the other five other savings and loans that are in trouble in the State of Nebraska, and I would suggest that we would be far better off if we were in a position where a Nebraska institution could and probably would solve some of these problems for us. Now it is logical, in my book, that, for example, Dave, Davie, for example, if you were to go the second step to go the 14 percent, not just the 13 percent, but the 14 percent, then we wind up with at least having the ability to solve the current problem as well as the potential problem which is laying in the bushes, which is Heritage, for example, that just went, and we wind up with a sufficient margin also to have some growth in FirstTier and some growth in Occidental or maybe even Heritage. Would that be acceptable to you?

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Senator Goodrich, I understand the things that you are..the problem that you are complaining of and the suggested solution. Since I think the problem that you are complaining of has been taken care of in two, three, and four, then the solution does seem to me a little more advanced. I think 13 is fair. It is what they are asking for for this coming year, and we can grant it in that period of time. Let them come in and explain 14 and 15 when, in fact, they are in need, but this doesn't tie them up at all.

SENATOR GOODRICH: All right, then, Mr. President, and members of the body on the floor here, I am going to suggest that we reject the Landis amendment in spite of the respect I have for Senator Landis and his judgment. I think he is being just a

little too cautious here, and I am going to suggest that we reject this amendment. Thank you.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Landis and Senator Lynch.

SENATOR WESELY: Thank you. Mr. President, and members, I have been looking through some materials that were prepared for the Banking Committee as we looked at this issue in hearing, and if you haven't already, let me run through these figures quite quickly. Currently, at the end of 1988, there were \$22 billion, \$22.7 billion in banks deposits, thus the 1 percent figure we are talking about would be \$227 million. So what we are talking about here for each percent is about \$227 million more dollars. That is...we are not talking about a minor issue at this point. Every percent is \$227 million. In addition, FirstTier is currently at about \$2.3 billion, or about \$400 million short of their 12 percent cap. So \$400 million plus \$227 million, those are rough estimates, so there you are talking \$500 million, so that seems like quite a bit. And so the first reaction would be is that all we need? And I think Senator Landis is legitimately raising that issue. Then you look at, though, the institutions that are to be put on the block here shortly by the RTC, and you find that some of those institutions, just one, has over \$500 million in deposits. And so, for instance, if FirstTier did decide that that institution is what they would like to acquire, their flexibility would be gone with just one action. At the same time, you are talking about a significant increase in deposit holdings and influence in the market. So this is a very difficult issue, how to balance out the needs of the institutions with the needs of the state, the consumers, and the public. I tend to agree with Senator Schmit at this point that the phased-in one, two, three offered by Senator Schmit and Senator Lynch make some sense, but I do believe that Senator Landis's point is well taken and perhaps we can look again at that issue at a later point on Select File, where I also plan to raise the issue of community reinvestment. If we are so concerned about out-of-state institutions coming into the state, we ought to have some protections that once here they serve the community, and we have not yet done that. We do have in place in our interstate banking legislation some entry restrictions but we do not, once an out-of-state holding company comes into the state, have community reinvestment standards to hold them to so that we know they will, in fact, serve the State of Nebraska. And I will plan to raise that issue on Select File, as we move

forward with this legislation. At this point, though, I do plan to support the Schmit amendment and not support the Landis amendment, but I think much more information is needed. I tried to provide a little bit more to you at this point, but still many questions go unanswered, and I think Senator Landis is absolutely right to raise them.

PRESIDENT: Thank you. May I introduce some guests, please, in the south balcony of Senator Scott Moore. We have 21 seventh and eighth graders from Emmanuel Lutheran School in York, Nebraska, with their sponsors. Would you folks all stand and be recognized by the Legislature. Thank you for visiting us today. Senator Landis, please, followed by Senator Lynch, and Senator Labedz.

SENATOR LANDIS: Mr. Speaker, I will just use about a minute of my time because the last two speakers, Senator Goodrich and Senator Wesely, interjected a point into the discussion that I need to respond to right away, Occidental's 500 million bucks. The argument goes both from Senator Goodrich and Senator Wesely that in the event FirstTier takes it over, it will dry up any flexibility FirstTier has. That was the argument, but notice what sections two, three, and four, which you have already adopted, which I suggested and agreed to was a good idea, did. It said that that \$500 million of Occidental deposits doesn't count against the cap, doesn't count against the cap. In other words, it does not knock out FirstTier from buying Occidental. They certainly can, and it doesn't knock out flexibility that FirstTier now has to the extent of \$400 million of growth, and if you were to adopt my amendment, that number is up to \$600 million of growth. I don't know how much flexibility you want in two years time. An institution is not going to grow \$600 million in two years time, particularly if what you are saying is, gosh, we've taken over a \$500 million institution that isn't getting any new deposits because that is the story with Occidental. They are just not going to grow that fast. I will be happy to respond later to other things, but it seems to me critical that we distinguish what is going on here. FirstTier is not endangered with either their flexibility or their growth if you adopt two, three, and four, and, in fact, if you adopt the first part of section one. It is exactly what they are asking for for the year 1991. What you just are not allowing them is '92 and '93's growth until they make the explanation and we see what the patterns are and we see what happens in the marketplace. That is reasonable, and it is reasonable to bring

us as an institution into the loop. Thank you.

PRESIDENT: Thank you. Senator Lynch, please, followed by Senator Labeledz and Senator Conway. Senator Lynch.

SENATOR LYNCH: Yeah, Mr. President, and members, as I sit here listening to our concern over controlling capital and the growth of institutions, I can't help but think about in general terms the issue of controlled growth, whether it is a good or a bad idea. I am sitting here wondering if we were worried when we passed 775 that we thought maybe ConAgra would take over the marketplace for farm products in the world, and if we were really concerned about that. I don't think we really were. Or, for example, another one, whether we were concerned about the UP railroad, maybe, if they took boxcars off, having a better chance at more marketplace somewhere. I can also think about, you know, if we want to control growth, if you want to control, for example, capital, why not controlling the minds of people? Do you think we should talk in terms of controlling how many subscribers a single newspaper could have in the State of Nebraska to say 12 or 13 percent? You know, that would mean that the World-Herald would have to be cut back considerably compared to what they have in subscribers now. It might help Lincoln Journal-Star and some others, spread the wealth around, but what is the whole principle of what we are talking about here? I am also thinking about state budgets. Maybe we should talk in terms of controlling what percentage of the state budget any single agency of the state can have. Now that deals with money as well. All of this, you know, makes me wonder about our concern. I am not sure how much capital is enough, and I know right now we have about a billion, one hundred million dollars worth of potentially failing institutions, just in the savings and loan, and I know that won't count against their normal growth. I am also aware of the fact that some people may suggest that all we are doing by proposing this legislation is setting up our largest bank as a better and more marketable institution on the national market and probably for some of those 100, those biggies that could take it over. All of these things, I don't know about all the rest of you, but some of you that are smart enough to know the difference might know all of the answers to all of those things, but we are debating now a 1 percent, a \$200 million addition of the \$400 million addition. I am not quite sure how much is enough. I am not quite sure that 15 percent of the marketplace in Nebraska will mean that somebody will dominate the capital in the state. I don't think

so, but I do know this. I think we do have to have in place in the state a policy that does make sense as it applies just not only to growth but also to meaningful understanding of who should control that growth, but at the same time, not penalize the institutions we have in place, big or little, and allow those institutions that are for sale the opportunity to sell at the best market price they can get. And it seems to me that, in the words of show business, this is much to do about nothing in some ways, and that I support the 1 percent per year, the original amendment, the original negotiated agreement, up to 15 percent over a three year period. The 1 percent is enough, I will support the Landis amendment, but suggest to you that I may be back on Select File, certainly not this morning, with another amendment that would bring it back up to the 15 percent.

PRESIDENT: Thank you. Senator Labedz, you are next, but may I introduce some guests, please, of Senator Howard Lamb. Under the north balcony, we have Mr. and Mrs. Niels Johnson and their daughter Linda Johnson. Mrs. Johnson is the sister of Senator Howard Lamb, and daughter, Linda Johnson was employed in the Capitol some couple, three years ago, including the Lieutenant Governor's Office. Would you folks please stand and be recognized by the Legislature. It is good to see you all again. Thank you for visiting us today. Senator Labedz, please, followed by Senator Conway.

SENATOR LABEDZ: Mr. President, I call the question.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall the debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 28 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Landis, would you like to close on your amendment to the amendment, please?

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature, and I look around the room and we are kind of depleted this morning. We may have some people who are out in the lobby, who knows, speaking even now, and, frankly, I know that FirstTier is a very powerful company and they have been a good corporate citizen, and we have a lot of positive personal relationship with Jim Ryan, Kurt Yost, the other people who have been working this bill, and supported it, and negotiated it out,

and they are happy. They can live with this language in the original Schmit amendment and that is what we have got here on the floor. On the other hand, I want to go through this argument step by step, briefly, in my closing and then, frankly, we will see where things lie, and my guess is I know where things lie. We will find out, but I am just doing my duty here, okay. This is the way I see it. We have in this state a policy of cautious growth, and if that got amended or changed, I want to know about it because that has been our historical pattern. This amendment in its original form is \$600 million of deposits on top of the existing \$400 million that FirstTier, our largest institution, has. In other words, a hundred million, no, no, I am sorry, a billion dollars worth of growth between what they have now and what they would have with the Schmit amendment on Tuesday morning by ten forty-five. I am not sure we received that kind of an explanation or that much attention to this issue. What they have said is, all right, let's do this on a series of growth. You give us \$200 million in the coming year, \$200 million the year after that, and \$200 million the year after that of growth and we will be satisfied. And my amendment says this, well, now wait a second, time out. You have made an argument. In fact, I don't think you really need it, but, even so, you have made your argument, we will let the first year go by, the \$200 million is there. But the other, the last two years, frankly, we ought to discuss, we ought to know about, and we probably shouldn't wind up coming back from our long weekend to find that this has happened with no explanation, no discussion, no analysis, at least by the Legislature. There is growth for institutions. There is growth to take over S & Ls. Senator Goodrich's characterization of the law is I am sure well-meaning but wrong. If FirstTier buys Occidental under two, three, and four of this act, there is no problem. We have all agreed to it and it won't count against their base, and they will still have \$400 million of growth even after they take over Occidental. The Landis amendment will give them 200 more million dollars of growth. That seems reasonable as well. It is the last \$400 million of growth, which I think this body ought to be apprised of, and if you are well satisfied, if the debate today has been deeply illuminating, if you have had a revelation as to why \$400 million is appropriate in '92 and '93, fair enough. Vote against this amendment and for the Schmit amendment. But if you have doubts, if you would like to have this kind of explanation made to you, if you would like to have the Legislature brought into the loop, if you would like to see the trend lines occur before you commit to this kind of

decision, then support the Landis amendment because this gives the lobby exactly what they asked for for the coming year. It simply says, come back to us and talk to us again, make your case again in the future years to see that this line that we are on now is an appropriate line. I would urge you to adopt this amendment. Thank you.

PRESIDENT: Thank you. The question is the adoption of the Landis amendment to the Schmit amendment. All in favor vote aye, opposed nay. A simple majority. Senator Landis.

SENATOR LANDIS: Mr. Speaker, I ask for a call of the house and a roll call vote.

PRESIDENT: Very good, the question is, shall the house be under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 19 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber and record your presence. Please look up to see if your light is on, like Senator Hefner, please. We are looking for Senator Baack. Senator Langford, would you please record, please. Thank you. Senator Dierks, Senator Pirsch, and Senator Scofield.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Senator Landis, Senator Baack is on his way. May we proceed? Thank you. The question before the house is the adoption of the Landis amendment to the Schmit amendment. A roll call vote has been requested. Mr. Clerk, please proceed.

CLERK: (Read roll call vote. See pages 859-60 of the Legislative Journal.) 15 ayes, 20 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The motion fails. The call is raised. Mr. Clerk.

CLERK: Mr. President, we're back to the discussion of Senator Schmit's amendment.

SPEAKER BARRETT: Discussion on the Schmit amendment, Senator Landis, your light is on.

SENATOR LANDIS: Mr. Speaker, having been repudiated in this last vote, I won't take the time of the body since their will is clear and I'll allow the body to do its will in this case. I will say this. Having made the attempt at the amendment and to have it unsuccessfully fail to pass muster, I will vote against the Schmit amendment. I don't necessarily encourage you to do the like. You are certainly free to make up your own mind. I have, on the other hand, just one personal observation to make. I don't think there hasn't been one of us who I have found to say at different times that they have found that the lobby is very powerful, and frankly, the lobby is very, very powerful, there is no doubt about it. But we fail to make lines among ourselves which would assist us in demanding higher accountability from the lobby. When, on this kind of an occasion, we don't say we're prepared to be reasonable, but we're not prepared to give away the farm without a good explanation. I was listening as hard as I could, but I'll tell you if a case was made for \$600 million here, I didn't hear it. If that \$600 million was in our budget and we were going to spend it and our names were on it, I think it would have gone much more significantly in the debate. Power creates privilege and in this case I think privilege is exercised when the Legislature is prepared to defer in its judgment on this kind of an issue without a thorough accounting which I think we lacked in this case and most importantly, we lacked sharing in the decision. We weren't part of the compromise, we weren't part of the discussion in the Rotunda, we weren't part of the discussion between the IBA and FirstTier. All that happened was Tuesday morning we came, got our orders and we marched. The time will come when you're frustrated, too, when the body marches to the tune of the lobby and, frankly, I guess it's just going to continue to happen because we are unable to muster the desire to draw a clear message, a clear line in the sand that says, we will be reckoned with, we will be accounted for, we will be part of these discussions. I'll be voting against the Schmit amendment.

SPEAKER BARRETT: Thank you. Senator Schmit, followed by Senator Warner.

SENATOR SCHMIT: Mr. President and members, Senator Landis makes an excellent point and he has outlined what happens all too

frequently on this floor and to the extent that I did not inform enough individuals about the proposed amendment that I was going to offer, I take responsibility for it and I should have communicated with the chairman of the committee and it was wrong for me not to do so. I want to say also that he makes an excellent point that there will be a time when the shoe will be on the other foot. I might add it has been on the other foot many times in my instance and we have from time to time spoken out about the problem that does exist because of a lack of adequate debate on this floor and because of our tendency from time to time to debate issues of no value or inconsequential issues whereas issues which are of substantial interest to the people of the State of Nebraska go substantially untouched. I would suggest that there will be more debate on this bill on Select File. Senator Wesely has raised an issue, Senator Landis and I have visited with him a little about that and there will be some additional debate. Nothing is cast in stone and certainly I believe that we need to be more informed on all of these issues than we are. I'm concerned. I have expressed my concern many times on this floor about what seems to be an unalterable trend toward concentration toward larger and larger institutions no matter where it is. There have been some concerns now and I want to just remind the group that a few months ago the Nebraska cattlemen got together and decided that there was an alarming trend toward concentration in the beef packing industry, something to the effect that more than 70 percent of the cattle are slaughtered by three institutions and they are going to have a resolution, they're going to study it and a number of our other farm organizations joined in that same conclusion. Well, ladies and gentlemen, back in 1974 when myself and several others pointed out that alarming trend and it did, in fact, file a legal action and said unless we do something now, the day will come when the slaughter of livestock will be concentrated in a few hands. If we allow the various entities to dominate the market for dressed beef, our small packing plants will disappear and at that point we will then, as livestock producers, be faced with the necessity of dealing with one, two or three entities. Needless to say, Schmit and others were ridiculed. Nonetheless, what we predicted has come to pass 16 years later. We have an obligation to continually review what is happening within the banking industry. We have an obligation to call attention to the fact that our concerns transcend all entities, all individuals, all institutions in the state. We have no greater obligation to anyone than to our constituencies. I would suggest that Senator Landis's

discussion here has contributed much to a better understanding of the bill as it is before you today. He has contributed much toward the understanding of the problem and I would hope that as we proceed on the discussion that other issues will be raised. There are those who probably can give Senator Landis additional answers in addition to those we have already given him. He is not satisfied. He has a right to question further. I would just suggest that I believe that the amendment as proposed this morning...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...is a reasonable one, it's a responsible one but it is one which is a two-way street also. I believe that we need to convey to the banking institutions that we expect certain performance from them, certain accountability from them and certain accessibility to them which I do not believe has always been present in the past. I made the statement that of the individuals who were here back in 1973 when we first started down this road, with the retirement of Bill Smith, all of the rest of them are either dead, fired or retired and none of the people that are in the lobby today, Senator Landis, were there when you and I and others started on this route, Senator Goodrich and Senator Warner and others many, many years ago. We have seen some dramatic changes, I hope for the better, but I would have to say that those changes will not continue to be for the better unless this organization uses its responsibility wisely. I support the amendment. I hope you will also.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Warner, Senator Hartnett to follow.

SENATOR WARNER: Mr. President, members of the Legislature, I rise to support the amendment. The...I came in here this morning satisfied that 15 percent was not an unreasonable number for a variety of reasons and then the amendment was passed out to phase in, didn't really impact me much, I'm seldom impressed any longer with the argument that you phase something in and it is less of a problem than if you do it all at once, whether it is a budget item or anything else and so the phase in was fine, but as far as I was concerned that higher percentage was okay, too. And the reason I say this, it seems to me that, you know, I don't know how financial institutions function, but if I had some involvement and I was anywhere close and close could be several hundred million dollars to a cap, and I obviously would

not make that acquisition looking 12 months ahead or even 24. I would be looking five or ten years ahead. And if that impact could adversely affect, that is if the acquisition could adversely affect the potential of growth five or ten years from now and I had to depend on this body to change its position on the statute, I obviously would have some second thoughts about whether or not I wanted to proceed, not knowing how the law might be changed. And since 15 percent does not bother me to start with, then it seemed to me that the move simply ought to be in statute even though it is phased in, it ought to simply be placed there in order that those who may be affected can have some assurance beyond 12 months or 24 months as to what the long term impact of their decision might be. The other thing that I want to comment on is the concern expressed, and I don't know what happened in this instance, but the concern expressed that groups outside the body apparently arrived at some conclusion. I don't really know why any of you are upset about that. And the reason I don't know why you're upset, you started that five, six, eight, ten years ago. How many times I heard somebody say on this floor, well, look, we've got to have a meeting of the interested groups and sit down and negotiate this out and that's how we're going to solve the problem and then they will come in and it gets to the problem, you know, who we invite, who they invite or who is invited to sit in becomes a problem sometimes, but there is only one way you don't have this happen and that is you function as a committee, you make the decision in the committee as to what ought to be done. You come out with a recommendation that you stay with, that you fight for because you believe when studying it was right, but once you started the route which we have started, and if you think this is bad, wait, as you all know, wait for the last three days when the jam is up there and you will see the groups back there concurring with one another on all sort of unrelated issues, in which none of you will be a part of except to push a button, to put some combination of things through. I agree with the lecture, if I can call it that, Senator Landis, that the body is doing a great public disservice to place...

SPEAKER BARRETT: One minute.

SENATOR WARNER: ...the decisions outside the Chamber for some of these things, but I will also tell you it's the kind of an approach that you either do not do it at all or you have happen exactly what some of you are concerned about this morning. It's just that simple. There isn't anything in between. So I would

hope this discussion this morning will lead to something more productive in trying to discourage this all the way through, particularly as we get toward the end of the session and we don't get panicked with a lot of combinations being put together because of the convenience of somebody else, but I will remind you that once you have started the route that we have started, it was inevitable that this kind of thing will only continue.

SPEAKER BARRETT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: Mr. Speaker, members of the body, I have a question if I can ask, maybe Senator Landis or Senator Schmit. Is...do other states have caps such as this to your knowledge? Is this a normal procedure? I'm not that familiar with it.

SPEAKER BARRETT: Senator Schmit, would you respond to the question, please.

SENATOR SCHMIT: I believe there is a cap, Senator. I know, as I said, the federal cap we talked about was 20 percent I think, and we were sort of, I believe, in the lead in some of these institutions here in the Middle West, so I'm not sure what the rest of the states have done. I know Iowa just passed their interstate bank bill. I don't know what they have for multibank legislation because I'm not familiar with it, so I can't answer that question entirely, but I think it probably doesn't make that much difference because we have to make that decision relative to our own state and our own institutions and obviously if you are the west coast, you have some institutions that are very, very large, same is true on the east coast, so the Middle West could very well be a totally different situation. I would guess that the cap here in the Middle West, Senator, would be less than it would be on either coast, but I can't tell you for sure.

SENATOR HARTNETT: Thank you, Senator Schmit. I guess I support the amendment as you drafted it, I guess, is that I...from my experience I think that we have to allow the financial institutions grow at a reasonable rate which I think this amendment does and I think that we...I guess my experience with...we have a new institution in our community which is outside and it seems to be functioning well, so with that, I'll support this part of the amendment.

SPEAKER BARRETT: Thank you. Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I don't believe that I will support this amendment even though it is phased in. Remember a few years back when we debated this at length. I think first we started at around 9 percent and went up to 10 percent and eventually it got up to 12 percent. I don't believe that we should allow any one particular financial institution to get too far ahead of some of the others and I realize that this is a phase in project. I was hoping that Senator Landis's amendment would go and just changing that from 12 to 13 percent for one year and then analyze it again. I realize that the conditions are a little bit different than they were a few years ago, but still when you add 1 percent it adds a lot of dollars to that particular financial institution and so I just wanted to echo some of the feelings that I've heard on the floor this morning. Thank you.

SPEAKER BARRETT: Thank you. Senator Haberman, please.

SENATOR HABERMAN: Call the question.

SPEAKER BARRETT: Thank you, that won't be necessary. Senator Schmit, would you care to close on the adoption of your amendment?

SENATOR SCHMIT: Mr. President and members, I hope you will support the amendment. I agree with what Senator Warner has said. I thought that the 15 percent was a really decent number and as I said earlier in the conversation, planning requires some kind of long-range notification. One of the problems we have on this floor, and I want to reiterate what I was told many years ago relative to a taxation problem by a major Omaha businessman. He said the Legislature makes the rules, we play in your ball park and we can usually abide by the rules. The one thing we cannot abide by is continual changing of the rules and so that apprehension is of concern, of course, to an industry and to any business. I think that as I look back, I recall the tremendous arguments we used to have. I recall the very first bill I had to provide for a second auxiliary teller facility. I still have the tracks on my back from being run over by so many other entities in that argument and the terrible things that were going to happen if we passed that bill and the destruction of the banking industry. Well, ladies and gentlemen, the banking industry went through hell without a shirt in some instances, but it wasn't because of those

structural changes, it was because of some things that happened to the industry, some of them as I pointed earlier, to the S & L industry, by government and entities of government, some of them perhaps even by the actions that we took. But more than anything else, we recognize that industry changes, banking changes, agriculture changes. Been some profound changes in the State of Nebraska in its outlook in the last 15 or 16 years since we started down this road. I'm not sure I like them all. If I'd have been in a position to stop some of them, I would have. I was unable to do so. And I want to say again, as Senator Warner has said, if you, in fact, really are concerned about this and the negotiation process, then all the more reason to try to make those arguments in the committee and certainly the years we've all been here we have seen committee work devastated on this floor from time to time and we have found more and more difficulty in reaching agreement within the committees. I would hope that we would try to emphasize committee work and committee solidarity more in the future. To that extent we could take a little bit of advice and follow the practice of the Appropriations Committee. They do a better job, I believe, than most of us do partly because they spend considerable amount of time. They do their homework well and perhaps some of us do our work in too short a period of time. But I do agree and I cannot disagree with what Senator Landis has said, that these decisions are the responsibility of the body and that we need to be more involved. I would hope that the amendment will pass and that the bill would advance and I would be glad to work with anyone in the forthcoming weeks who might be able to suggest additional methods whereby we may improve this bill. I'm sure that causes some concern with some of our friends, but nonetheless, legislation is an ongoing process and one which is never totally left alone. So I hope that you would vote for the amendment.

SPEAKER BARRETT: Thank you, sir. You have heard the closing and the question is the adoption of the Schmit amendment to LB 1146. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: 32 ayes, 3 nays on the adoption of the Schmit amendment, Mr. President.

SPEAKER BARRETT: The amendment is adopted. To the bill itself as amended. Senator Schmit, anything further?

SENATOR SCHMIT: Mr. President and members, I do not want to cut off debate. I would hope that anyone who has anything to add will get up and address the bill as amended. I have nothing further to add at this time. I believe the bill is in good shape. In fact, I didn't think it was quite that good myself as reflected by the vote, but I'm willing to accept it. I've had too many of the short ones and so I'm willing to take one with a little bit more of a margin. Anyone else has any comments, I would be glad to defer the advancement of the bill.

SPEAKER BARRETT: Thank you. Senator Wesely, discussion on the advancement of the bill, Senator Landis on deck.

SENATOR WESELY: Thank you, Mr. Speaker, members, just real briefly, again, I raise the issue of the deregulation around the country and its impact on us and the need to be ever vigilant. As Senator Schmit has indicated and he has been very aware and on top of this issue, we need to keep our eyes open and I think Senator Landis, likewise, has raised that concern and hopefully we will be able to work together to address the questions of committee reinvestment on Select File. And I only raise that just to warn you and alert you, but also I'd like to read quickly an article that just came out dealing with S & L failures and back to the question of deregulation and what its implications can be and I'll quote from this article. "When Phoenix, Arizona, real estate developer Charles Keating decided to buy a savings and loan back in 1983 he had no trouble finding the money. Keating went to Drexel's junk bond chief, Michael Milken, who engineered the sale of junk bonds and financed Keating's \$50 million purchase at Lincoln. The securities are called junk bonds because they carry a relatively high risk of default as well as a high investment return. Soon after buying Lincoln, Keating virtually stopped making loans to families to buy homes and began using depositors' money to buy junk bonds from Drexell." All I'm pointing out is that it has happened before. Now that was an S & L and a terrible example, but anytime you start talking about selling these S & Ls and having them bought out by other institutions, you've got to have your eyes open, you have to be vigilant, what are the implications for our people? And I think we're all aware of the concerns that have been around the country, more restrictions are in place, and maybe something like this would not happen again, but we've got homeowners out there, business people out there, individuals and families needing capital, needing assistance, needing loans and if they don't get them, where do they turn to

if they can't go to their local bank? Now that's the first place. The savings and loans are out there and there are other institutions of financial means, but I think clearly down the road we've got to think about are we going to have access to those loans when we change and have a lot of these other deregulation of impacts felt by this state over a period of time? And I clearly think that this is an issue of concern. I plan to work with Senator Schmit, Senator Landis and others who might be interested in pursuing this. This isn't the time or the place, but as we move forward on this legislation, which I do support, we need to think about its impact on the citizens and try to protect those citizens from perhaps some negative results that we may not even at this time anticipate.

SPEAKER BARRETT: Thank you. Senator Landis.

SENATOR LANDIS: I ceased speaking on the amendment. This being the bill, I have one brief remark to make before it passes on to Select File. I had, you will recall, about a year and a half ago, hoped to make the discussion of banking issues more of a subject of light and heat rather than the quiet which they are used to. I hope that the body is not offended that we took this time this morning to debate this significant measure. It seems to me that we do much better as a process if we spend time on the floor talking about these kinds of bills and I hope that the pledge that I made to make the banking issues more a matter for floor discussion and debate and understanding is still one that is acceptable to the body, and I will continue to do so in the event that this discussion is welcome on the floor. Thank you.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Schmit, any closing comment?

SENATOR SCHMIT: Mr. President and members, the issue has had some debate this morning, far more than, I am sure, some persons anticipated when we began. I am sure we have not completed the debate on this bill yet. I am sure there will be other questions that will be asked and I encourage those questions to be asked of myself and others who support the bill. I agree with Senator Landis that we are better informed now than we were an hour and a half ago. I'm not so sure that we are all reassured. I think that that need for reassurance is still there. It needs to come from the industry. It needs to be a continual and ongoing situation and not one where we hear from them every year, every two years and then we sort of fade back

into retirement. I want to say again that the State of Nebraska stretches a long way. It stretches from Falls City to Chadron and from Scottsbluff to South Sioux City. There is a lot of territory out there. There is a lot of responsibility for these various institutions relative to the maintenance of the businesses and industries and farms and ranches that cover that state, and to the extent that we as a Legislature make our wishes and our desires, our demands known, those industries and farms and ranches will be served to the extent that we acquiesce and do not make those demands known, they are not going to be served. We know that it is easy, it is easy to concentrate your investments in a small area, keep them close to home and sort of let someone else take care of the hinterland. We have a real concern because Nebraska agriculture today is not prosperous. Those who would have you believe otherwise are not involved in it. I made the point on this floor many times that my son sells corn today for less than what we sold it for 40 years ago and we all know what has happened to the cost of production. The same problems then are inherent with the businesses that serve rural Nebraska. It is extremely difficult for a business to survive in rural Nebraska and we have seen implement shops, we have seen automobile dealerships, we have seen plumbing shops, we have seen hardware stores close and thereby forcing the inhabitants of those areas to travel greater distances which also then increases their cost of operation and the cost of their production with no offsetting ability to compensate for those increased costs. We saw that just this last winter, doubling and tripling of the cost of petroleum which raised havoc with many farm operations and with many homes and many businesses; had no recourse whatsoever except to pay it and it places many of those institutions in jeopardy. I think we have to recognize that as our institutions become stronger, become larger, they have to become more knowledgeable and they have to expand their scope of activity in those areas rather than to diminish them. I'll tell you very honestly that if they do not do so, that my interest in this kind of legislation will be reduced. Maybe that is not of any concern to some persons, but it might just be the start of a trend. And so with that, I would hope the bill would be advanced to Select File.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 1146 to E & R Initial. Those in favor vote aye, opposed nay. Record, please.

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

LB 1146.

SPEAKER BARRETT: LB 1146 advances. Items for the record, Mr. Clerk.

CLERK: Mr. President, Senator Hefner has amendments to LB 571 to be printed. Enrollment and Review reports LB 923 and LB 42 to Select File with E & R amendments attached. (See pages 860-62 of the Legislative Journal.)

Mr. President, Senator Hartnett would like to announce there will be a meeting of Urban Affairs at three o'clock this afternoon in Room 1019; Urban Affairs Exec Session, three o'clock in Room 1019 this afternoon. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to General File, LB 1080.

CLERK: Mr. President, LB 1080 was a bill introduced by Senator Schellpeper. (Read title.) The bill was introduced on January 10 of this year, at that time referred to Health and Human Services Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Health and Human Services Committee.

SPEAKER BARRETT: Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members of the Legislature. The bill before you, LB 1080, is a bill introduced by Senator Schellpeper, a very important piece of legislation that deals with the problems brought about by the passage, several years ago, of OBRA legislation by the Congress. This legislation makes a number of changes in standards and requirements for nursing homes across the country. And in our own state we are obviously preparing to implement that legislation as of October 1 of this year. We have a difficulty in a number of areas, and this legislation will allow us to maximize our flexibility in meeting those new standards. The amendments by the committee, number one, exempt ICFMR's from new training requirements that are provided under the bill. Those training requirements are the following--care staff members that now require 90 hours of training would have to have 115 hours; nursing assistants that now have 20 hours of training would have to have 75 hours. These training requirements would be exempted

please, while we're here.

ASSISTANT CLERK: LB 960A was introduced by Senator Withem.
(Read title.)

PRESIDENT: Senator Withem.

SENATOR WITHEM: Yes, this is the A bill. I think we discussed it during the debate over the bill. It's the funding mechanism for the bill. We will have to put...it appropriates at this point the administrative cost, \$157,000, one year; \$155,000 the other year. I urge that it be advanced.

PRESIDENT: Any further discussion? If not, the question is the advancement of the A bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 960A.

PRESIDENT: The A bill is advanced. If I could have your attention just a moment, please. We have a special guest in the south balcony. He is a brother of Senator McFarland and he is from Blue Hill, Nebraska. And wave your hand so we can see who you are, Mark. We're happy to have you with us. Thank you for being here. Mr. Clerk, something for the record.

CLERK: Mr. President, I do. Your Committee on General Affairs, whose Chair is Senator Smith, reports LB 507 as indefinitely postponed, and LB 1120 as indefinitely postponed. Those are both signed by Senator Smith as Chair of the committee. (The Legislative Journal also shows LB 1049 as indefinitely postponed. See page 899 of the Journal.)

Mr. President, new bill offered by the Special Franklin Investigating Committee, signed by its membership. (Read LB 1246 by title for the first time. See page 899 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review reports LB 1146 to Select File with E & R amendments attached. (See page 900 of the Legislative Journal.)

Retirement Systems offers a confirmation hearing report, Mr. President, as does the General Affairs Committee. Those are

February 22, 1990 LB 996, 1009, 1053, 1146, 1221

PRESIDENT: Thank you. The question is the adoption of the Chambers amendment. All those in favor vote aye, opposed nay. Senator Chambers.

SENATOR CHAMBERS: I'll ask for a call of the house and we'll take call in votes.

PRESIDENT: Okay. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 18 ayes, 0 nays to go under call.

PRESIDENT: The house is under call. Please return to your seats and record your presence. Those not in the Chamber, please return to their seats and record their presence. The question is the adoption of the Chambers amendment, and call-in votes are authorized.

CLERK: Senator Moore changing from no to yes. Senator Langford changing from no to yes. Senator Smith changing from no to yes. Senator Morrissey voting yes.

PRESIDENT: Record, Mr. Clerk.

CLERK: 27 ayes, 4 nays, Mr. President, on the adoption of the Chambers amendment.

PRESIDENT: The Chambers amendment is adopted. Mr. Clerk, do you have something for the record?

CLERK: I do. Mr. President, your Committee on General Affairs, whose Chair is Senator Smith, reports LB 1053 to General File with committee amendments attached, that is signed by Senator Smith. Government Committee reports LB 996 to General File with committee amendments attached, signed by Senator Baack. A series of confirmation hearing reports by the Health and Human Services Committee, chaired by Senator Wesely. Senator Hannibal has amendments to LB 1221; Senator Wesely to LB 1146. That's all that I have, Mr. President. (See pages 933-40 of the Legislative Journal.)

PRESIDENT: Senator Robak, would you go to your microphone and say something about adjourning until tomorrow at nine o'clock.

February 27, 1990

LB 445, 662, 854, 923, 945, 976, 1023
1042, 1057, 1062, 1146, 1147, 1151, 1212
LR 233

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record.

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

SPEAKER BARRETT: The house is under call. Members, record your presence, please. Those outside the Chamber, please return. Senator Lynch, please. Senator Nelson, please. Senator Haberman. All members return to your seats for a roll call vote. The question again is the indefinite postponement of the resolution. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken. See pages 998-99 of the Legislative Journal.) 17 ayes, 19 nays, Mr. President.

SPEAKER BARRETT: The motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Urban Affairs reports LB 945 indefinitely postponed, and LB 1057 indefinitely postponed, those signed by Senator Hartnett. Judiciary Committee reports LB 445 to General File; LB 854 to General File; LB 976 to General File; LB 1023, General File; LB 1042, General File; LB 1147, General File; LB 1212, General File; LB 1062, indefinitely postponed; LB 1151, indefinitely postponed, those all signed by Senator Chizek as Chair of the Committee. (See pages 999-1003 of the Legislative Journal.)

Mr. President, I have a series of amendments to be printed. Senators Lynch and Wesely have amendments to LB 923, Senator Conway to LB 1146, and Senator Scofield to LB 662. (See pages 1003-07 of the Legislative Journal.)

Mr. President, Senator Hall would like to announce that the Revenue Committee will meet at one o'clock this afternoon for their hearings as opposed to one-thirty. Revenue Committee, one o'clock, as opposed to one-thirty. That's all that I have, Mr. President.

SPEAKER BARRETT: We are back to the motion to advance the bill or the resolution. I have only one light. Senator Landis, would you care to....

SENATOR LANDIS: If we wish to run over it, I will be happy to

March 6, 1990

LB 226, 678, 799, 1031, 1059, 1063A, 1146
LR 269

have something for the record, please?

CLERK: Mr. President, I do. Amendments to be printed to LB 1146 by Senator Lynch; Senator Warner to LB 1059; Senator Lindsay to LB 799; Senator Wesely and Senator Lamb to LB 678; and Senator Smith to LB 1031. (See pages 1185-95 of the Legislative Journal.)

A new resolution, Mr. President. (Read brief summary of LR 269. See page 1184 of the Legislative Journal.)

New A bill, 1063A, by Senator Crosby. (Read LB 1063A by title for the first time. See page 1184 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to General File, LB 226.

CLERK: LB 226, Mr. President, was a bill introduced by Senator McFarland. (Read title.) The bill was introduced on January 9, Mr. President, referred to the Education Committee. The bill was advanced to General File. I do have Education Committee amendments pending: (Standing Committee amendments appear on page 950 of the Journal for the Thirty-Eighth Day, First Session, 1989.)

SPEAKER BARRETT: Senator Withem, please, for the committee amendments.

SENATOR WITHEM: Let me get this straight, we are still in session, is that correct? Is that what's going on here. Excuse me, I was tied up with the other bill, and let me do a little quick scattering. Yes, Senator Bernard-Stevens said I should just say they're technical in nature, please go ahead and support them. Okay, here we go, here we go. LB 226 is a bill brought to us by Senator McFarland dealing with a Unicameral Scholars Academy. Its purpose of it is to promote gifted students, give gifted students in our state a greater degree of enriched experience during the summer months. The committee amendments will require that teachers serve on the advisory committee, be certified in teaching the gifted, require the parent on the advisory committee to be the parent of a gifted student, changes the date for reappointment of advisory committee members from July 1 to October 1, deletes the provision that selection of students shall be based on

adjustment and flexibility. But I think it's also important not to take his comments and feel that this legislation, or previous state legislation is forcing anybody to do anything other than try and protect individuals and families and workers in a safe fashion as they handle asbestos. We don't mandate that it be removed, that's a federal mandate dealing only with the schools. And, outside of that, what the federal government is trying to do, and what the state is trying to do is recognize if you are going to remove asbestos, if you are going to be involved in material that includes asbestos, you should handle it carefully, you should do it safely, you should not have your workers exposed and harmed. You should not have other individuals and the public exposed and harmed. And I don't think that's unreasonable, I think it's reasonable. However, where you draw the line into what is in and what's out, what's covered, what isn't, and how you proceed is all subject to discussion and obviously is worthwhile and perhaps we will find that asbestos hasn't been quite as bad as people think. I don't think that, myself. In the 12 years that I've been here I've been here I've seen study after study that would indicate how serious a carcinogen it is, how dangerous it can be, and how carefully we must deal with it. Nevertheless, there are other studies that have come out that would tend to dispute that. But it is not all one-sided, it is a very complex issue with a very important substance, that being asbestos. People are concerned, they're worried. Perhaps we've gone overboard in some ways with some of those federal regulations. But, nevertheless, in the interest of safety sometimes that mistake is made. But rather than be too safe, you know, I don't want to go the other way and have us exposing people to dangerous substances. So, I see the issue that Senator Hannibal is talking about. I think we'll continue to evolve in this. But at this point, at this time, this session, this year, this legislation is the way to go. We can follow up next year, perhaps other changes may be in order, and perhaps we won't like the way we've eased up in some ways, maybe we'll want to step back to where we were. But I think, at this time, this is the way to go, and I'd certainly support a vote to advance the bill, and will further work with other senators who have questions. But I would hope we'd pass this legislation quickly, so we could resolve this issue.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 923 to E & R engrossing. All in favor of that motion say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. To LB 1146, Mr. Clerk.

CLERK: Mr. President, 1146, the first item on the bill are consideration of E & R amendments.

SPEAKER BARRETT: Senator Hall, would you care to handle the E & R amendments, please?

SENATOR HALL: No. (Laugh.) Mr. President, I'd move the E & R amendments be adopted.

SPEAKER BARRETT: Any discussion? The question is the adoption of the E & R amendments to LB 1146. All in favor say aye. Opposed no. Carried, they are attached. Mr. Clerk.

CLERK: Mr. President, Senator Wesely would move to amend the bill. The amendment is on page 937 of the Journal.

SPEAKER BARRETT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Okay, actually this amendment, I believe, Senator Schmit was on it, or...I don't know. Let me go ahead. Mr. Speaker, members, Senator Schmit and I offered an amendment on General File, then withdrew it, and are repropounding the amendment now on Select File. The amendment deals with the question, if you recall when we discussed this bill before it deals with expanding the ability of multibank holding companies in the state to have greater assets. There was a cap on those entities so that the market would not be dominated by just a few bank holding companies in the state. Well, one of the things that I have felt, and Senator Schmit has felt, and Senator Landis has felt, and others as well, is that we have a responsibility to make sure that those who profit from legislation, who profit from our systems of...economic and political systems ought to have a responsibility and accountability back to the community. And one of the fears that I have, as we expand the ability of multibank holding companies to have greater assets, is the possibility with interstate banking coming, with all the other changes that are opening up our borders to out-of-state banks and financial institutions, how will our communities continue to be served? How will we be able to have the local town, the small town continue to have that sort of local service that they wanted? Now, I'm talking about out-of-state. But, obviously, there is a great deal of concern, and I know Senator Schmit will address this, about currently instate, the problems that we're having with our rural

towns, our rural banks getting together and actually meeting community needs. And, if we have that problem within our state, can you imagine what will happen when we eventually have the out-of-state institutions come in and buy up ours. So here's my scenario, if we expand the ability of a FirstTier, or NBC, or some other large, First National of Omaha, allow them to have a greater amount of assets so they grow, and then we have the possibility of an out-of-state bank come into Nebraska and buy that institution, that multibank holding company. How do we know that that new institution will continue to serve the communities of the State of Nebraska, will continue to not draw money out of Nebraska but hopefully bring money in, help with those communities, help recognize the rural needs, the farm needs, the small business need, the young family needs that we have for financing. And so this amendment is...would say that after an out-of-state bank holding company comes into Nebraska, and we did pass last year, I believe it was last year or the year before, Senator Schmit's bill. We do have a review by the banking director before somebody is allowed in. But, after they're in, do we have the ability to make sure that they are, in fact, serving a community. And right now we have no ability to do that. This would provide to the banking director that ability. And what it would say is that the bank would submit their Community Reinvestment Act materials that they have to prepare anyway, would send those to the banking director, they would review those, rate those. And, if that out-of-state bank holding company was, in fact, reinvesting in the community, serving the community needs, then the Investment Council and the monies that they have available could be continue to be invested in that out-of-state bank holding company. However, if, in fact, they were not meeting community needs, if they were not reinvesting in Nebraska, then our state public funds could be denied to be invested in that institution. The idea is to utilize the public funds that we have that now total several billion dollars and try to recognize that money is something we should utilize to serve our communities, that we need to recognize the need for our small towns and other communities, large and small, in Nebraska to have adequate finances. That's really the intent. And just so you know, Senator Schmit and Senator Landis and I have met with the banking representatives, and we feel that we are on the road toward some agreement on this amendment. I want you to know that the Nebraska Banker's Association has not had the chance to get their board to come on board, so to speak, in support of this amendment. But they are considering doing so, and I would think are likely to do so.

But I guess in thinking about this we ought to go ahead with the amendment anyway. If we feel comfortable, and I would hope that we would with this sort of a change, then we ought to make that policy change as a Legislature, as the policy-making body of the State of Nebraska. And, so Senator Schmit and I are offering this and hope that you will support it. And I look forward to the discussion, because I think it will be an important one.

SPEAKER BARRETT: Thank you. Discussion on the amendment? Senator Landis, followed by Senators Schmit, Conway and Warner. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I rise to support Senator Schmit and Senator Wesely on this measure. You might recall what the bill does right now, as you're looking up there with those numbers, it does two things. It indicates that if you're a bank holding company and you buy one of these failing S&Ls, that that institution is brought into your holding company without penalizing you with respect to your deposit cap limit. And, secondly, it provides a stair-stepped increase in the deposit cap from the existing 12 percent limitation to 15 percent. You'll recall that on General File I rose and offered an amendment that basically endorsed a portion of the bill but attacked another portion of the bill. In trying to get to some common ground, there have been meetings between the portions of the bank industry and Senators Schmit, Wesely and myself, and this is one idea that's been bandied about on the floor two or three times. The last time it appeared was on LB 375 on Final Reading, and that was about two years ago. What Senator Wesely and Senator Schmit suggest in this amendment is not unusual, it's not unusual. As a matter of fact, those states which allow interstate banking have quite commonly adopted different kinds of thresholds that had to be met. For example, in Minnesota they created a bank ranking system with the continual annual requirement to meet that ranking system's obligation. They also require that a bank coming in make a certain promise to do economic development loans. They also had to meet certain new fund requirements, not only on initial, but also on a continuing basis there. Now, for example, New Hampshire required that a bank holding company coming into the state meet the state CRA on an initial application, and on a continuing annual requirement. New York suggested that they not only do those things for the state CRA, but also for the federal CRA. Vermont asked that they meet the continuing annual requirements of the federal CRA as part of their state

obligations. Wyoming, West Virginia, New York, Michigan, Indiana, Illinois, all states that ask bank holding companies coming to their state to meet federal CRA standards on their initial application. What Senator Wesely and Senator Schmit ask for, in this situation, is not without precedent. As a matter of fact practically every state that has done interstate banking has put some kind of strings on the banks coming into their state. That having been the common practice, we really ought to scratch our heads and say why didn't we ask for some showing from out of state companies coming into Nebraska, that by coming here there was going to be reinvestment in what we were doing. My personal commitment to the introducers of this measure, Senator Wesely and Senator Schmit, and to FirstTier, which is its largest supporter, is this, in the event the CRA amendment is adopted, and in the event a motion that I have to strike the last of the stair-stepped increases in deposit caps is adopted, I will stop my resistance to the bill. I will not offer amendments that seek my initial goal, which is to strike the three-tiered system of deposit cap increase.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: I am prepared to stand by that, but this is the first measure of that success. I will tell you this, that FirstTier and Norwest have, as I understand, accepted this amendment and are prepared to have it adopted to the bill. And I join in this attempt to reach somewhat of a common ground with respect to bank structure issues on this measure. I support this amendment, and I hope you do, too, as well.

SPEAKER BARRETT: Senator Schmit, would you care to discuss the amendment?

SENATOR SCHMIT: Mr. President and members, what we are doing here is a very, very small step towards some sort of understanding that there needs to be some commitment to the local communities relative to reinvestment. Actually, what we are asking for here ought to meet with the favor of the NBA, because it in fact gives them a little of an edge over the out-of-state banks. It also, if I recall correctly, and I do, took me about four years to figure...to get the NBA to agree that they even wanted the surplus state funds brought back into the state and put on deposit in the Nebraska banks, had to overcome the opposition of the Nebraska Banker's Association to get that done, strange as that may seem now. I have visited

with a number of bankers about this problem, and I will be the first to concede that many times it is difficult to find a reason why there should be reinvested in some of the small communities outstate. The agricultural sector is not in a healthy condition, business has tended to move toward the more populated centers, and there is, in fact, in some of our rural areas even a labor shortage. But, nonetheless, to the extent that there is a need out there, we ought to, as a Legislature, establish as a policy the fact that we expect some sort of community reinvestment. Now I know that there are those who pointed out in the World-Herald just last week, in a spirit, I'm sure, of public service, printed several articles and pointed out a number of the banks, large banks in this state and their relative strength in the area of agricultural loans. What they did not point out was the number of those loans that are being held by the various large banks. And I am sure that it would shock all of us if we knew how few those loans were in number. Facts are they have, however, I believe worked very diligently in most areas to try to service the agricultural area of the state and the business community of the state. But this Legislature should not, in our zeal to cooperate with the banks, abdicate our responsibility insofar as policy is concerned. This is such a minor amendment I'm almost embarrassed, Senator Wesely and Senator Landis, to even offer it. It is an embarrassment to me that the banks would even indicate any reluctance to accept it, because it is such a minor straw on the back of a very hefty camel. But we're offering it because we're going to try to salvage a little bit of self-respect out of some of these things and throw a little bit of sand on the greased pig. I would hope that, as a sponsor of the bill I believe in the bill, as one who has carried a number of bills that have impacted upon the bank structure of the State of Nebraska that there would be no discord relative to this amendment. There has been some concern as to whether or not it would impact reciprocity. I do not believe that is a problem. In fact, if it is a problem, then we probably don't need that institution to come to the State of Nebraska, because we do not need to have the transfer of the outflow of funds that would occur if, in fact, an out-state institution did not choose to cooperate. I would hope that we will continue to provide the legislation necessary to develop stronger and better institutions in this state as we have in the past. But I would hope also that those institutions would not, in fact,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...forget their obligation to the State of Nebraska and to those outlying areas of the state which are sometimes forgotten. You know, it's a matter of concern to me that since we started on this road many, many years ago there have been substantial changes in the banking industry in this state, and some of them have been good, and some of them, very frankly, have left areas of the state with less service than they had before. The overall substance, I believe, of the legislation has been good. I do not regret it. But I want to just say that as one individual who is somewhat, I believe, responsible for some major changes in banking legislation, that I think this is a very, very small crumb for the citizens of this state, and probably not needed, I would hope not needed. I'm sure there will be those who will oppose the amendment.

SPEAKER BARRETT: Time.

SENATOR SCHMIT: Senators, if you need it, then we...if you really need it, then we really need it, because there is an indication then that perhaps out-of-state institutions would not want to reinvest in local communities. Thank you very much.

SPEAKER BARRETT: Senator Conway.

SENATOR CONWAY: Thank you, Mr. Speaker and members. I rise in opposition to this particular amendment, more on technical reasons and potential complications than on the concept and the merit and the intent of the introducers. If you would follow through for a moment and look at some of the history of the investment activity, the whole concept of the Community Reinvestment Act, the CRA as people keep referring to, is really originally established as a federal activity in terms of federal regulators. We, in the books, currently have a CRA requirement of which, even last year, I felt was strong enough that the institutions had a standardized performance that they had to adhere to, but now, since the passage of the FIRREA act of '89, or the savings and loan bail out, if you will, these have not been strengthened to a great extent. The question of the jeopardizing the reciprocity was expressed, I believe, by our own Banking Director, and that may create some problems by having our own set of CRA standards, when in fact the institutions are scrambling right now in order to try to get on top of the new CRA standards that are being put out. Under the new standards the directives have gone out to all the federal

regulatory bodies, everything from the comptroller of the currency, right on down to the FDIC and FSLIC and all of the other regulatory entities, whether it's for the insurance side or the general oversight of the banking activities. But by July 1, 1990, these are to be in place, which is running considerably ahead of what Nebraska is going to do by virtue of telling the director to establish such a program and have it in place. What I think is important is some of the things that are in this new program. For the CRA to be an effective CRA, coming up, and you'll find on your desk a sheet that I passed out that has the four rating categories that they are going to be rating the institutions on. And as you'll see in those ratings, and those are going to be made public, so any public institution, or even any private individual who is about to invest in any institution functioning in the State of Nebraska, and that is any institution, not just out-of-state holding companies coming in, but institutions that are already here, can see those ratings and decide how that institution, if they have several choices as to what institution they want to invest their funds in, they can look at those ratings and decide how responsive those institutions are, based on those ratings. Now, what are some of the things in the ratings? This is coming right off a recent update, one of the first things it says is, ascertain the community credit needs, including those of low and moderate income areas. That's one of the things that will go into those ratings. A second one is to establish a dialogue with the community spokespersons. They must prove that they have a dialogue going along with the community spokespersons to see if that institution is being responsive to that community. Develop or change products and services in response to the community credit needs. We talk about the ever-changing environment, whether we're talking about the agricultural, or industrial, or economic development opportunities in the community, we're talking about developing a change in their products. And they must show responsiveness in those products. We look at the market and...market and advertise financial products and services in response to those community needs. Analyze actions on loan applications regularly to protect against discriminatory treatment. Again, looking at the kinds of things that I think this amendment is attempting to do. Assign a senior officer or committee to coordinate and monitor the CRA process. So we've got someone in the institution following up on it as well. Train employees regarding CRA compliance. Maintain records documenting the bank CRA performance. Conduct an annual review of the bank CRA statements to ensure compliance with the actual

requirements. These are the kind of things that are going to be, or in essence are and will be adhered to as of July 1, 1990, at the federal level. All we are doing is literally, at best, duplicating what is already being done on the federal level with the new changes,...

SPEAKER BARRETT: One minute.

SENATOR CONWAY: ...putting ourselves in a possible jeopardy situation relative to reciprocity and interstate activity as we look at that, and it just seems like there is no need. Why do that if, in fact, the feds CRA standards are going to be in place and are going to be directing our institutions literally in the same way that our attempt, and it could be a very potentially discriminatory process by virtue of instate, out-of-state, court cases could evolve from this particular process. Why do it when everything else is already on the books and we can simply live underneath the standards of the federal CRA, which has become more stringent, based on the FIRREA activities of the savings and loan bail-out, which is very recent. So I suggest to the body that it isn't needed, it will not help the situation one bit, it's already in there under federal guidance, and why jeopardize our relationship with other states and other activities by simply duplicating it and adding the additional responsibility to the institutions to file paperwork with the state as well as the federal.

SPEAKER BARRETT: Thank you. Senator Warner, followed by Senators Wesely and Schmit.

SENATOR WARNER: Mr. President, members of the Legislature, I'd have grave reservations about this amendment as well. Senator Conway has talked on a number of aspects of why perhaps it's not needed. But, as I looked at the amendment, the media thought that seemed to be not good public policy was that provision that if the particular institution or holding company did not meet the standards then we would not deposit any public funds in that institution. I would hate to see the State of Nebraska start a policy where, and I don't know where it could lead to, but it could certainly lead to coercion at some point, where no public funds could be deposited in an institution unless whatever 25 members of this body, at some future date, wanted to impose. I think it may well be desirable, and apparently from the federal regulations there will be some protection, but it may well be desirable to have an accounting to ensure that local community

needs are being met. But I would have strong reservations that the penalty for failure is on the basis of no public funds, or state public funds deposited in that institution. As precedent, I could see that approach leading to all kinds of mischief in the future that would not be good public policy.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members. I would disagree with Senator Warner and Senator Conway. I think, in fact, this is good public policy. Public funds are public...publicly held by us on behalf of the taxpayers of the State of Nebraska. If we aren't interested, as consumers, as customers, of different banking institutions, as to how they plan to serve their community, then how do we expect others to be concerned. It seems to me that we have to look out for the greater public interest here in this state. We've had tremendous change in how we regulate and how we franchise the banking and savings and loan industry in this country and in our state. We are now opening up out of state, regional holding companies to come into Nebraska. We have already allowed instate that opportunity. We've seen dramatic impacts as a result. We're seeing, in some cases, the rural communities losing resources that are now siphoned off into the urban communities. As an urban senator, of course, that seems appealing at first, but when our rural communities go down, so does our state. And, if we have that problem on a state level basis, how do we plan to deal with this on a regional and national basis? It seems to me that the way we need to proceed is to understand that the CRA is, in fact, out there, that we are requiring...the federal requirements are there for CRA. But what is the hammer? What is the impact that we have with that? What we find back is that very little, that they censure or something the bank for not reinvesting in the community. Perhaps it will hurt them, if they want to expand or buy another institution. But what real impact does it have? What we're suggesting is that we have public monies that we put out in different institutions in the state. And if those institutions don't care about their community, does it make sense to send public money out there? That's the real simple issue here. And we're only talking about regional out-of-state companies right now. So let's focus in on that. We're talking about out-of-state companies coming into Nebraska, buying up banks. And they come in here and they buy up a bank. Ought we not be concerned about them serving our state, serving our communities,

trying to continue to help our people? And, if they don't do that, do we want to continue to send public funds to them? If you place it in that context, I can't see how we can answer anything but no, we don't want to encourage that type of activity. That's all this amendment says. We take the federal CRA so that they don't have to duplicate all that information, that's essentially what we're talking about. The banking director gets it, evaluates it. Right now, you know, the federal government does that, who knows what happens. Now we'd have the state doing it. Okay, it's not...it is perhaps duplicating what they are already doing, but the extra thing that we do is to say if you're not serving our community then public funds don't go out to that institution. That's serving our people, that's serving our community, that's serving Nebraska. And I can't see where Senator Conway's argument holds any water, because, yes, I see what changes are being made by the federal government, but the state has a role, too. What does the federal government care about whether a bank in Nebraska gets bought out by a bank in Ohio and we don't have the services that we once had in that former community that had that bank. Well, the federal government isn't going to care about that. We've got to care about that, the State Legislature has to care about that, the State of Nebraska has to care about that. And a small amendment like this, already approved by a few of the banks, and hopefully would be approved by other banks when they realize that there is a public trust, the banks, the savings and loans, all financial institutions have a public trust. A private entity, indeed, but a public purpose is involved, as well, in what they do and how they serve us, because they have a public charter. They are chartered to serve, and we want to make sure that they do, in fact, serve. As for the public funds and our utilization of those to encourage community reinvestment, I don't see that as an evil. I think it just makes sense. Sending public funds to an institution that doesn't care about its community doesn't make sense, and that is what we're saying we would do, if we don't adopt this amendment. So I, for one, would urge your support for this amendment.

SPEAKER BARRETT: One minute. Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I guess I believe it is the responsibility of this body to set public policy. It was this body which brought back to the State of Nebraska the surplus funds that were going all over the United States, and

the NBA didn't give a darn about it. The NBA is not necessarily known as just a naturally benevolent institution. Actually, this is the kind of amendment they ought to be glad to have, gives them just a little bit of a leg up on the out-of-state institutions, which most of them have fought vigorously, as I recall when I was working on interstate. Today, for some strange reason, I neglected to go to Nebraska Banker's Association and several other institutions and get my signed permit slip that said, yes, Schmit, you or Wesely could introduce this amendment to the bill. I apologize to my good friends because apparently I goofed up. But I guess, you know, old age sets in and you aren't as agile as I used to be, and I didn't get back there in time to get permission, and so therefore I proceeded as is. Senator Wesely is known for his youthful arrogance, and so he's not getting his permit slip signed either. There ought to be some time on this floor when we exercise our own independence. Now, I know that there are those here, and Senator Warner and Senator Conway sincerely believe their point of view, that's fine. But I guess that from my standpoint this bill moved, I believe, 38 to nothing once, surprised the dickens out of most folks. Be interesting to see how the vote of this bill goes. I would suggest that if this amendment is not adopted it could well be embarrassing to this body because it would be an indication of just how many and how easy it is to jerk the trip ropes on this body. The amendment does little or nothing. It does absolutely nothing from the standpoint of impeding Nebraska banks and their ability to serve. If an out-of-state bank says, nope, we're not interested, we're not going to do that, all they do is say, we're not interested in a couple hundred thousand of Nebraska money. What does that...what impact is that going to have upon that institution's ability to do business in Nebraska? Nothing, absolutely nothing. You're not talking about the Bank of Bellwood, with a \$6 million deposit, you're talking about large banks, talking about major institutions. At some point in time, ladies and gentlemen, and I have told some of my banking friends this, you do not need to worry about having an actual facility out in outstate Nebraska, you just have a pneumatic tube and the farmer can dump his corn check in there and it will suck on into Omaha or Lincoln, and that's the way it goes. No need to worry about two-way streets, it will just go one way. When I carried bills year, after year, after year for the major financial institutions of this state I was assured and reassured that the outstate areas would not be forgotten. Ladies and gentlemen, I can tell you now, and I've said it here before, that the persons

who made those promises to me, with the exception of the lobbyist, who unfortunately are not in the banking business, are not here anymore, they're all gone. When Bill Smith left FirstTier, Lincoln, he was the last surviving person who was involved in those commitments to outstate Nebraska. Is it wrong then for us to reaffirm the policy of this bill...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...the promises that were made time after time after time, that the entire state would be served and would be served better, if we enacted these bills into law? I don't think so. Otherwise I'll tell you what's going to happen, my good friends in the industry are going to say, well, we didn't know, Schmit, didn't know, Wesely, why should we know, you should have asked us for something. We didn't have any idea you were concerned. Ladies and gentlemen, I am concerned. I look around now, two banks in my home county closed during the middle eighties, less than a million dollars of new capital would have saved them. They're now out...two Omaha institutions have banks there. We're glad they're there, and I am, personally. But, ladies and gentlemen, when those two banks went down nobody cared, nobody cared, except the farmers and businessmen who were being served by those banks.

SPEAKER BARRETT: Time.

SENATOR SCHMIT: Ladies and gentlemen, I support the amendment. I can lose interest in the bill if the amendment doesn't go on.

SPEAKER BARRETT: Senator Warner. Thank you. Any other discussion? If not, Senator Wesely, would you like to close?

SENATOR WESELY: Thank you, Mr. Speaker, members. I appreciate very much the comments everybody made. I feel pretty strongly about this simply because I see a problem coming, and I think we need to deal with it now, this session, this bill, this amendment. We are about to open up our borders, and we're going to do it for the failing S&Ls in the very near future with the bill we passed this morning. We'll do it with the regional and national interstate banking legislation we passed a couple years ago when out-of-state interests come into Nebraska, start buying our S&Ls, start buying our banks, how are we going to respond to the customers, consumers, the people of this state about service, availability of financing, loans for our farmers, loans

for our small business people, loans for our families in need of homes? What are we going to do to protect their interests? This amendment is a very modest, very small step in that direction. By saying, if an out-of-state institution comes into Nebraska, buys a bank, buys an S&L, is then to serve this state, then we expect them to do so, that we ask them to submit their CRA materials, which they are already providing to the federal government, and only in the near future will now be made available to the public. But they'll give them to the Banking Department, the Banking Department will rate them, and if those people, out-of-state interests have come in and are not serving the community, are not helping our Nebraska communities and towns and all those folks that we think deserve to have that assistance, then why should we continue to put public money into that institution? That's all we're asking. We're just saying that, if you're not willing to help that community, that we're not willing to put public money into your institution. And they could say, so what, we're still not going to serve our community, we'll still take the money and run, and that's the way it is. And that's fine, we're not...I mean we're not going to be able to stop it, evidently. But maybe it will make them think twice about doing that. It's so small, I'm almost embarrassed to even offer it, because it doesn't even begin to address the concern Senator Schmit and many others have. But at least if we did it now we'd anticipate a potential problem. If we have trouble with it today, can you imagine next year, if we do have an out-of-state interest here, the kind of lobbying force, the kind of effort they could put into blocking something like this, we need to do it now. And so I ask you, as best I can, to support this amendment, and help, once again, to protect our people's interest as we develop this new approach to banking and financial institutions, which is about to overtake us. I'd like to ask for a call of the house, Mr. Speaker.

SPEAKER BARRETT: Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 10 ayes, 11 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your desks and record your presence. Those members outside, please return and record your presence. Senators McFarland, Moore, Morrissey, Abboud and Baack. Senator Hefner, Senator Withem, Senator Peterson. Senators Abboud, Chambers and McFarland, the house is under call. Senators Abboud and

Chambers, the house is under call. The question is the adoption of the Wesely amendment to LB 1146. ' . Clerk, would you call the roll.

CLERK: (Roll call vote taken. See page 1237 of the Legislative Journal.) 14 ayes, 23 nays, Mr. President.

SPEAKER BARRETT: Motion fails. The call is raised. Next amendment.

CLERK: Mr. President, the next amendment I have is by Senator Conway. The Conway amendment is on page 1005 of the Journal.

SPEAKER BARRETT: Senator Conway, to open on your amendment.

CLERK: I have AM2679. It's the only one I have of yours up here, Senator.

SENATOR CONWAY: Mr. Speaker and members, the amendment that we're talking about, on page 1005, basically is a piece of legislation, LB 996, that went through the Banking Committee, came out on a seven to zero vote count. What the concept basically is, is simply a reporting process for financial institutions with respect to large currency transactions. Currently an institution is to report any currency transaction greater than \$10,000 to the federal government. The currency transaction is filed with the IRS and finds its way into the public records through Form 4789, which is a regular federal form that is directed. I've worked with the NBA and with other people, Highway Patrol and the like, dealing with this. What basically we're asking for is the Nebraska State Highway Patrol is furnished with a duplicate of Form 4789, the same one the financial institutions send to the federal government, and supply that with the Nebraska State Patrol. Conceptually, hopefully, what the intent is, is basically large cash transactions often are dealing with illegal activities, primarily currently the hot button being that associated with illegal substances and drugs and the like. What happens is that financial institutions currently are required to report such information, but it goes to the federal level by the time one recognizes that there is even a report filed, has that information brought back to state law enforcement, in many cases it's far too late to do any kind of an investigation whatsoever. So, simply what this amendment is, and again there was a bill, in your bill book it would be LB 996. With amendments and the

way the amendment to this bill is drafted it includes the committee amendments. And what it basically does, it simply requires the institutions to also send that form to the Nebraska State Patrol, as well as the federal government so that they can also launch their investigation and possible prosecution, if there is any illegal activity with large cash transactions at the financial institution. So, with that, I offer that to LB 1146.

SPEAKER BARRETT: Thank you. Discussion of the Conway amendment. Senator Schmit.

SENATOR SCHMIT: Mr. President, I would like to raise the question of germaneness to that bill.

SPEAKER BARRETT: Proceed, Senator Schmit.

SENATOR SCHMIT: Mr. President, as Senator Conway has indicated, this was another bill, it was introduced in the Banking Committee. The Banking Committee advances the bill, and I have no objection to the bill. I do question the wisdom of loading up this bill at this time, notwithstanding the fact that it seems to be Christmas tree time and putting whatever you can find, good amendments, bad amendments, garbage, whatever you wish, on this bill. So, would the Speaker please just issue a ruling as to whether it is germane or not.

SPEAKER BARRETT: Thank you. Senator Conway, any comments, please.

SENATOR CONWAY: Yes, Mr. Speaker, I hope you rule it germane. (Laughter.)

SPEAKER BARRETT: Thank you. Senator Schmit, inasmuch as the principal bill under consideration speaks to restrictions on bank holding companies and increases the percentage the cap on total bank savings and loan deposits from 12 to 15, and LB 996 apparently speaks to the matter reporting some currency transactions and otherwise keeping a record and reporting to the State Patrol any transactions of any consequence involving currency in excess of \$10,000, it would appear to the Chair that the amendment is not germane.

SENATOR SCHMIT: I just thought perhaps since the bill had come out of Judiciary or some other committee, it might not be

germane, and therefore I object.

SPEAKER BARRETT: In the opinion of the Chair the amendment is not germane. You concur. Any further comment? If not, proceed to the next amendment, Mr. Clerk.

CLERK: Mr. President, Senator Lynch would move to amend. Senator, your amendment may be found on page 1185 of the Legislative Journal.

SPEAKER BARRETT: Senator Lynch, please.

SENATOR LYNCH: Mr. Speaker and members, this is an amendment that, in fact, would provide, in this legislation, LB 549 and the contents of that bill, which in fact applies to the kind of legislation we're discussing and was passed from the Banking Committee on a unanimous vote. It provides for five things, actually. First of all, it has to do with the placement and substitution of collateral and other securities which are pledged for county and certain other court...public deposits. The first part of the legislation would have to do...would overcome some delays that are encountered now simply because of policy. Want you to understand that first, last and always the county board will continue to have the responsibility for approving of any collateral deposits. That is not changed by this amendment at all. However, in some cases the possibility exists that a change of collateral is, in fact, in the best interest of the county. And the county treasurer, whoever that might be, should have, in some form, the flexibility needed to manage that kind of an administrative decision, which, of course, has to be endorsed by the county board. As you know or may not know, the state has a list of at least 12 approved securities. Some counties have as many, but most, because of their more conservative nature and concern for the risks that may or may not be involved, generally choose to have a list with fewer than 12. The second part of the amendment deals with removing the requirement of specific naming of county officials. Every time there is an election at the county board level, and there is a change at the county board level or at the county treasurer level, all of the documents have to be changed. It's a matter of convenience, but nevertheless it's obviously an unnecessary inconvenience. Thirdly, the amendment would clarify the definition of county board under the current law that applies to all statutory provisions which address the pledging or deposit of securities to back county deposits, to make sure

that the amendment, as I am suggesting now, and in fact the law, conform. The fourth amendment would...fourth part of this amendment would reinstate the references to county court clerks and county judges, which were inadvertently repealed by a law previously enacted by the Legislature. As you probably know, the county boards generally have the responsibility of depositing funds from all of the jurisdictions within their particular administrative responsibility, that includes school districts and cities and fire districts, hydrant districts, whatever it might be. But the clerks of the court and the courts themselves do, in fact, manage funds separate from those funds, they should be included in this law and are replaced with this fourth provision of the amendment. And the final change would require a 10 percent excess pledge when municipal bond serve as securities. And the reason for that is, of course, that there is some potential fluctuation as it involves the municipal bonds. Some people prefer another form of securities. But where they exist that excess 10 percent pledge is, in fact, good policy. I'll try to answer any questions you might have. I'd ask for your support for this amendment to 1146.

SPEAKER BARRETT: Thank you. Discussion on the Lynch amendment. Senator Wesely.

SENATOR WESELY: Yes, I'd ask for a declaratory judgment as to whether this is germane or not for the bill.

SPEAKER BARRETT: Senator Lynch, any comment?

SENATOR LYNCH: Yes, Mr. Speaker and members, as Chairman of the Rules Committee I should be the last one to be asked whether or not this is a germane amendment, since I'm generally not asked at all. So I especially appreciate, Mr. Speaker, you would ask me now with my own amendment. I would prefer you make the judgment because you have been so capable in the past of doing the very same thing. But my judgment is that it is, in fact, germane. And, hopefully, given the wisdom that you have and the experience in making these decisions you would agree with me in this case. (Laughter.)

SPEAKER BARRETT: Senator Wesely, anything further?

SENATOR WESELY: Yes. The amendment deals with collateral, the bill deals with multibank holding company legislation. I don't necessarily see that they follow.

SPEAKER BARRETT: Senator Wesely, in the opinion of the Chair, the Lynch amendment is not germane. The...the amendment does speak to the matter of collateral, as opposed to 1146, and the sections are miles apart. In the opinion of the Chair it is not germane. Any further comments? If not, Mr. Clerk.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Landis. (Landis amendment appears on page 1238 of the Legislative Journal.)

SPEAKER BARRETT: Chair recognizes Senator Landis.

SENATOR LANDIS: Thank you. This amendment actually amends the bill itself, so this one ought to be germane. Should be okay on this one. If I could try to identify for the Legislature what's been going on here and who the various players are, I'd try to give you my best on the score card of this afternoon's activities. FirstTier wants the bill, Norwest wants the bill. The NBA is neutral on the bill, although they historically have fought the CRA suggestions of Senator Wesely. FirstTier and Norwest have agreed to two ideas in principle. First, to this amendment which reduces the last round of deposit cap lifting, from 14 to 15 percent in '93, they're prepared to take it back to 14 percent and not to ask for that final \$200 million, and they're prepared to accept the CRA amendments. Norwest, FirstTier will take that and accept that as a limitation on the bill so the bill can move forward. The NBA, which has a little slower decision-making mechanism, has not polled their members recently to see whether or not they would lift their historical objection to the CRA amendments, so that with their existing orders they've been resisting that amendment. Following the failure of the CRA amendment to pass, Senator Conway having spoken against it, and then offering a bill that had gone through the Government Committee as opposed to the Banking Committee, to the measure. Senator Schmit made the objection that perhaps after Senator Conway had fought Senator Schmit from putting the bill in the form that Senator Schmit believed in, probably then shouldn't be able to mold the bill with an ungermane amendment to the form that Senator Conway wanted. Senator Lynch is offering a bill (sic) that has the ringing endorsement of the Nebraska Bankers Association, the very group which just a moment ago had seen to it that Senator Schmit couldn't put the bill in the form that Senator Schmit wanted his bill into. And it, too, was an ungermane amendment, and that,

too, has been stricken from the bill. Now comes my amendment which takes off the last of the percentage increases to the deposit cap, is germane, is irrelevant to the NBA, is irrelevant to the IBA, is accepted by Norwest and accepted by FirstTier. Following this amendment, should it be approved, there is a kill motion. Now, frankly, it's a friendly kill motion and it's my kill motion. It's there to give a certain amount of time, because if the NBA goes back to their board and reexamines the issue, they may change their mind on the CRA, which will stop the whole logjam and the bill might be able to move forward with some basis of agreement. Having tried to explain everything that has happened so far, let me indicate that I'm moving to lop off the last \$200 million increase in the deposit cap, from 14 to 15 percent. The bill would be in this form--a bank holding company could take over and RTC institution without it counting towards its deposit cap. In addition, our existing 12 percent limit will go up, next year, to 13, and in the year following to 14. That's what the bill would do, if this amendment is adopted. I believe the amendment has the support of Senator Schmit, it also has the support of FirstTier and Norwest. And then, if we could have a period of time for the elephantine decision-making process of the Nebraska Bankers Association to go forward, we may have some proclivity to accept reasonable limitations with respect to community reinvestment. I would move for the adoption of the amendment.

SPEAKER BARRETT: Thank you. Discussion of the amendment offered by Senator Landis. Senator Wesely, would you care to discuss? Thank you. Senator Warner, on the amendment.

SENATOR WARNER: Well, Mr. President, I appreciated the scenario of events outlined by Senator Landis, by the conference committee. I gather that's probably what it is. I just rise to emphatically state that no one spoke to me about that bill or amendment. I, personally, believe it is horrible public policy to coerce certain things on the basis of whether public funds are deposited or not. It can lead to immeasurable, in my opinion, immeasurable mischief in the future. And that's my reason to oppose it. As far as I'm concerned I will oppose the bill, if that's adopted later on. I think it's a major mistake to move in that direction. I have no strong feelings about this particular amendment. I'll probably vote against it because I was comfortable with the bill as it is. But I have little interest in the conference committee that is negotiating outside the Legislature.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: There was a time, ten years or so back at least, when the conference committee would at least include the introducer of the bill. I didn't say that Senator Warner had to be told how to vote on it. I know how Senator Warner feels about it, and I respect how he feels about it, and respect how Senator Conway feels about it. You'd have to be blind, deaf and dumb not to know how a dozen or so other people here feel about that. They feel exactly how they're told to feel about it. I've carried enough water on this floor for the bankers that, if I drop dead today, they ought to give me honorable mention at the funeral of anybody that shows up. But I'll tell you what, I'm not going to tip, tap toe and tap dance around here because somebody says no. And as far as I'm concerned the bill can die, the bill can die. There comes a time when this body ought to have a little respect for itself. I've taken my cues from time-to-time, I don't mind that. A lot of times I ask advice, we all do. But, ladies and gentlemen, we ought to have some respect for ourselves. Senator Warner feels strongly about his position, he's entitled to that. He's sincere and he means it. I also feel strongly. And I just feel that at this point in this time in Nebraska's history we need, more than ever, to reassert our intention that any institution that does business in this state ought to have some kind of commitment to the entity and the area which it purports to serve. Now you can jump through all the hoops you want. You can lay down, roll over and play dead. You can kill every bill I've got from this point forward, I could care less. You can pass this bill with 48 votes, if you so choose, to suit whoever wants it suited that way, if you want. But, ladies and gentlemen, I'm not going to be made a fool out of. I don't mind being treated like a dummy, I just don't want you to think I don't know any better. And I'm telling you here, now for the record, and I want it clear, and I don't care who is on the other side, whether they're this side of the glass or the other side of the glass, and I don't think I'm any different than most of you. I think that to the extent that we represent our convictions I have no concern if there were 48 persons voted against it. But to the extent that we allow ourselves to be manipulated, we ought to be ashamed. I'm not going to let that happen to me.

SPEAKER BARRETT: Senator Lynch, additional discussion?

SENATOR LYNCH: Mr. Speaker and members, could I ask either Senator Landis, Senator Wesely or Senator Schmit a question. The question is simply, can you give me an example of a financial institution, in any small community, that didn't do something that you think was important to help that community?

SPEAKER BARRETT: Where would you like to direct the question? To Senator Landis?

SENATOR LYNCH: Oh, anybody that knows what bank didn't give a loan to somebody that needed it, that justified it, or whatever. I was just curious.

SPEAKER BARRETT: Senator Landis, would you like to respond?

SENATOR LANDIS: I will be happy to respond. As I say that, I want you to know that this amendment is separate from the CRA issue. This amendment has...doesn't touch that issue that has been under discussion now by Senator Warner, Senator Schmit and Senator Lynch. But the answer to the question that I would give is this, while I cannot give you a specific loan instance, I can tell you that there are banks in this state that have loaned up portfolios of 30 percent, 40 percent, that the rest of their money is in federal notes of one kind or another. And the argument is two-fold. One argument is, they're sleepy banks who are taking their easiest way to make money. The responding argument is, if there were good loans in our community, we would make them. We just aren't making them because people don't come to us, and this is what we're doing with the rest of our money.

SENATOR LYNCH: Okay, that's...

SENATOR LANDIS: That argument came to the floor in the interstate when larger banks complained about the lack of activity of smaller banks. And that would be as close to an example as I can give you.

SENATOR LYNCH: Well, thank you. Again, it's a subjective reaction to a question that nobody really has a good answer for. It's sort of a wish and a dream. We hope that, if we can pass an amendment to this bill that indicates, you know if we're playing games behind the glass or down on first floor on the eighth floor or anywhere else, I don't think we should play games with taxpayers as well. And, if we try to leave the impression, for example, that by adopting something on this bill

that would provide and force these institutions, good, bad, big or little, but apparently terrible, because they don't pay enough attention to the local community, they should be satisfied with this legislation, if an amendment like that is adopted. It's like a moral issue. You know, either you're living in sin, or you're not, I guess, if you don't do certain things my way or your way. The whole thing is...I guess sort of loses me. I don't know...You know we've all...we've been...how long have some of us been in politics? You don't have to be behind the glass to do business, you can do business on the 20th floor of the bank building, you can do business in your own office, you can do business in the corner bar, on the way back and forth to Lincoln. So let's not talk about people behind the glass. That gets a little old and boring after a while, because, to be completely frank, it reflects on the integrity of all of us. And don't pick on this one piece of legislation to make it look like this is the only time and the first time anybody has ever talked to any of us about a piece of legislation. I took this bill, which is Senator Schmit's priority bill, because it made sense to me that we should provide, in Nebraska, every opportunity, not only for the smallest or the medium-sized, but the biggest institutions as well to be able to get involved with the purchase, with or without the savings and loan problem, the purchase of institutions by Nebraskans in Nebraska. All kinds of interesting dialogue and suspicion and threat and concern developed after that. I know we all have our own point of view. But, in my opinion, I don't want to make it any more complicated than it is. That's all I took it as, and that's one reason I took...There were a lot of bills I could have taken as a priority, but I took this one because I thought that was important. To be completely frank, I offered the amendment, which was LB 529, because I thought that made some sense as well. I'm certainly not going to attempt to change the...

SPEAKER BARRETT: One minute.

SENATOR LYNCH: ...opinion of the body, or in fact infer that we should override the decision of the Chair on the germaneness of that amendment. But I think that's also very good, it clears up a lot of things. Because so much has to and should be done in this body, LB 529 is probably going to fall through the cracks, but it will be back again next year. But let's not complicate or confuse this one. We can argue about how much is enough, whether 2 percent is enough over two years, or 3 percent is too

much, or 1 percent, or there is enough with \$400 million float out there for the biggest institution. But let's not make this any more of a complicated issue than it is. In its present form I think it works pretty well. I thought, when Senator Landis talked about an earlier amendment, when I talked to him, that he was concerned with the amendment we're talking about now as to whether or not he would support or not support the bill. So I was surprised to hear so much emotion and concern about the legislation based on the Wesely amendment not passing. And I have to admit that I share the concerns of Senator Warner.

SPEAKER BARRETT: Time. Senator Wesely, further discussion. Thank you. Any further discussion on the adoption of the Landis amendment? Senator Landis, for closing.

SENATOR LANDIS: Thank you, Mr. Speaker. I have a history on this bill, and I hope you'll take a chance to think back to General File and the claims and the arguments that I made then, I hope you would take a look that this is the only amendment with my name put on Select File and it's entirely the same issue. It's what I have always argued, it's what I'm going to argue today. This is the piece of change that I suggest to the body and it's consistent with what I asked on General File. You might remember on General File I said that there was a good part of the amendment that I liked and that was for the largest banks to be free to take over failed S&Ls without respect to any influence on the deposit cap. Separated the question, voted for that amendment; argued in favor of it, gave the justification. I then said, you know, none of our banks are within \$400 million of the existing cap. To raise an existing cap, which is not now a burden to anybody, by \$600 million was biting off a lot, particularly since it's a major change in the public policy of the state. And I counseled that we should cut that down by \$400 million, that we should accept a 1 percent change to acknowledge that, the problems that were there, but by doing so you would allow for \$600 million of growth in our largest bankholding company. I now have moderated that view and rather than asking for \$400 to be cut out of the bill, I am now saying, let's cut \$200 million out of the bill, it will bring the date in which this argument will come back to us for justification, explanation and review a little earlier, that's true, as well we should. At the time my opposition included the very banks who wanted this language, FirstTier, Norwest. Subsequently, they have reflected on it. I have come up \$200 million and they have come down \$200 million. Now if that's a bad idea, if there is

an attempt to take one's opponents, as I have been here, and try to make an arrangement which is someplace in the middle that honors the objections I have been making and yet at the same time has gains for those institutions, so be it. I'm in a position to be able to accept the numerical terms of this bill if this amendment gets adopted and, in that respect, I offer the amendment. It is an amendment which has been discussed, which is clearly along the same lines of what I offered on General File. This is hardly a curve ball. It's exactly the same issue I raised then but I have moderated my views based on the action that the body took at that time. I'm not asking you to pass the same amendment I offered then. And, frankly, this is an amendment which is acceptable to the very interests which defend, promoted and came to the Banking Committee and asked for the bill at that time. I would ask for the adoption of the amendment. Thank you.

SPEAKER BARRETT: Thank you. The question is the adoption of the Landis amendment to LB 1146. Those in favor of that motion vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 26 ayes, 4 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Schmit. (See page 1238 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members, the bill adds a severability clause. I move the adoption of the amendment.

SPEAKER BARRETT: Is there discussion? Any discussion on the Schmit amendment? Anything further, Senator Schmit? The question is the adoption of the Schmit amendment to 1146. All in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Schmit's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, the next motion I have to the bill is by

March 7, 1990

LB 976, 1031, 1080, 1146
LR 272, 273, 274

Senator Landis. That motion would be to indefinitely postpone. Senator Schmit, as primary introducer, has the option to lay the bill over, Mr. President.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: I move to lay the bill over, Mr. President.

SPEAKER BARRETT: The bill is laid over. For the record.

CLERK: Yes, Mr. President, I do. Mr. President, Senator Coordsen has amendments to LB 1031 to be printed; Senator Langford to LB 976. (See pages 1240-41 of the Legislative Journal.)

Mr. President, new resolutions. LR 272 by Senator Abboud. (Read brief description as found on pages 1238-39 of the Legislative Journal.) That will be laid over. Mr. President, LR 273 by Senator Rod Johnson. (Read brief description as found on page 1239 of the Legislative Journal.) And LR 274 by Senator Johnson. (Read brief description as found on pages 1239-40 of the Legislative Journal.) All three of those resolutions will be laid over, Mr. President. That's all that I have at this time.

SPEAKER BARRETT: Thank you. Proceeding then to LB 1080.

CLERK: Mr. President, the first order of business on LB 1080 are adoption...or consideration, I should say, of Enrollment and Review amendments.

SPEAKER BARRETT: The Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1080.

SPEAKER BARRETT: Any discussion? Senator Wesely. Seeing none, those in favor of the adoption of the E & R amendments, please say aye. Opposed no. Ayes have it. Motion carried. They are adopted.

CLERK: Mr. President, Senator Coordsen would move to amend the bill. Senator, I have your AM2800 before me.

SPEAKER BARRETT: The Chair recognizes Senator Coordsen.

March 19, 1990

LB 348, 542, 594, 965, 1032, 1064, 1094
1146, 1236

PRESIDENT: Senator Wesely, what do you say?

SENATOR WESELY: Yeah, lay it over.

PRESIDENT: Lay it over? It is laid over. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 348, LB 542, LB 594, LB 965, LB 1032, LB 1236 and LB 1094. Anything for the record at this time, Mr. Clerk? Then we'll move on to LB 1146.

CLERK: Mr. President, on 1146 the Enrollment and Review amendments have been adopted. There was an amendment by Senator Landis to the bill that was adopted and an amendment to the bill by Senator Schmit that was adopted. I have pending, Mr. President, a motion to indefinitely postpone that was offered by Senator Landis. Senator Schmit agreed to lay the bill over at that time.

PRESIDENT: Senator Landis, do you wish to have that withdrawn?

SENATOR LANDIS: (Microphone not activated) having it withdrawn.

PRESIDENT: Thank you. I learned something today. It is withdrawn.

CLERK: Mr. President, the next motion I have to the bill is by Senator Chambers.

PRESIDENT: Is Senator Chambers about? Not behind the glass? Senator Chambers wishes to withdraw that. That's the sign. Thank you. It is withdrawn.

CLERK: Mr. President, Senator Wesely and Senator Schmit would move to amend the bill. Senator, I've got 3043 in front of me. (The Wesely amendment appears on pages 1428-30 of the Legislative Journal.)

PRESIDENT: Senator Wesely, are you going to handle that?

SENATOR WESELY: Yeah.

PRESIDENT: All right. Please.

SENATOR WESELY: Thank you. Mr. President and members, I

appreciate the chance to come back to an issue that we talked about a little bit not too long ago, dealing with community reinvestment. As you recall on this bill, we had a previous draft of this concept that had not yet had a chance to be reviewed by the Bankers Association and we got in somewhat of an unfortunate fight that we didn't really probably need to. But we have sat down with the different interested parties and come out with a version of this issue that is not necessarily, of course, endorsed or supported by the Bankers Association but is one in which they have gone from opposed to neutral and I appreciate very much their desire to work with and cooperate on this matter. I go back again to the fundamental question and that is the issue of interstate banking and the opportunity for out-of-state financial institutions to move into Nebraska and what impact that will have on our state. The big concern is that when we have this change occur, which will be happening in the very near future, and we're now on a regional basis open to interstate and we will move to a national interstate opportunity next year, what impact will that have on communities in Nebraska. Currently, when an out-of-state bank would come in to acquire an institution in Nebraska, CRA review would be...is now currently in statute for the banking director to look at before approving that acquisition. After that institution comes into the state, however, there is no follow-up to ensure that community needs are being met by this out-of-state institution and that has been my concern now since we passed the interstate bill a couple of years ago. The Banking Committee did put out, I believe it was LB 746, out of committee to deal with this matter and it's stuck on General File. And so with this particular measure before us dealing with multibank companies' ability to grow and the cap that's been placed on multibank holding companies increased from 12 to 14 percent, it was felt to be appropriate to raise this issue now with this piece of legislation. So what we have done is, as I said, we proposed the amendment last time and there was some hard feelings about it and fortunately not hard enough to not sit down and discuss and negotiate. And what we have done is, I think, come up with a proposal that makes sense. What it says is that if an out-of-state bank does come into Nebraska, buy a bank or a series of banks in Nebraska, they will submit their public portion of their Community Reinvestment Act report to the Investment Council and there the investment officer will take that report, and if this out-of-state bank holding company is given a substantial noncompliance rating, see, they are rated under this CRA review, and if they get the substantial

noncompliance rating which means they are not really meeting the community needs and not reinvesting in the community, then the state's investment officer in charge of our Capital Expansion Act money would not put in further money into that bank and would in the future not invest in that bank not supporting the communities in which it was there to serve. It's a such a minimal, modest proposal and I would hope that we would adopt it overwhelmingly today because the concept, I think, is valid. We have public funds. This Capital Expansion Act has something like \$45 million or more. It fluctuates. Today it's 45, it could be more or less. It's the state agency monies that they have and they invest, and under legislation Senator Schmit passed, it's encouraged to be invested here in Nebraska, but the idea is that that investment should then be turned around and serve the state and should serve the communities that those banks are located in. These out-of-state firms coming into Nebraska, hopefully, will do a good job and reinvest in their community, but if they aren't, what we're saying is it doesn't make sense to put public monies in a bank that doesn't care about the communities in which it's located, doesn't reinvest in that community or in our state. Why should we send money out in such a circumstance? So this proposal, I feel, is a way to get at that problem. One of the great changes we are about to embark on is the change in our bank structure and financial institutions. We're going to see far fewer of these. We're going to see more interstate crossing of lines in these institutions and, to prepare for that, I think our state needs to have this sort of provision in law. I feel very good about this proposal and again I appreciate the Bankers Association willingness to cooperate and I would ask for your support for the amendment.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Chambers and Senator Crosby.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I endorse the amendment. I think it achieves a valuable social goal. We do now authorize our banks to operate by charter upon a showing of need. There is to be, before the banking director, an indication that there are banking needs going unmet before the charting of a new institution. It's not like a corporation where you can just simply go down and at your own whim create a bank charter. You have to go out and discover that there are unmet needs with which to justify the creation of a new bank charter. And, for that reason, it seems to me this amendment is

very, very sympathetic and parallel to the public policy goals of our existing banking law. I would urge you to endorse and vote for this amendment. Thank you.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, just to add my bit to what Senators Wesely and Landis have said. And Senator Landis pointed out a factor that I think is very important. Banks are in a separate category and a special category in view of the fact that only certain individuals or an individual will be granted a charter. So since the state has put them in a special category, will grant to them opportunities and benefits not available to every other person not holding a charter, there can be responsibilities placed on them. And one of the paramount responsibilities that I see, coming from a community that has often been redlined and still is, should be the responsibility to be fair in their lending practices and every other service that they make available to the public. That redlining does, in fact, exist in Omaha has been demonstrated through a number of studies and rather than go into all of that without seeing any opposition to the bill, I will just say that it is not unreasonable to require in statute that a bank do what a bank ought to do and what banks implicitly promise to do when they obtain a charter. I think the amendment is immanently reasonable, coming out of a body like the Nebraska Legislature, and when you can get the Nebraska Bankers Association to take a position of neutrality, considering their conservative stance, that would be a ringing endorsement by any other group. So I hope you will vote, as Senator Wesely said, overwhelmingly for this very reasonable, according to Nebraska terms, amendment.

PRESIDENT: Thank you. Senator Crosby, please.

SENATOR CROSBY: Thank you, Mr. President. Senator Wesely, I just have a quick question just to clarify for myself. I have read your summary and the letter from NBA.

SENATOR WESELY: Uh-huh.

SENATOR CROSBY: I guess, at the moment, you said that this would take care of any future invasions, shall I say, from out-of-state banks. At the moment, are there any in parti...is there someone or some one bank who has applied or that this is

aimed at in particular? Or is it definitely just simply a precaution?

SENATOR WESELY: There is no bank I know of. This is simply precautionary.

SENATOR CROSBY: There isn't any bank in the state now that has...that this is pertinent to?

SENATOR WESELY: That's right, doesn't apply to a current existing bank.

SENATOR CROSBY: Thank you. That's all I have. Thank you.

PRESIDENT: Thank you. Senator Wesely, would you like to close on your amendment, please.

SENATOR WESELY: No, simply appreciate very much the cooperation of the Bankers Association in working this out and I'd appreciate the support of the body for this amendment.

PRESIDENT: Thank you. The question is the adoption of the Wesely amendment. All those in favor vote aye, opposed nay. Voting on the Wesely amendment. Record, Mr. Clerk, please.

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

PRESIDENT: The Wesely amendment is adopted. Anything further on the bill?

CLERK: Mr. President, Senator Lynch would move to amend the bill. (The Lynch amendment appears on pages 1430-33 of the Legislative Journal.)

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: Yes, Mr. President and members, this is an amendment that I discussed before briefly. I'll mention it once more again. It's actually LB 549, and what it does, it has to do with substitution of securities. It came out of committee seven to nothing. There were four people who spoke in favor of it, none opposed and none neutral. It does four basic things. It provides that securities, of course, can be substituted. It provides that powers of the county boards and of the counties

themselves are certainly not affected as it applies to acceptance of the securities but it does admit to the fact that we have two standards in the state for this particular investment provision, one in Douglas County where they have all the flexibility they need and another policy for the rest of the state. The state has about 12 approved securities now. In fact, the counties by choice, individually, can adopt all of those or any number of those that they would like to. Most county boards limit the number to six or less than that. One of the things it does is removes the requirement for specifically naming a county official. As we all know, those of us who are elected, the possibility exists that we may no longer exist as a county treasurer or as a county board chairman or member. So this provides that when that county is involved with a security, the treasurer of the county and the county board are identified, of course, but not by name. What this provides is unnecessary cost in having to rewrite those securities when there is a change politically at the board level. It also reinstates references to the county court clerks and the county judges, and they were inadvertently repealed by a law previously enacted by the Legislature, which shouldn't have happened. And it goes on to provide that if, in fact, municipal bonds are used, that you have to meet the 10 percent excess pledge responsibility and the reason for that is obvious because of the potential fluctuation of those bond securities and their interest rates. So what it would do for those counties that meet once a month, for those that meet maybe every other week, for those that meet every week, the opportunity and for those people that represent them from an investment point of view the opportunity, with the county's blessing, to transfer and change securities that, in fact, are in the best interest of that county. It's a good policy. It was noncontroversial. It was supported by anyone and everyone who understands it and I think it would offer all our counties and others with these kinds of collateral securities the chance to have the same flexibility in the state as Douglas County. I would ask for your support for this amendment.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Pirsch.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I rise to support this amendment. This was a measure and a concept heard in the Banking Committee. It was reported out, I believe, unanimously. We were convinced that there was need of

a change and clarification with respect to how these kinds of provisions should be dealt with and I would just simply rise to say that I intend to vote for the Lynch amendment.

PRESIDENT: Thank you. Senator Pirsch, please.

SENATOR PIRSCH: Thank you. A question of Senator Lynch, please.

PRESIDENT: Senator Lynch, would you respond, please.

SENATOR LYNCH: All right.

SENATOR PIRSCH: Senator Lynch, I don't have anything written but this is another bill? Is that correct?

SENATOR LYNCH: Yes, Senator Pirsch, it was LB 529.

SENATOR PIRSCH: And just the one question that I have. You said this will allow Douglas County to react differently than the rest of the counties or it will give them the same flexibility?

SENATOR LYNCH: Just the opposite. It would allow other counties to be able to have the opportunity to react like Douglas County has now.

SENATOR PIRSCH: Okay. That's what I wanted to clarify. Thank you, Senator Lynch.

PRESIDENT: Thank you. Senator Lynch, would you like to close on your amendment, please.

SENATOR LYNCH: Waive closing.

PRESIDENT: The question is the adoption of the Lynch amendment. All those in favor vote aye, opposed nay. Senator Lynch, what do you think?

SENATOR LYNCH: Oh, Mr. Speaker, we're about nine away. I hate to do it, but I would accept call in votes and ask for a call of the house.

PRESIDENT: The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk,

March 19, 1990

LB 1090, 1146

please.

ASSISTANT CLERK: 7 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence, return to your seats. Those not in the Chamber, please return to the Chamber and record your presence. We're voting on the Lynch amendment and call in votes are authorized.

ASSISTANT CLERK: Senator Chambers voting yes. Senator Coordsen voting yes. Senator Kristensen voting yes. Senator Weihing voting yes. Senator Ashford voting yes. Senator Beyer voting yes. Senator Schellpeper voting yes. Senator Dierks voting yes. Senator Scofield voting yes.

PRESIDENT: Record, Mr. Clerk, please.

ASSISTANT CLERK: 26 ayes, 0 nays on Senator Lynch's amendment, Mr. President.

PRESIDENT: The call is raised and the Lynch amendment is adopted. Do you have anything further on it, Mr. Clerk?

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

PRESIDENT: Senator Moore.

SENATOR MOORE: I move we advance LB 1146.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 1090.

ASSISTANT CLERK: Mr. President, the first item on 1090 are E & R amendments.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1090.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. They are adopted. Anything further on it, Mr. Clerk?

March 21, 1990

LB 220A, 348, 369A, 542, 571A, 594, 866
880A, 958, 965, 1032, 1059, 1094, 1141
1141A, 1146, 1222A, 1236
LR 382, 383

CLERK: 25 ayes, 2 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Senator Schmit is the only one excused, so everyone else should be here. We're looking for Senator Wesely, Senator Lynch, Senator Schellpeper, Senator Pirsch, Senator Landis, Senator Emil Beyer. Senator Wesely and Senator Beyer are here now, so that is it, and there is a roll call vote. Oh, Senator Lynch is not here. I thought I saw him. Okay, we'll wait for Senator Lynch. Senator Lynch is here and the question is the advancement of the bill. Roll call vote in regular order. If you'll hold it down so the Clerk can hear your response. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1547-48 of the Legislative Journal.) 34 ayes, 12 nays, Mr. President, on the advancement of LB 1059.

PRESIDENT: The bill is advanced. Anything for the record, Mr. Clerk, at this time.

CLERK: I do, Mr. President.

PRESIDENT: The call is raised.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 220A and find the same correctly engrossed, LB 369A correctly engrossed, LB 880A correctly engrossed and LB 1146 correctly engrossed, those signed by Senator Lindsay. Enrollment and Review reports LB 1141 to Select File with E & R amendments, LB 1141A, LB 958, LB 571A, LB 1222A to Select File. (See page 1548 of the Legislative Journal.)

A communication from the Governor to the Clerk. (Read communication. Re: LB 348, LB 542, LB 594, LB 965, LB 1032, LB 1236 and LB 1094. See page 1549 of the Legislative Journal.)

Two study resolutions, Mr. President, will be referred to the Exec Board. (Re: LR 382, LR 383. See pages 1549-50 of the Legislative Journal.)

Senator Lamb has amendments to be printed to LB 866. (See page 1551 of the Legislative Journal.) That's all that I have.

April 3, 1990

LB 656, 1146, 1184, 1184A

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1184 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 1832-33 of the Legislative Journal.) 40 ayes, 6 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT: LB 1184 passes with the emergency clause attached. LB 1184A with the emergency clause attached.

CLERK: (Read LB 1184A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1184A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 1833-34 of the Legislative Journal.) 38 ayes, 5 nays, 4 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT: LB 1184A passes with the emergency clause attached. LB 656.

ASSISTANT CLERK: (Read LB 656 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 656 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1834-35 of the Legislative Journal.) The vote is 41 ayes, 0 nays, 5 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 656 passes. LB 1146 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 1146 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1146 pass with the emergency clause attached? All those in favor vote aye, opposed

April 3, 1990

LB 42, 42A, 799, 1146

nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1835-36 of the Legislative Journal.) The vote is 41 ayes, 1 nay, 4 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1146 passes with the emergency clause attached. LB 42. Senator Chambers.

SENATOR CHAMBERS: I want to just withdraw this bill.

PRESIDENT: Okay, you've made your point. Read the bill.

ASSISTANT CLERK: (Read LB 42 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 42 pass? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1836-37 of the Legislative Journal.) The vote is 36 ayes, 10 nays, 3 excused and not voting, Mr. President.

PRESIDENT: LB 42 passes. LB 42A.

ASSISTANT CLERK: (Read LB 42A on Final Reading.)

PRESIDENT: Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 1837 of the Legislative Journal.) 37 ayes, 8 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 42A passes. LB 799 with the emergency clause attached.

CLERK: (Read LB 799 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 799 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. clerk, please.

CLERK: (Record vote read. See page 1838 of the Legislative

April 3, 1990

LB 42, 42A, 642, 656, 799, 866, 880
880A, 953A, 1004, 1004A, 1019, 1019A, 1059
1059A, 1064, 1064A, 1080, 1080A, 1113, 1113A
1136, 1146, 1184, 1184A, 1222A
LR 418

CLERK: (Read LB 1222A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1222A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1847 of Legislative Journal.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1222A passes. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do, a new resolution by the Judiciary Committee, (LR 418.) a study resolution. Enrollment and Review reports LB 1064 and LB 1064A as correctly engrossed, both signed by Senator Lindsay as Chair; and LB 1059 and LB 1059A is correctly enrolled. Enrollment and Review reports LB 1113 and LB 1113A to Select File, signed by Senator Lindsay. Amendments to be printed by Senator Hartnett to LB 953A, Senator Hall to LB 866. And, Mr. President, a confirmation report from Transportation Committee signed by Senator Lamb as Chair. That's all that I have, Mr. President. (See pages 1847-52 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session, capable of transacting business, I propose to sign and do sign LB 880, LB 880A, LB 1004, LB 1004A, LB 1080, LB 1080A, LB 1184, LB 1184A, LB 656, LB 1146, LB 42, LB 42A, LB 799, LB 1019, LB 1019A, LB 1059A, LB 1059, LB 1136, LB 1122, correction, LB 1222, and LB 1222A. We're ready to go. Mr. Clerk, do you have something on the desk?

CLERK: Mr. President, motion pending from this morning was one offered by Senator Chambers and that motion was to overrule or change the Speaker's agenda to permit consideration of a suspension motion relating to LB 642.

PRESIDENT: (Gavel). Could we have your attention so we can hear the speaker? Senator Chambers, please.

SENATOR CHAMBERS: Thank you. Mr. Chairman and members of the Legislature, this is a continuation from what I was attempting

April 9, 1990

LB 220, 220A, 315, 369, 369A, 551, 551A
571, 576, 720, 720A, 799, 851, 896
923, 953, 958, 960, 960A, 980, 980A
994, 994A, 1018, 1063, 1063A, 1064, 1064A
1080, 1090, 1136, 1146, 1184, 1184A, 1244

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber for the last day of the Second Session of the 91st Legislature. We're especially happy to have with us this morning our own Harland Johnson for our prayer of the morning. Would you please rise?

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Harland, and may I say, on behalf of all the members of the Legislature, we have truly appreciated your prayers during the session. They have been very meaningful because you understand us so well, so thank you again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections this morning, Mr. President.

PRESIDENT: Any messages, reports, or announcements today?

CLERK: Mr. President, a series of messages. First, communications from the Governor. Engrossed...well, before that, Mr. President, bills read on Final Reading as of late last Thursday were presented to the Governor on Thursday evening as of 8:15 p.m. Communications from the Governor, Mr. President, and I might indicate to the members that copies of messages I have received have been distributed and you should have a copy on your desk. Communications to the Clerk: Engrossed LB 1080, LB 1184, LB 1184A, LB 656, LB 1146, LB 799, and LB 1136 were received in my office on April 3 and signed by me on April 6 and delivered to the Secretary of State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) A second communication: Engrossed LB 220, LB 220A, LB 315, LB 369, LB 369A, LB 551, LB 551A, LB 571, LB 720, LB 720A, LB 851, LB 896, LB 923, LB 953, LB 958, LB 960, LB 960A, LB 980, LB 980A, LB 994, LB 994A, LB 1018, LB 1063, LB 1063A, LB 1064, LB 1064A, LB 1090, and LB 1244 were received in my office on April 3 and signed by me on April 7, delivered to the Secretary of the State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) In addition to those items,