

January 12, 1989

LB 18-29, 54, 374-388
LR 4

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the adoption of LR 4 introduced by Senator Bernard-Stevens. Those in favor vote aye, opposed nay. Voting on the adoption of LR 4. Have you all voted? Record, please.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of LR 4.

SPEAKER BARRETT: LR 4 is adopted. Further bill introductions, Mr. Clerk.

CLERK: Mr. President, new bills. (Read LBs 374-388 for the first time by title. See pages 200-203 of the Legislative Journal.)

Mr. President, in addition to those items, I have some Select File reports. Mr. President, your Committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 18 and recommend that same be placed on Select File with E & R amendments attached, LB 19 Select File, LB 20 Select File, LB 21 Select File, LB 22 Select File with E & R amendments attached, LB 23 Select File, LB 24 Select File, LB 25 Select File with E & R amendments attached, LB 26 Select File with E & R amendments attached, LB 27 Select File, LB 28 and LB 29 to Select File, as well, Mr. President, all signed by Senator Lindsay as Chair of the Enrollment and Review Committee. (See pages 204-205 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding to item number six on today's agenda, a motion to rerefer. Mr. Clerk.

CLERK: Mr. President, Senator Weihing moves to rerefer LB 54 from the Agriculture Committee to the Health and Human Services Committee. Senator Weihing offered his motion yesterday. It is found on page 194.

SPEAKER BARRETT: For purposes of objecting to the referencing of a bill, the Chair recognizes Senator Weihing. (Gavel.)

SENATOR WEIHING: Mr. President and members of the Legislature, I request to move this bill because I feel it is much more in the medical area, the health area, and, therefore, it should be first heard, if it is heard at all, in the Health and Human Services Committee. This bill is one which deals with cholesterol. Cholesterol has become a daily word within our

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LB 49, 85, 137, 146, 178, 179, 215
293, 345, 377, 387, 424, 434, 463
515, 555, 617, 669, 685, 710, 799
LR 27, 28

Without any further discussion, I believe we should just go ahead and try to advance this bill. Thank you.

SPEAKER BARRETT: Thank you. Any discussion on the advancement of the bill? If not, the question is the advancement of LB 49 to E & R Initial. All in favor vote aye, opposed nay. Shall LB 49 be advanced? That is the question. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to advance LB 49.

SPEAKER BARRETT: LB 49 is advanced. The Chair is pleased to announce that Senator Moore has some eighth graders from Emmanuel Lutheran in York. I believe there are 12 of them in the north balcony, with their teacher. Would you folks please stand and be recognized. Thank you for being with us. Also, Senator Sharon Beck has a special visitor from District 8 this morning, Dr. Paul Paulman, who is here today as doctor of the day. Please welcome Dr. Paulman. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do, thank you. Retirement Systems reports LB 137 to General File with amendments. That is signed by Senator Haberman. (See pages 1076-77 of the Legislative Journal.)

Transportation Committee reports LB 424 to General File with amendments; LB 799, General File with amendments; LB 146, indefinitely postponed; LB 434, indefinitely postponed; LB 515, indefinitely postponed; LR 27, advanced to the floor, and LR 28, advanced to the floor, all of those reports signed by Senator Lamb as Chair of Transportation. (See pages 1077-80 of the Legislative Journal.)

Natural Resources Committee reports LB 617 to General File; LB 710 to General File; LB 293 to General File with amendments. Those are signed by Senator Schmit as Chair. (Journal page 1080 shows LB 293 as indefinitely postponed and LB 387 as indefinitely postponed.)

Judiciary Committee reports LB 215 to General File; LB 377, General File; LB 669, General File; LB 555, General File with amendments; LB 685, General File with amendments; LB 85, indefinitely postponed; LB 178, indefinitely postponed; LB 179, indefinitely postponed; LB 345, indefinitely postponed; LB 463,

SENATOR SCHIMEK: I would move advancement of the bill. Thank you.

SPEAKER BARRETT: Thank you. Shall LB 215 be advanced to E & R Initial? Those in favor vote aye, opposed nay.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Please vote. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of 215.

PRESIDENT: LB 215 advances. LB 377.

CLERK: LB 377, Mr. President, was introduced by Senator Kristensen. (Read title.) It was introduced on January 12, Mr. President. It was referred to Judiciary, advanced to General File. I have no amendments to the bill.

PRESIDENT: Senator Kristensen, please.

SENATOR KRISTENSEN: Mr. President and members of the body, for those of you who have some legal training and background, they will now shut their ears and refuse to participate in this debate. The rule against perpetuities is one of those things that is really a monument to man's ability to create complexity in his life, and that is what the rule against perpetuities is. A lot of what I am going to say, this sounds like Senator Chambers, is for the record. The statement of the rule against perpetuities is as follows: No interest is good unless it must vest, if at all, not later than 21 years after some life in being at the creation of the interest. Now that, Senator Ashford, that was for your law school career because I am sure that you didn't pick that up the first time around. Actually, law students spend semesters trying to learn what this rule is. We have the rule in Nebraska. It is made by common law. In other words, it has been passed down since the 17th century back when land was wealth and land owners frequently wished to perpetuate the ownership of land so they created all these neat little ways of tying up land forever. And so the courts proceeded to have a rule against perpetuities which would stop people from doing this to property and tying it up forever. And Senator Chambers told me I had two minutes to present this case. I am nearing my conclusion but, quite frankly, what this does is

it goes step-by-step and puts the old case law of the rule against perpetuities into our state statutes, and its major provisions, and I want to go step-by-step so we don't miss any of this, is that we are going to take a wait and see look at the rule against perpetuities. In other words, what used to happen is that we could come up with some fanciful set of circumstances that would violate the rule against perpetuities and would throw out your will or your trust or some deed or contract that you would have. Most lawyers shudder at the fact that they may be sued for malpractice because they have violated this old and venerable rule and so they all put savings clauses, which means no matter what we created, we don't want to violate the rule against perpetuities, and then they kind of hope that it doesn't violate the rule against perpetuities. The rule does have some very good reasoning behind it and it is something we should not throw out in this state, but what we need to do is follow many of the states, and they have created a uniform rule regarding perpetuities. And for the record, I want to make sure that when this is reviewed the first time by the Nebraska Supreme Court that they look specifically at the Uniform Statutory Rule Against Perpetuities as drafted by the National Conference of Commissioners on Uniform State Laws that was held in 1986 and that should explain to them everything that is my specific intent for this law to do and to carry out. This will not violate and this will not throw out any existing will or contract or deed that is now in place. So all of your wills that transfers all the wealth that Senator Lynch and others may have down to their children is still in effect. You don't have to worry. Your wills are safe. This does allow for several changes, one of them being that if there is some dispute over the rule against perpetuities that you are allowed to go to a county court if you are in a will or probate proceeding and have the intent of the document explained by the court and they will make a ruling, or you can file an action directly into our district courts that will determine a challenge to the rule against perpetuities. Have I lost anybody yet? Well, good, nobody raised their hand. Now I will continue on for a little bit. The Uniform Rule Against Perpetuities in the past, if you violated the rule, your entire will or document would be thrown out, and that is what we all want to avoid. What we want to have happen is what the intent of the testator or the person drawing the will or the document, what they really intended. This, by codifying it, put into our Nebraska statutes, will allow us to do that. It will allow you to look for the next 90 years, and some of you have heard of the fertile-octogenarian

case. Senator Chambers smiles because I am sure he is very familiar with the fertile-octogenarian case. That is still in effect in this state and is valid but all we are doing is looking, instead of going at one lives in being for 21 years, we are now looking at a period of 90 years. I see Senator Chambers' light is going to come on, I am sure he has got some questions about that. Specifically, this Uniform Statutory Rule Against Perpetuities is to supersede our common law rule, and I would ask for its advancement, and then those hallowed and venerable words, this is one of those where I am afraid you are going to have to trust us. Thank you.

PRESIDENT: Were you through? Senator Ashford, would you like to perpetuate?

SENATOR ASHFORD: Thank you, Mr. President and members. Senator Kristensen, just out of curiosity, who brought this to you?

SENATOR KRISTENSEN: This has been a burning question in my mind since my days of law school, something I always was wanting to change. No, in fact, Dave Pierson from the Law School, who has been working with future interest over his entire career. This is something that is one of those academic changes that always needs to be made but they can never find anybody who is willing to stand up and speak about the rule against perpetuities because it is rather complex and, obviously, if I can stand up and talk about it, it can't be all that complex, but he is the one who brought it to me. It is a uniform rule created by the Property Division of the Commission on Uniform Rules, and it is one that is, I think North Dakota has already passed it this year, and several other states.

SENATOR ASHFORD: Thank you. The rule against perpetuities I guess is probably the best example of inhumanity to man that I know of. We no longer get to say 21 years plus lives in being, or is that out the window now, and we just get to say 90 years?

SENATOR KRISTENSEN: No, in fact what we are going to say now is that a nonvested property interest is invalid unless the interest is created and certain to vest or terminate no later than 21 years after the death of an individual then alive or 90 years.

SENATOR ASHFORD: So they would have to be alive before they died and then we would add...

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LB 377

SENATOR KRISTENSEN: You take 21 years from the time they die.

SENATOR ASHFORD: Right, there you go. I get it.

PRESIDENT: Senator Owen Elmer.

SENATOR ELMER: Thank you, Mr. President. Senator Kristensen, out in our area we have considerable activity in oil and gas exploration. Many of the people have reserved mineral rights when they have sold their land, and the land has gone then to other hands, the mineral rights are still reserved, and over a period of time, the owners of those mineral rights that have been reserved are untraceable. Will this affect that particular problem in any way?

SENATOR KRISTENSEN: No.

SENATOR ELMER: Nuts. Thank you, Senator Kristensen.

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: Could I ask, Mr. President and members, ask Senator Kristensen a question, please. I apologize if it has been asked, but how about football tickets to Nebraska games? Will this guarantee that I can pass them on to my kids, that is what I want to know?

SENATOR KRISTENSEN: No.

SENATOR LYNCH: Oh.

PRESIDENT: Senator Kristensen, please. There are no other lights on. Would this be your closing or did you want to perpetuate it further?

SENATOR KRISTENSEN: Well, I think the rule against perpetuities needs to be perpetuated a little bit further but, no, I would take my closing if I can.

PRESIDENT: You may.

SENATOR KRISTENSEN: Just for an example, and you have all spared yourselves a lot of pain by going through this, let me give you an example of the rule against perpetuities and how it

is violated. Senator Baack would give his property to Senator Ashford and his heirs, but if Senator Ashford or any descendant of his fails to take care of Senator Baack's grave, then the property goes to Senator Chambers. Now that violates it. That means Senator Chambers could get the property only if Senator Ashford didn't take care of Senator Baack's grave, and so what would happen is when Senator Baack made his will up, somebody could go and contest it and say, well, that is crazy because Senator Ashford could have this property for years and years and years and his children could have it for years and years and years, and if just one of them failed to take care of Senator Baack's grave, Senator Chambers would automatically get the property, and so the rule against perpetuities would say, no, that is wrong. That is tying it up for too long. Senator Ashford wouldn't be allowed to sell his property and, thus, somebody could unknowingly, let's say Senator Weihing could buy the property from Senator Ashford, never know that if he didn't take care of the grave, it would automatically go to Senator Chambers. And we don't want those sorts of things to happen because most of us don't want Senator Chambers to have anything, and so that would violate the rule against perpetuities. Quite frankly, this is a well-thought-out and drafted bill. I must, in all seriousness, tell you that it has been scrutinized by many people who spend their entire life looking at property interest and I would urge its adoption and recommend it to you. Thank you.

PRESIDENT: The question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of 377.

PRESIDENT: LB 377 is advanced. LB 258.

CLERK: LB 258, Mr. President, introduced by the Government Committee and signed by its members. (Read title.) The bill was introduced on January 9, referred to Appropriations, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Yes, Mr. President and members, this...this was

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LB 84, 137, 211, 215, 272, 377, 487
639, 813, 816
LR 211

SPEAKER BARRETT: Any discussion? If not, those in favor vote aye, opposed nay. Record.

CLERK: 27 ayes, no nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. Senator Lamb.

SENATOR LAMB: I'd move to readvance the bill, Mr. President.

SPEAKER BARRETT: Question is the readvancement of the bill. Those in favor say aye. Opposed no. Carried. The bill is readvanced. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign Legislative Resolution 211. Senator Baack, for what purpose do you rise?

SENATOR BAACK: Mr. Speaker, I move that we recess till 1:30.

SPEAKER BARRETT: Mr. Clerk, anything for the record?

CLERK: Mr. President, amendments to be printed to LB 816 by Senator Haberman, Senator Landis and Scofield, LB 813; notice of confirmation hearing by the General Affairs Committee. Enrollment and Review reports LB 211, LB 639, LB 272, LB 137, LB 215, and LB 377 to Select File.

Mr. President, Senator Abboud asked unanimous consent to add his name to LB 84 as co-introducer. That's all that I had, Mr. President.

SPEAKER BARRETT: Thank you, and the question is recessing until 1:30. All in favor say aye. Opposed no. Carried. We are recessed. (Gavel.)

RECESS

SPEAKER BARRETT PRESIDING

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

SPEAKER BARRETT: Thank you. Anything for the record?

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LB 377, 761, 762A

CLERK: (Read roll call vote. See pages 2353-54 of the Legislative Journal.) 17 ayes, 23 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Anything for the record? The call is raised.

CLERK: Yes, Mr. President, I do. I have a confirmation report from the Government Committee signed by Senator Baack as Chair.

Amendments to LB 377 by Senator Rod Johnson.

New A bill, LB 762A by Senator Coordsen. (Read by title for the first time. See page 2355 of the Legislative Journal.)

SPEAKER BARRETT: Next order of business.

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

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Mr. Speaker, I'll withdraw that amendment.

SPEAKER BARRETT: It is withdrawn.

CLERK: Mr. President, the next amendment I have is by Senator Dierks. Senator, I have AM1631 in front of me.

SPEAKER BARRETT: Senator Dierks, please.

SENATOR DIERKS: I'd like to withdraw that amendment, Mr. Speaker.

SPEAKER BARRETT: It is withdrawn.

CLERK: The next amendment, Mr. President, I have is, Senator Dierks, I have AM1630.

SENATOR DIERKS: Yes, I'd like to take this amendment up.

SPEAKER BARRETT: Proceed.

SENATOR DIERKS: Mr. Speaker and members of the Legislature, this amendment is another right to vote amendment. It differs

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LB 44, 44A, 49, 49A, 134, 158, 158A
162, 162A, 175, 175A, 182, 182A, 198
211, 228, 228A, 308, 309, 309A, 362
377, 429
LR 88

Mr. President, bills read on Final Reading today have been presented to the Governor. (Re: LB 44, LB 44A, LB 49, LB 49A, LB 134, LB 158, LB 158A, LB 162, LB 162A, LB 175, LB 175A, LB 182, LB 182A, LB 198, LB 228 and LB 228A. See page 2482 of the Legislative Journal.)

Mr. President, amendments to be printed, Senator Hall to LB 211, Senator Ashford to LB 362, Senator Weihing to LB 377, Senator Lynch to LB 377. (See pages 2482-88 of the Legislative Journal.)

Enrollment and Review reports LB 308 as correctly engrossed, LB 309 and LB 309A as correctly engrossed.

And, Mr. President, I have a communication from the Chair of the Reference Committee rereferring study resolution LR 88 from the Banking Committee to the General Affairs Committee. That is signed by Senator Labedz as Chair. And that is all that I have, Mr. President.

PRESIDENT: We'll go to Final Reading on number 9. We'll start with LB 429, but we need to get into our seats and get ready for Final Reading, please. Mr. Clerk, LB 429.

CLERK: The first motion...I have motions on 429, the first is by Senator Wesely. Senator Wesely would move to return the bill, the purpose being to strike the enacting clause.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: I will withdraw that amendment at this time.

PRESIDENT: All right, it is withdrawn.

CLERK: Mr. President, Senator Moore and Lindsay would move to return the bill for a specific amendment. (Moore-Lindsay amendment appears on page 2489 of the Journal.)

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Well, it's another one of those cows to the ring and see who bought her this time. This time it's one of my old rangy old cow. This one I believe in. This is the Bergan Mercy amendment. Now 429 is a bill dealing with certificate of need, 429 introduced by Senator Baack and the intention of this bill I

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LB 215, 377

E & R amendments.

SPEAKER BARRETT: Shall the E & R amendments to 215 be adopted? All in favor say aye. Opposed no. Carried, they are adopted.

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 215 as amended be advanced to E & R for Engrossment.

SPEAKER BARRETT: Shall LB 215 as amended be advanced? All in favor say aye. Opposed no. Carried, the bill is advanced. LB 377.

CLERK: Senator, I have no E & R to that bill but I do have other amendments. Mr. President, Senator Rod Johnson would move to amend the bill.

SENATOR LABEDZ PRESIDING

SENATOR LABEDZ: Senator Rod Johnson.

SENATOR R. JOHNSON: Madam Chairman, I filed a couple of amendments. Can you tell me, Mr. Clerk, what amendment this one is?

CLERK: Senator, you're on...I am on, excuse me, AM1820.

SENATOR R. JOHNSON: I wish to withdraw that.

SENATOR LABEDZ: If there is no objection, it is withdrawn.

CLERK: Mr. President, the next amendment I have is by Senator Weihing.

SENATOR WEIHING: Mr. President...

SENATOR LABEDZ: Senator Weihing.

SENATOR WEIHING: ...I wish to withdraw that at this moment.

SENATOR LABEDZ: If there is no objection, the amendment is

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LB 377, 749

withdrawn.

CLERK: Senator Lynch would move to amend the bill, Mr. President...Madam President. Excuse me. Senator Lynch.

SENATOR R. JOHNSON: I think he wishes to withdraw that as well.

SENATOR LABEDZ: It is withdrawn.

CLERK: Senator Johnson, I now have, Senator, AM1937 in front of me.

SENATOR LABEDZ: Senator Johnson.

SENATOR R. JOHNSON: Madam Chair, I think it would be in order for me to ask the body to suspend the rules first in order that we may consider this amendment. I believe there might be a question of germaneness in offering the amendment and I think it would be appropriate first to suspend the rules in order that we may consider the amendment because what we're attempting to do is incorporate a couple of legislative ideas that have been heard publicly by the Banking Committee and then advanced to the floor but are far down the list. I believe they are noncontroversial and it would be, I think, in the best interest of the Legislature to allow us to consider these amendments after the motion to suspend. I will tell you what the amendment is so that you are aware of how you might want to proceed on the germaneness question or at least the motion to suspend the rules. This legislative session I introduced a bill, LB 749, which permitted loan participations which carried the guarantee of the Commodity Credit Corporation which is the instrumentality of the United States Department of Agriculture and which would be backed by the full faith and credit of the United States government to be utilized for collateral purposes. This legislation was strictly permissive. Senator Weihing also introduced a bill...I can't recall the number, Senator Weihing, I'm sure, will explain his interest in this suspension motion, which I believe dealt with United States Treasury notes and we would like to use both of these, both the CCC collateralization and the United States Treasury collateralization to be added to the list that we currently have in statute and there are several which allow for the collateralization requirements for political subdivision deposits. That's public fund deposits. The Nebraska Investment Council recently completed a transaction to invest \$10 million in a program under the CCC or the Commodity

Credit Corporation collateralization program. The purpose, of course, was two-fold, really, the investment of the public funds under the prudent man rule and, secondly, it also, hopefully, will help with agriculture through the pooling of these funds to generate from these sales loan money to foreign governments which would then turn around and use those funds in order to purchase agricultural products from the United States. I believe, as I said, there was no need for statutory changes to the Nebraska Investment Council because they work under the prudent man rule and I think Mr. Mathes has decided that that was a good investment for public funds. This, however, deals specifically with our depository institutions in the state, or banks, and so forth, that might want to invest equally and I guess I will speak only to my aspect of this amendment which is to allow CCC collateralization. These are fully guaranteed by the full faith and credit of the United States government and would not jeopardize the public funds in any way. There is a 100 percent guarantee of those funds. So I would ask for suspension of the rules. I would give whatever remaining time, Madam Chair, that I have to Senator Weihing.

SENATOR LABEDZ: Senator Warner, would you like the remainder of the time? There is approximately...Senator Weihing, I'm sorry.

SENATOR WEIHING: Thank you...

SENATOR LABEDZ: There is approximately six minutes.

SENATOR WEIHING: ...Madam President. Yes this deals with...in the statutes 77-223.01 to 77-223.11. Now that deals with the regulatory measures for deposits made by the State Treasurer in the state and national banks. Actually, if one would turn to our book here to page 2484, you will see that amendment and it's to modernize the language within Section 77-2306. The additional language that is seen, or the new language, is that which is underlined, as we can see, and that deals with...so that the State Treasurer can deposit the United States government notes, certificates of indebtedness, or treasury bills of any issue, obligations fully and unconditionally guaranteed, both as to principal and interest by the United States. And so this is a modernization of this language and that's what this will deal with. It's that amendment, as we see it, on page 2484 in our Journal. Is my time up on this, essentially?

SENATOR LABEDZ: No, you still have about four minutes, a little less.

SENATOR WEIHING: Oh, well, then I can...I will continue on with regards to that. There are...the...there are...I just dealt with (a), and I will go through that very straightforward here. "In lieu of a bond as provided in Section 77-2305, any bank making application to become a depository under the provisions of Section 77-2301 to 77-2309 may deposit with the State Treasurer, (a) United States Government notes, certificates of indebtedness, or treasury bills of any issue; (b) obligations fully and unconditionally guaranteed both as to principal and interest by the United States; or"...and this is old language, "bonds and debentures issued either singularly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration; and, (c) bonds of any county, city, village, or school district of this state which have been issued and registered as required by law;"...that's new language; and continuing with the previous language, "bonds of the State of Nebraska, of any state the bonds of which are purchased by the Board of Educational Lands and Funds of this state for investment of permanent school funds, or warrants of the State of Nebraska; or (e) registered warrants of any county, city, or school district of this state." So this, as you can see, this is updating the language within that statute.

SENATOR LABEDZ: Senator Conway, on the suspension of the rules.

SENATOR CONWAY: Thank you, Madam Speaker, and members, LB 377, as Senator Johnson has suggested that it be changed, I would like to rise with having been on the committee and heard both of the two issues that they would like to amend in and maybe draw specific attention to what was in LB 749 on the commodity credit provision. The other provision I also would support and would support suspension of the rules in order to do this. One of the things that I think is important to understand, as Senator Johnson brought...brought to your attention and I will try to elaborate on a little bit more is that as we put public funds into our state institutions, our depository institutions, once we go beyond that \$100,000 value...and somebody may remember when we made those changes after there were some losses a few years back for some funds that did accumulate to be greater than \$100,000 and we did have, I believe, two situations where we

lost some money, that from that time on we changed the statutes to require the banks to provide collateralization for any amounts above that and that collateralization would be enumerated in such a way that it would be guaranteed securities that would back up our deposits to protect the public's interest. What this simply does is in that enumeration it adds these participation agreements which Senator Johnson alluded to are backed by the Commodity Credit Corporation and are also designed in the provision such that they are collateralized to the tune of 110 percent which then gives some flexibility to make sure that we actually have more on deposit protecting the funds, making sure these are all protected. I think, by the same token, this particular new technique of providing available borrow...lendable funds for the purchase of agricultural products will enhance the agricultural markets as well. So, as you put those two things together, it's good for the bankers, it's going to be good for the agricultural community, it's going to be good for the general public in terms of protecting their funds because these are guaranteed in a very similar fashion to T-bills and other instruments. So, with that, I would strongly urge the body to accept this amendment and allow this technique to be used because right now Nebraska bankers, I'm sure, would have...would be less excited about buying these particular participation agreements if, in fact, they can't use them to collateralize (inaudible) because they're going to be sitting on them for a long time. These are long term instruments and so by being able to use those as a basis of supporting those deposits, I think the lending institutions are going to be more excited about being involved with these particular types of securities. So, with that, I would suggest and hope that you would suspend the rules and adopt these two provisions onto LB 377.

SENATOR LABEDZ: Senator Kristensen, on the suspension of the rules on LB 377.

SENATOR KRISTENSEN: Thank you, Madam President, and members, I am the principal sponsor of the underlying bill, LB 377, and I rise solely for the purpose to say that I have no objection to Senator Weihing and Senator Johnson bringing their amendments to the bill. In fact, I have signed off on these amendments and I would urge you to vote for the rule suspension. Thank you.

SENATOR LABEDZ: Senator Wesely. Thank you, Senator Wesely. Senator Johnson, there are no further lights, would you like to close on the rule suspension?

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LB 377

SENATOR R. JOHNSON: Madam Chair, I believe that Senator Conway has done an excellent job of explaining the amendment that incorporates two ideas that would be used as instruments of collateral for...that our institutions could use. The purpose of bringing the two together was to expedite the issue and, hopefully, move on more quickly today so that we can get to other matters. So I would ask that the rules be suspended so that we may consider this amendment and, hopefully, move on.

SENATOR LABEDZ: We're voting on the suspension of the rules on LB 377. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Madam President, on the suspension of Rule 7, Section 3(d).

SENATOR LABEDZ: The rules are suspended. Senator Johnson.

SENATOR R. JOHNSON: Madam Chair, I would just move the amendment.

SENATOR LABEDZ: The motion is to adopt Senator Rod Johnson's amendment. Is there any discussion? Senator Johnson, there are no lights, anything for closing?

SENATOR R. JOHNSON: Madam Chair, if no one has seen the amendment, the amendment has been distributed in case they would like to take a last look. But I think, as I said, Senators Weihsing, Kristensen and Conway have done an excellent job of explaining the purpose behind the amendment so I would just ask the body's approval for the amendment.

SENATOR LABEDZ: We're voting on the amendment to LB 377. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Madam President, on adoption of the amendment.

SENATOR LABEDZ: The amendment is adopted. Anything else, Mr. Clerk?

CLERK: Madam President, Senator Lynch would move to amend.

SENATOR LABEDZ: Senator Lynch.

SENATOR LYNCH: Madam President and members, I intend to withdraw this amendment but I just thought I should take a minute, a real minute, to explain what the purpose of this amendment was. Actually, the purpose of this amendment was to incorporate LB 529 which did have a hearing before the Banking and Insurance Committee on March 9th of this year. I know the amendment's been published in the Journal. I don't...can't remember the number of it. It's up there on the...no, it's not. But, in any case, since I'm withdrawing it, it's not that important, except to mention that the reason this amendment which would accomplish the same thing in purpose and in principle as the amendment you just adopted is not being considered is because of the, I think, respect for and the integrity of the system we have. Since this bill was not put out to the floor for consideration, because it waited in committee for amendments, we thought that it would be best interest of all of us to wait until next year, put it out of the committee with some priority early in the session for your consideration. But I did want you to know and I did want the record to reflect that this amendment would have accomplished, with LB 529, the same thing that we discussed on the other two and that was to offer flexibility...more flexibility for those people involved with the...with the investment of public funds so that we can take every advantage of those opportunities investment...investmentwise to and with and for the best interests of those public funds. With that, I will respectfully withdraw the amendment.

SENATOR LABEDZ: The amendment is withdrawn. Do you have anything else, Mr. Clerk?

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

SENATOR LABEDZ: Senator Lindsay.

SENATOR LINDSAY: Madam President, I move that LB 377 as amended be advanced to E & R for Engrossment.

SENATOR LABEDZ: The motion is to advance LB 377 to E & R. All those in favor say aye. Opposed. LB 377 is advanced. LB 258, Mr. Clerk.

CLERK: Madam President, the first item on 258 are Enrollment

May 19, 1989

LB 272A, 377, 429, 706

CLERK: (Began taking roll call vote.)

PRESIDENT: (Gavel.) The Clerk can't hear your response, let's hold it down, please.

CLERK: (Roll call vote taken. See pages 2572-73 of the Legislative Journal.) 8 ayes, 30 nays, Mr. President.

PRESIDENT: The amendment to the amendment fails. Do you have anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Your Enrolling Clerk has presented to the Governor bill read on Final Reading this morning, Mr. President. LB 377 is reported as correctly Engrossed. (See pages 2574-75 of the Legislative Journal.)

PRESIDENT: The call is raised.

CLERK: Communication from the Governor to the Clerk. (Read communication regarding LB 429. See page 2574 of the Journal.) And Senator Wesely would like to add his name to LB 706 as co-introducer. That's all that I have, Mr. President.

PRESIDENT: Senator Conway, do you have any words of wisdom about eating lunch?

SENATOR CONWAY: No. (Laughter.)

PRESIDENT: You don't? (Laughter.) I know it will stress and be a strain, but...

SENATOR CONWAY: I move we recess until one-thirty.

PRESIDENT: Okay, you've heard the motion. All in favor say aye. Opposed nay. We are recessed until one-thirty. Thank you.

RECESS

SPEAKER BARRETT PRESIDING

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

May 23, 1989

LB 75, 89, 89A, 147, 177, 177A, 272A
311, 362A, 377, 487, 487A
LR 224, 225, 226

SPEAKER BARRETT: LB 362A passes. LB 377.

ASSISTANT CLERK: (Read LB 377 on Final reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 377 become law? Those in favor vote aye, opposed nay. Have you all voted? Please record.

ASSISTANT CLERK: (Record vote read. See pages 2702-03 of the Legislative Journal.) The vote is: 48 ayes, 0 nays, 1 present and not voting, Mr. President.

SPEAKER BARRETT: LB 377 passes. Matters for the record, Mr. Clerk.

CLERK: Mr. President, your Enrolling Clerk has presented to the Governor bills read...some of the bills read on Final Reading this morning. (See page 2703 regarding LB 147, LB 487, LB 487A, LB 75, LB 89, LB 89A, LB 177 and LB 177A.)

Mr. President, LB 311 is reported correctly enrolled.

Mr. President, new resolutions. LB 224 by Senator Conway. (Read brief description of LR 224 as found on pages 2703-04 of the Legislative Journal.) LR 225 by Senator...by the Appropriations Committee. (Read brief description of LR 225 as found on pages 2704-06 of the Legislative Journal.) That will be laid over, Mr. President. LR 226 offered by Senators Pirsch, Beck, Hannibal, Ashford, Chizek, Hall, Labedz, Lynch, Abboud and Chambers. (Read brief description of LR 226 as found on pages 2706-07 of the Legislative Journal.) That, as well, will be laid over. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Directing your attention now to the agenda to LB 272AE which we moved over earlier in the day. Mr. Clerk.

CLERK: Mr. President, I have a motion to bracket LB 272A until May 24. That is offered by Senator Landis.

SPEAKER BARRETT: Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, this is the American Savings, State Securities,

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LB 272A, 311, 355, 355A, 357, 357A, 362
362A, 377

where others have not a lack of priority or a responsibility for this issue, but a higher priority elsewhere which is endangered if this bill passes. In a Legislature of Timmy Hall's I'd run this bill in a minute, but that's not the situation today and, frankly, I need to live to fight another day and that's why I make this motion. I move to bracket 272 (sic) until next year.

SPEAKER BARRETT: Thank you. You've heard the motion to bracket the bill until January 3 of 1990. Those in favor of the bracketing motion vote yes, those opposed vote no. Have you all voted? Please record.

ASSISTANT CLERK: 25 ayes, 21 nays to bracket the bill until January 3, 1990, Mr. President.

SPEAKER BARRETT: The bracketing motion is adopted. The bill is bracketed. While the Legislature is in session and capable of transacting business, I propose and I do sign LB 355 and LB 355A, LB 357 and LB 357A, LB 362 and LB 362A, LB 311 and LB 377. (See page 2707 of the Legislative Journal.) Anything for the record, Mr. Clerk?

ASSISTANT CLERK: I have nothing for the record, Mr. President.

SPEAKER BARRETT: Senator Hefner, please.

SENATOR HEFNER: Mr. President, I move that we recess till one-thirty.

SPEAKER BARRETT: You've heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Ayes have it, we are recessed until one-thirty.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated.) ...balcony, Senator Wehrbein has some guests. We have 40 fourth graders from Nebraska City, and their teachers. Would you folks please stand so we may welcome you to the Legislature? All of you students, please stand. Thank you for visiting us today. If you would start making your way to your seats, please, we would begin