

January 16, 1981

LR 5

Taiwan, and to answer Senator Wesely's question, is it going to make Red China unhappy? Are they going to call me or Senator Remmers naughty names for voting for it? I don't think so but they are going to be aware of the fact, they are going to be aware of the fact that this particular state which they have to rely on for agricultural products, too, isn't going to play the game of, we want to be your friend so we stab our old friend in the back. We will export grain to any of them and food, but not on terms of tit for tat, stab old friends for new friends. I urge you to support the resolution.

PRESIDENT: The question before the House is the adoption of LR 5. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 35 ayes, 3 nays on adoption of the resolution, Mr. President.

PRESIDENT: The motion carries. The resolution is adopted. Anything to be read in before we go into introduction of bills?

CLERK: Well one thing, Mr. President, your committee on Urban Affairs would like to have an executive session for Monday, January 19, 1981, upon adjournment.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit gives notice of public hearing in Room 1520 for Friday, January 30. (See page 199 of the Legislative Journal.)

PRESIDENT: We are ready then for agenda item #5, introduction of new bills. Mr. Clerk, you may proceed with the reading of the new bills to be introduced today.

CLERK: Read title to LR 229-233 as found on pages 198-200 of the Legislative Journal. Mr. President, in conjunction with that bill we have a communication from the Governor advising the Legislature as to the intent of the bill and the supplemental appropriations required by various state programs. That will be inserted in the Legislative Journal. (See pages 203-204.)

Read title to LR 233-246 as found on pages 200-203 of the Legislative Journal.

Mr. President, your committee on Public Works gives notice of hearing for January 30 and February 6 and that is signed by Senator Kremer as chairman.

CLERK: (Read record vote as found on pages 908-909 of the Legislative Journal.) 25 ayes, 9 nays, Mr. President, 15 not voting.

SPEAKER MARVEL: The motion carried. The bill is advanced. Are you ready for the next item? We are going to continue on Select File. What we are trying to do in the meantime between now and noon we hope to have the priority list as promised for you. So we hope that everybody who possible will stick with us until we adjourn. Go ahead.

CLERK: Mr. President, Revenue Committee will meet in executive session Tuesday, March 17, at one-thirty in Room 1520.

Your committee on Judiciary reports LB 126 to General File with amendments; 129 to General File with amendments; 228 to General File with amendments and 242 to General File with amendments. (See pages 909-913 of the Journal.)

Senator DeCamp would like to print amendments to LB 273 in the Journal. (See pages 913-194 of the Journal.)

Your committee on Revenue reports LB 486 to General File and 412 to General File with amendments. (See pages 914-916 of the Journal.)

Mr. President, a new resolution by Senator Fenger and others. (Read LB 37 as found on pages 916-917 of the Legislative Journal.) That will be laid over.

I have a report of registered lobbyists. Your Enrolling Clerk has presented certain bills to the Governor. (Re: 55, 114, 128, 217, 246, 279, 388, 434, 462. (See page 917 of the Journal.)

Your committee on Miscellaneous Subjects recommends approval of certain gubernatorial appointments. (See page 918 of the Journal.)

Mr. President, LB 500, there are E & R amendments to the bill. Mr. President, there are E & R amendments to LB 500.

SPEAKER MARVEL: Before we proceed with that I want to introduce some guests who are underneath the South balcony from Chadron State College, 6 students, Angie Kolar from Neligh, Jim Stewart from Omaha, Laura Larson from Wauneta, Casey Frye from Lander, Wyoming, Gene Mohr of Stratton, Rhonda Hernandez of Scottsbluff. They have ridden four hundred and thirty miles on bicycles. If you would like to talk to them or see their equipment it is in the rotunda after 1:00 p.m. We welcome you to the Unicameral. Senator Beutler.

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LB 242

SENATOR DWORAK: Record.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR DWORAK: LB 242.

CLERK: Mr. President, LB 242 was introduced by Senator Nichol. (Read title.) The bill was read on January 16, referred to Judiciary. The bill was advanced to General File. There are committee amendments pending by the Judiciary Committee, Mr. President.

SENATOR DWORAK: Senator Nichol, will you take the committee amendments?

SENATOR NICHOL: Mr. Chairman and members of the Legislature, LB 242 provides for the payment by counties to the state for custody and maintenance of county prisoners in facilities under the jurisdiction of the Department of Correctional Services. The committee amendment harmonizes language by changing a reference from "The Nebraska Penal and Correctional Complex", to "any institution under the jurisdiction of the Department of Correctional Services". I move for the adoption of the committee amendment.

SENATOR DWORAK: Senator Wesely, do you wish to speak on the committee amendments? The motion is to adopt the committee amendments. All those in favor of adopting the committee amendments cast your vote. We are voting on the committee amendments to LB 242. Will you please vote.

CLERK: Senator Dworak voting aye.

SENATOR DWORAK: We could expedite this process if we'd vote. Record.

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

SENATOR DWORAK: The committee amendments are adopted. I recognize Senator Nichol to explain the bill.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, at the present time there is no clear statutory language regarding the payment to the state by the county for the safekeeping of county prisoners. There is specified statutory language regarding payment by the state to the county for the keeping of the state prisoners. This bill merely provides that the counties shall pay the state the same

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LB 242, 494

amount as the state is required to pay to the county. This bill would eliminate the current problem with the Nebraska Penal and Corrections Complex charging \$50 a day for keeping of prisoners. Currently the counties can charge the state \$3 a day, which the state could charge for keeping their prisoners. Mr. Chairman, I move for the advancement of LB 242.

SENATOR DWORAK: Motion is to advance LB 242 as amended.

CLERK: Senator Dworak voting aye.

SENATOR DWORAK: Record.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR DWORAK: The bill is advanced to E & R Initial. Clerk, read LB 494.

CLERK: Mr. President, LB 494 introduced by the Business and Labor Committee and signed by its members. (Read title.) The bill was read on January 20, referred to the Business and Labor. It was advanced to General File. There are committee amendments pending by the Business and Labor Committee.

SENATOR DWORAK: The Chair recognizes Senator Maresh to explain the committee amendments.

SENATOR MARESH: Mr. Chairman, the original bill would have stricken the section where automatic shutoff is required even if....a manual shutoff is required even if there is an automatic shutoff according to the ANSSC Code which was adopted by the State of Nebraska, and the original bill struck the whole section but because Mr. Talcott appeared before the committee and thought that we should include those that don't have an automatic switch should have these manual switches, we adopted the committee amendments and we feel that this is a good approach to keep this for those elevators below 25 feet because those are not covered by the ANSSC Code. So I move that the committee amendment be adopted.

SENATOR DWORAK: With that explanation, the motion is to advance LB 494....the amendments to LB 494, adopt the amendments to 494.

CLERK: Senator Dworak voting aye.

SENATOR DWORAK: Please vote on the committee amendments

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LR 86
LB 209, 242, 95A, 400

CLERK: 27 ayes, 12 nays, Mr. President, on the motion to indefinitely postpone the bill.

SPEAKER MARVEL: The motion is carried. The bill is indefinitely postponed.

CLERK: Mr. President, Senator Nichol would like to print amendments to LB 242.

A new study resolution, LR 86 (read).

Mr. President, a new A bill, LB 95A. (Read title.)

SPEAKER MARVEL: Okay, the next bill, LB 400.

CLERK: Mr. President, LB 400 (read title). The bill was read on January 20, referred to the Public Works Committee for hearing. The bill was advanced to General File. There are committee amendments pending by the Public Works Committee, Mr. President.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, LB 400, I would like to explain the bill. LB 400 is a bill which is designed to use excess power which is available in the State of Nebraska, excess power which is now shipped to other states to be used by and sold to other utilities in other areas. This bill would make this power available to irrigators in the State of Nebraska at the same price that's been used in other states. Now a number of utilities have had a number of meetings in regard to this bill. Much of the concern about the bill stems from the fact that they think their particular utility or their class of utilities may be harmed by the bill, that they may be picking up more than their share of the cost. Repeatedly from the first introduction of this bill, I have assured the people that this is not the intent of the bill. We are building in all of the safeguards possible so that does not happen. The only thing that is to happen is to make the excess power available to these users in the State of Nebraska at the same price it is being used in other states by other utilities. The most recent meeting in regard to this bill was yesterday morning when a number of utility persons met to discuss the bill. Their suggestion was that the bill be held over until next year to give them time to work out the contractual arrangements in regard to the bill. My first inclination is not to go along with their thinking because I think the bill is necessary and could be passed on the floor of this Legislature. However, these people

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LB 70, 163, 172, 184, 242, 250,
285, 302, 310, 324, 369, 375, 494,
497, 527, 557, 558, 559, 560, 561, 562.

aye, opposed vote no. Have you all voted? Senator Burrows.

SENATOR BURROWS: I would like a Call of the House and a roll call vote.

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

CLERK: 16 ayes, 1 nay to go under Call, Mr. President.

SPEAKER MARVEL: The Legislature is under Call. Please return to your seats. Record your presence. Senator Burrows, do you want to record....Senator Kahle, Senator Hefner, Senator Goodrich, Senator Wagner, Senator Landis, Senator Newell, Senator Chambers, Senator Pirsch, Senator Labedz, Senator Higgins. While we are waiting, under the north balcony Mr. Jack Fletcher and his son, Monte, Jack is a former resident of Lincoln County, Nebraska, and now lives in Upland, California, and they are guests and friends of Myron Rumery. And from Senator Remmers' District, 14 students from Tablerock, Nebraska, Mrs. Griffith, teacher. Should be in the north balcony. Are they?

CLERK: Mr. President, while we are waiting, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 163 and find the same correctly engrossed, 557, 558, 559 and 560, 561, 562, all correctly engrossed. (Signed) Senator Kilgarin. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 242 and recommend that same be placed on Select File, 494 Select File with amendments, 369 Select File, 310 Select File with amendments, 497 Select File with amendments, 250 Select File, 302 Select File with amendments, 70 Select File with amendments, 285 Select File with amendments, 324 Select File with amendments. (See pages 1771 through 1773 of the Legislative Journal.) Mr. President, Senator Schmit, Kremer, Chronister and VonMinden move to place LB 375 and 377 on General File pursuant to Rule 3, Section 18(b). Senator Carsten would like to print amendments to LB 172, and Senator Lamb to LB 285. (See pages 1769 through 1771 of the Legislative Journal.)

SPEAKER MARVEL: Senator Labedz, Senator Higgins, Senator Chambers, Senator Goodrich. Senator Burrows, do you want to start the roll call? We have four that still are unaccounted for.

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LB 321, 242, 494

SENATOR CLARK: Senator Koch.

SENATOR KOCH: I move to advance to E & R final as amended.

SENATOR CLARK: You have heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 242.

CLERK: Mr. President, LB 242, I have no E & R amendments but I do have an amendment from Senator Nichol to the bill, Mr. President.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Clerk, would you read that amendment?

CLERK: It is on page 1759, Senator.

SENATOR NICHOL: Yes, what does it say? It says something about....

CLERK: It is two pages long, Senator. The new language is...

SENATOR NICHOL: No, no, no, oh, yes, the new language just... what does that say?

CLERK: The county sheriff or the county Board of Corrections...

SENATOR NICHOL: Yes, Mr. Chairman, the only thing this does in some counties, namely Lancaster and Douglas, they have a commission or a committee, whatever it calls that that handles the money and this just includes them in the bill so that they can act in the same capacity that a sheriff acts in other counties. I move for the adoption of the amendment.

SENATOR CLARK: Is there any discussion on Senator Nichol's amendment? If not, all those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 0 nays on adoption of Senator Nichol's amendment.

SENATOR CLARK: The amendment is adopted. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I move for the advancement of the bill.

SENATOR NICHOL: The motion before the House is the advancement of LB 242. All those in favor say aye, opposed. The bill is advanced. LB 494.

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LB 12, 172, 242, 302, 321,
344, 376, 411, 488, 494

SPEAKER MARVEL: The House is under Call. All legislators should be in their seats and record your presence. Senator Burrows, will you record your presence? Senator Koch, will you record your presence? Senator Schmit, will you record your presence? Senator Remmers. Mr. Sergeant at Arms, we have two excused and we need to find Senator Schmit. After we have completed this activity, will you please remain. We have an announcement to make. Senator Newell, are you ready for the roll call. Do you want a roll call vote? Okay, call the roll.

CLERK: (Roll call vote taken. See page 2313, Legislative Journal.) 23 ayes, 25 nays, Mr. President.

SPEAKER MARVEL: The motion lost. May I have the attention of the Legislature for just a moment. I would like to read a statement. "The Governor has notified us that he will act on all legislation by Friday, May 29th. Through the Governor's cooperation in taking this prompt action, it will enable us to meet on Friday, May 29, 1981, and adjourn sine die that day." It is now my recommendation that we continue with our original calendar and meet this Friday and adjourn that date sine die. I believe this accommodates most of the members desires. However, please understand that all bills not correctly engrossed at the start of business today, the 88th Day, cannot be considered on Final Reading until the final date, the 90th Day. This proposal allows us to accomplish all goals set forth for this legislative session. If you have questions, I would suggest that you talk either to Senator Lamb or to Mr. O'Donnell. Do you have something you wish to read in?

CLERK: Yes, sir. Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 172 and find the same correctly engrossed; 242, 302, 321, 344, 411, 488, and 494 all correctly engrossed. (Signed) Senator Kilgarin.

Mr. President, I have an Attorney General's opinion addressed to Senator Lamb regarding LB 376.

SPEAKER MARVEL: Underneath the South balcony, it is my privilege to introduce as a guest of Senator Jim Goll his daughter visiting from San Francisco, Mrs. Sarah Goll Haskell. Where are you located? Will you please stand up so we can see where you are? Welcome to the Unicameral. What is the next order of business, Mr. Clerk?

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LB 95, 95A, 172, 242

All members will return to your desks. As soon as everybody is at their desk we will commence with the reading of LB 95.

CLERK: Mr. President, I have a report of registered lobbyists for the week of May 22 through May 28. (See pages 2389-2390 of the Legislative Journal.)

PRESIDENT: I think we are about ready. I think we can begin, Mr. Clerk. All right, we will proceed then, Final Reading, LB 95, Mr. Clerk.

CLERK: (Read LB 95 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 95 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 2390 of the Legislative Journal.) 37 ayes, 11 nays, 1 present and not voting, Mr. President.

PRESIDENT: LB 95 passes. Next bill on Final Reading is LB 95A, Mr. Clerk.

CLERK: (Read LB 95A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 95A pass. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 2391 of the Legislative Journal.) 38 ayes, 8 nays, 3 present and not voting, Mr. President.

PRESIDENT: LB 95A passes. I might just announce that the Speaker is, at the request of Senator Nichol and others, the Speaker has taken off of Final Reading, 242 which occurs a few bills down so you might want to make a note on your agenda. 242 will not be read on Final Reading today. The next bill on Final Reading, Mr. Clerk, is LB 172.

CLERK: (Read LB 172 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 172 pass. All those in favor vote aye, opposed nay. Record the vote.

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LB 127, 242

LR 316, 317

PRESIDENT LUEDKE PRESIDING

PRESIDENT: The prayer will be offered by Rev. Peter Ave-Lallemant of the Lutheran Church of the Atonement in Omaha.

PRAYER: (Rev. Ave-Lallemant.)

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

CLERK: Quorum present, Mr. President.

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

CLERK: One minor one, Mr. President, on page 1661 after line 10, add the heading "Select File".

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

CLERK: Mr. President, Senator Labedz would like to print amendments to 242 in the Journal.

LR 316 calls for a study, it is offered by Senator Koch, I'm sorry, it is not a study resolution it is a Resolution offered by Senator Koch. (Read LR 316.) That will be laid over, Mr. President. LR 317 offered by Senators Johnson, Landis, Haberman, Kilgarin, Kahle, Chambers, Goll. (Read LR 317). That will be referred to the Board.

PRESIDENT: In order to wake everybody up and get the day started right, the Chair would like to wish Senator Martin Kahle happy birthday, and we are not going to say how old you are, they can guess, Martin. Happy birthday. If the Sergeant at Arms will secure the Chamber we are ready to go onto agenda item number four, Final Reading. So, everyone else will leave the floor and all the members will please return to your desks. We will be ready for Final Reading as soon as you do so. Is everyone ready? Let's commence with Final Reading and get the day started. Okay, are we ready? Everyone? Ready for the first bill on final Reading, Mr. Clerk, LB 127.

ASSISTANT CLERK: (Read LB 127.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 127 pass. All those in favor vote aye, opposed nay. Record the vote.

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LB 520, 242

suspension of the rules? Once more, have you all voted? Record the vote. Senator DeCamp.

SENATOR DeCAMP: Mr. President, it is theoretically possible and so I'd ask to have a Call of the House.

SENATOR CLARK: I think the House is still under Call. Everyone can check in, please. We have two excused, Burrows and Marvel. Have you all checked in, please? Regardless of how it comes out, there will be no further debate on the bill. Senator Labedz checked in. Senator Chambers is not here and Senator Labedz is just now checking in. That is all we have except Senator Chambers. Did you want to take a roll call or what did you want? A roll call has been asked for. We must have quiet up here so we can hear, please. The noise is terrific. Call the roll.

CLERK: (Read roll call vote as found on page 1892 of the Legislative Journal.) 23 ayes, 21 nays, Mr. President.

SENATOR CLARK: The motion failed. The time is out on the bill. We come to LB 242. The Call is raised.

CLERK: On 242 the first motion I have is one from Senator Labedz and Nichol to return 242 to Select File for a specific amendment. The amendment is on page 1668.

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Mr. President, I don't know the procedure but evidently I am going to need 30 votes. I'm gutting LB 242 and amending it with LB 824 which is the studded snow tire bill. I'm assuming then I will need 30 votes.

SENATOR CLARK: You are right.

SENATOR LABEDZ: Thank you very much.

SENATOR CLARK: You can vote to suspend the rules if you like.

SENATOR LABEDZ: I move to suspend the rules and add...just to suspend the rules.

SENATOR CLARK: Suspend the rules and to insert your amendment.

SENATOR LABEDZ: Yes. I'm not going to go into detail and explain the bill at this time. Everyone knows what I am trying to do and I would rather not use up fifteen minutes

because I know there is many motions. So I move to suspend the rules and hopefully we'll get 30 votes.

SENATOR CLARK: The question before the House is the suspension of the rules to insert her amendment. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I really hope that you will listen on this motion and I really hope that we'll have a debate on this before we send it back because if there is any bill that is potentially destructive to the State of Nebraska, to the highways of the State of Nebraska. There is no bill that is coming before you this year that has a higher price tag than this one. And it is a bill that is deserving of a great deal of debate, of a great deal of thought and you should be very, very careful before you reinstate studded snow tires. Let me remind you that this bill did not get out of Public Works in the first instance, that the Public Works Committee sat through hearings, sat through Senator Labedz's expert who came in, sat through the Department of Roads testimony and when all was said and done the majority of the Public Works Committee felt that the cost of studded snow tires and the negative safety effect of studded snow tires require that the bill be kept in committee. This bill was raised out of committee onto General File with little or almost no debate on the substance of the matter and now it is being attached to a bill on Final Reading. So what is happening is that perhaps the most important bill of this session did not get out of Public Works, had almost no debate on General File, in fact it had no debate on the substance of the bill. The only debate was on the motion to raise from committee which was an abbreviated debate and which had no debate on the substance and now if we adopt this today, there will be no opportunity to amend it because tomorrow an amendment kills the bill. So there will be no opportunity to amend tomorrow. So I hope at the very least we have a long and worthwhile debate and if necessary, amend this bill several times, hopefully put it off until next year. Let me tell you an amendment that I am willing to offer which I think is a reasonable compromise to this whole situation and that is an amendment to extend the cutoff date on studded snow tires from this year until next year. That will have the effect of giving Senator Labedz a victory in the sense that the ban will not take effect this year. She can come in next year with a new bill. We can argue it on all three stages of debate and refine it and believe me, the bill is in need of great refinement in terms of the time period, in terms of who is paying for the studded snow tires to the cost to the highways, the damage to the highways, in terms of the type of snow tires that can be used, the type of studs that can be

used. The testimony before the Public Works Committee is that some types of studs are much more damaging than others and we should pay attention to that in drafting the legislation. In short, what I am saying is that the compromise amendment which will be offered will have the effect of serving Senator Labedz's purpose for this year and next year we can have a good debate on this measure. I think we owe it to the public. The fiscal note on this bill was \$35 million, \$35 million fiscal note, and let me tell you, in examining where they came up with those costs, that is no exaggeration. That is a distinct possibility. When we heard this bill before the Public Works...

SENATOR CLARK: You have one minute.

SENATOR BEUTLER: ...Committee, Senator Labedz's own expert on damage did not deny that there was terrific damage to the highways. His only point was that some types of studs do more damage than others but the point is, regardless of the types of studs that you are using, there is a tremendous wear and tear on the highways and we owe it to the public to thoroughly debate and examine that situation before we just go ahead and undo the action that we...the legislation that we enacted a year ago, before we do a 100% turnaround and turn loose studded snow tires on the streets again. Thank you.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I'll be brief. Senator Beutler, I just want to correct you on one thing. You said this had never been debated before. I hate to bring it up again but it was debated. Do you remember the date that we talked about Senator Labedz coming here with unclean hands? We debated it quite lengthy that day. Senator Beutler speaks about studded tires as if they were some kind of a monster that was going to eat all of us up and let's look at the exceptions to the rule. Handicapped are allowed studded tires. Are you to say a woman that is driving in the morning and taking a station wagon full of children to school, those children aren't as entitled to the safety factor of studded tires as a handicapped person? Doctors who are exempt? They can have studded snow tires. I mean if it is good for the rest of them, it should be good for all of us. I'll yield the rest of my time to Senator Labedz.

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I would like to state here on the balance of Senator Higgins' time, I didn't want to bring all this up when I first opened because in the

interest of time and the other motions that are up there pending, but in this amendment I am shortening the time two months. In other words it is going to be from...right now it is October 1 until April 15. In two days they will be illegal if this bill doesn't pass. If Senator Beutler thinks that there should be a fee and I think that is what he is talking about, then he can come in in January and introduce a bill to charge the fee. Right now the only thing I am doing in the amendment is to bring back studded snow tires, make them legal and to shorten the time from six and a half months to four and a half months and I think that is being very reasonable because before it went all the way to April 16th and now we're going to have March 15th and November 1st instead of October 1st so we are shortening it two months. He mentioned the \$35 million or \$33 million, whatever it is, but I want to assure you that there is also road damage caused by salt, other chemicals, heavy trucks, poor road design, inferior materials and improper road construction. All that is included in that \$33 million. It's strictly not just studded snow tires. It seems like every time we talk about road damage we bring up the snow tires and I believe, and I'm sure that most of you will realize, that there are other reasons why we have road damage now and if I did say, and I will admit there is some, but not as much as Senator Beutler has talked about. The studded snow tires that are distributed now in the United States in 1982 is much less abrasive than the tire studs that were manufactured and marketed when studs first became popular in 1970. The control protusion studs sold by tire dealers today causes from one-half to two-thirds less road wear than the older stud designs and these new studs give the same good performance in braking and traction. Now I passed out two or three editorials from newspapers. Now I'm not just talking about Omaha. I received over two hundred and some letters plus telephone calls and they came from all over the state. I would say I have two or three from my district. So we're not just talking about Omaha. We're talking about country roads and I said all this the last time I spoke so he can't say that there wasn't any debate at that time. I urge you to suspend the rules, give me the 30 votes necessary to adopt LB 242 as an amended LB 824 which was my original studded snow tire bill. Thank you very much.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Question.

SENATOR CLARK: The question has been called for. Do I see five hands? Senator Beutler, for what purpose do you arise?

SENATOR BEUTLER: Mr. Speaker, I would like to object to the calling of the question and ask that the Speaker extend the debate on the basis that there has not been a full and fair debate of the subject.

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LB 242

SENATOR CLARK: Well I would have to agree to that. There is only one on one side and two or three on the other. If you want to vote on the question, let's vote on the question. Those in favor of ceasing debate vote aye, opposed vote no.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted on ceasing debate? Once more, have you all voted on ceasing debate? Record the vote. Senator Labedz.

SENATOR LABEDZ: How many more minutes do we have of the fifteen minutes?

SENATOR CLARK: About three minutes.

SENATOR LABEDZ: Don't I get a chance to close after the fifteen minutes?

SENATOR CLARK: No, not after fifteen minutes. We'll vote it up or down at that time.

SENATOR LABEDZ: Okay, can I close now?

SENATOR CLARK: No, you're not up now. Senator Beutler is up.

CLERK: 20 ayes, 11 nays to cease debate, Mr. President.

SENATOR CLARK: Debate does not cease. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, let me make a few more quick points, if I may. This bill is terribly important. There are no studies to my knowledge, no studies done, no studies presented to the Public Works Committee indicating that studs do little or no damage. There is just no question about it. Now when you start talking about repairing that \$35 million that is going into repairing existing roads, give some thought to your highways out in your particular districts. Give some thought to the potholes that could be repaired in your highways with that \$35 million. Give some thought to the dangerous gravel roads in your area that could be repaired with that \$35 million and ask yourself the question, how can that \$35 million get us the most safety. Wouldn't it be better used, wouldn't we get more safety filling in the potholes and the defects in our existing streets and paving over some of the gravel streets, spending the money for that than for repairing roads because of studded snow tires? If

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LB 242

we don't use funds, it is going to be syphoning off funds to repair roads that already we don't have enough money to repair and if that is not the case, if we're going to add on additional gas taxes to repair roads, then that, I suggest to you, is not a very good alternative either.

SENATOR CLARK: You have one minute left.

SENATOR BEUTLER: But I wanted to get to the question of the net safety effect of studded snow tires. Sometimes it is perceived that studded snow tires are completely, are much safer and that the only question is safety versus the cost but the fact is that the Department of Roads and the federal government and most everybody who claims to be an expert in the area has indicated that there is no net safety effect, that is considering all conditions, all road conditions all times of year that having the studded snow tires on is less safe than having your regular tires on. Now it is obviously true and nobody objects or nobody questions the fact that studded tires are safer on glare ice. For those few days of the year when there are glare ice conditions the studded tires are better but for those many, many other days of the winter when there is no glare ice...

SENATOR CLARK: Your time is up, Senator Beutler.

SENATOR BEUTLER: ...then the studded snow tires are not safer, in fact, it is harder to stop and they are less safe and I would like to speak again, Mr. Speaker.

SENATOR CLARK: There is no speaking again. The time is up on the bill.

SENATOR BEUTLER: Mr. Speaker, I would like to speak again. I don't think you can talk to the...(interruption.)

SENATOR CLARK: No, the time is up on the bill. The fifteen minutes is up on the bill.

SENATOR BEUTLER: Mr. Speaker, there is nothing in our rules that can cut off debate in fifteen minutes.

SENATOR CLARK: The Speaker did it. I didn't do it. There is fifteen minutes on each one of these motions.

SENATOR BEUTLER: Mr. Speaker, the prerogative of the Speaker is to pass over the bill at fifteen minutes but debate cannot be cut off in fifteen minutes. We have no such cloture rule.

SENATOR CLARK: This is exactly what we have been doing on

all these motions, Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, that may well be the case when nobody objects but when somebody objects the rules of the Legislature have to be followed.

SENATOR CLARK: The Speaker set the order. I didn't set the order.

SENATOR BEUTLER: The Speaker has no prerogative. There is nothing in our rules that gives the Speaker the prerogative to set a time limit on any particular bill except to take it off the agenda if he so chooses which is fine.

SENATOR CLARK: We'll continue the way it is. What we are going to do is vote on the suspension of the rules first, no debate. Then we're going to vote on the return and then the amendment and then to readvance but they all must pass. So the question before the House is the suspension of the rules. To what question?

SENATOR BEUTLER: I have a right to speak again, Mr. Speaker, or if you're following the fifteen minute rule and the fifteen minutes has expired it should be taken off the agenda.

SENATOR CLARK: Well...Senator Lamb.

SENATOR BEUTLER: It's the first time it has been objected to. We have no...

SENATOR LAMB: Mr. President, I'll move that the rule, whatever rule it is, be suspended and that the fifteen minute rule that we have been following today be invoked and no debate. Let's just vote on it, whether you want this fifteen minute rule that we have been following to be in effect or not is the issue. Senator Beutler has raised the question. He does not want to go along with the situation that we have this afternoon and he is correct. There is no provision in the rule that I can limit debate but I would ask at this time to be upheld by suspending whatever rule it is there, Pat, so that the fifteen minute rule can be resolved.

SENATOR CLARK: All right, that is fine. Now I'd like to explain to you what you are doing. What you are going to do if you will be quiet for just a moment, please, what you are going to do is to vote on suspension of the rules so we can take up the fifteen minute rule, whether it is going to be upheld or not. We have fourteen more motions up here to return bills, sixteen, pardon me. So that is what you are voting on, it is to whether you want to take up the fifteen minutes or not. It is debatable. Senator Cullan.

SENATOR CULLAN: I just wanted to know whether Senator Lamb's motion is debatable itself.

SENATOR CLARK: Yes, it is.

SENATOR CULLAN: Okay, I yield my time to Senator Beutler.

SENATOR CLARK: All we're on right now is the suspension of the rules to take up the fifteen minute rule that he had put into effect. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I'm not trying to be obnoxious, I'm really not, but you realize that if you adopt this rule, you have adopted a fifteen minute cloture rule and you will have adopted it on the most important bill of the session in terms of the financial impact on the State of Nebraska and you will have adopted it on a bill that did not have a discussion on General File except on the motion to raise from committee, which did not have a discussion on Select File, which is being amended on Final Reading and which we will not have a chance to amend again this session. If you really want a fifteen minute cloture rule, I guess you should go ahead and suspend the rules but I think it is a terrible policy especially in this instance. Thank you.

SENATOR CLARK: Senator Kahle. There is no use in your holding your hands up because I'm going to call on you in the order that I have them up here.

SENATOR KAHLE: Mr. President, members, I think this is a poor time for us to bog down. I think the Speaker is right that we should vote the bills up or down in fifteen minutes. There are a lot of bills down there on Select File that I'd like to see move yet this evening and we have all these other motions which is a game we're playing and it is not going to resolve anything. But we're going to kill the Legislature, whatever there is left of it, if you don't follow the Speaker's orders. Thank you.

SENATOR CLARK: I think you can forget about Select File. We don't have that much time. Senator Higgins.

SENATOR HIGGINS: Mr. President, I'd just like to point out, we've had nine motions today that we have debated and this is the first time that Senator Beutler has said, let's not go with the fifteen minute limit. My question is, is he against the fifteen minute limit as he stands there and talks about rules and procedures or is he against studded snow tires or is he against Senator Labeledz? Now the last time we debated this he said Senator Labeledz came to this

chamber with unclean hands and later he said, well I didn't really mean it that way. So I am having to question now Senator Beutler's reason for objecting to the process we've been following all afternoon. And he's had about twenty-two points of personal privilege today and the fifteen minutes that we've had on every motion, about fourteen minutes of it has been used by Chris Beutler on everybody's motion. Now there has to be a time when fifteen minutes is given evenly to this entire body and not 100% to one senator and that is what I am objecting to. Thank you, Senator.

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: I'd call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? Yes. Yes, who wants a point of personal privilege? I didn't hear it. Senator Beutler, what is your point of personal privilege? State it to the Chair.

SENATOR BEUTLER: Mr. Speaker, I wish to make quite clear that I have nothing against Senator Labedz and I think she knows that. But I really resent the fact of the suggestion that I do and, Senator Higgins, you of all people, you who dislike Senator Kahle's kibitzing, surely you can refrain from that too. Thank you.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: I would just like to point out in my previous statement, I did not accuse Senator Beutler of being against Senator Labedz. I posed the question of why today, at this late hour, almost eight-thirty, for the first time today he argued the fifteen minute limitation and I said, is it because he is against studed tires, is it because he is against Senator Labedz or is it because he just wants to keep talking, but I did not infer that it was Senator Labedz and as long as Senator Beutler is going to have a point of personal privilege all night, Senator Higgins is going to have one. Thank you.

SENATOR CLARK: The question before the House at the present time if we can do it without any more points of personal privilege, is the question has been called. Shall debate now cease? Do I see five hands? I do. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

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CLERK: 25 ayes, 13 nays, Mr. President, to cease debate.

SENATOR CLARK: Debate is ceased. Senator Lamb, do you wish to close?

SENATOR LAMB: No closing, Mr. President.

SENATOR CLARK: The question before the House then, suspension of the rule in order to take up the fifteen minute ruling that he has made. All those in favor vote aye, opposed nay. Suspension of the rules. It takes 30 votes.

SENATOR LABEDZ: ...(Mike not turned on.) ...fifteen minute debate on my motion?

SENATOR CLARK: On any motion.

SENATOR LABEDZ: Oh.

SENATOR CLARK: If this does not pass, then we'll take the fifteen minute rule off and you can have all the time you want on one bill. That ought to really get some order. Have you all voted? Senator Haberman, for what purpose do you arise?

SENATOR HABERMAN: A point of personal privilege, a point of order or a question of the Chair.

SENATOR CLARK: In that order?

SENATOR HABERMAN: Well I wanted to be sure that I got to ask my question.

SENATOR CLARK: State your question.

SENATOR HABERMAN: Would you please explain to me why at this time we're voting to whether we have a fifteen minute cloture or not when we've been doing it all day?

SENATOR CLARK: Well because Senator Beutler asked that. Senator Beutler asked to do it. So Senator Lamb said suspend the rules so we can have the fifteen minutes on each bill. He evidently does not want fifteen minutes on each bill. That is what it is for. Now if you don't want to vote for Senator Lamb to suspend the rules, don't vote. How many people are excused? Two excused. There is five votes out.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Senator Lamb, I'm going to call the....

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SENATOR LAMB: Mr. President, I'd ask that everyone check in and have a roll call.

SENATOR CLARK: All right. The House is under Call, if everyone will check in, please. If everyone will get into the desk please or get on them or around them or something. Everyone will be at their desk, please. If we don't get into our desks we can't have any order at all. Would you please return to your desks. Senator Higgins, for what purpose do you arise?

SENATOR HIGGINS: I'd like a point of clarification so that I'm sure what we are voting on. If we vote red on this, then we're voting to do away with the fifteen minute limit on all motions.

SENATOR CLARK: That is really what you are doing.

SENATOR HIGGINS: So the next motion up can be debated for two hours, three hours, however long anybody wants? Is that the correct way?

SENATOR CLARK: Well up until midnight. Up until midnight.

SENATOR HIGGINS: All right, so if we vote red we're saying all future motions there is no limit on debate, so maybe only one more motion will be heard tonight.

SENATOR CLARK: Well it may just be this one bill heard tonight, yes.

SENATOR HIGGINS: Thank you, I appreciate it.

SENATOR CLARK: All right, we'll have a roll call. The Clerk will call the roll.

CLERK: (Read roll call vote as found on page 1893 of the Legislative Journal.) 31 ayes, 13 nays, Mr. President.

SENATOR CLARK: The rules are suspended. Now we will take up the fifteen minutes. Senator Lamb, do you want to take up the fifteen minutes? Do you want to instill that?

SENATOR LAMB: We still have fifteen minutes on this bill.

SENATOR CLARK: What?

SENATOR LAMB: I mean the fifteen minutes is about up on this bill.

SENATOR CLARK: It is up on the bill but we're going to vote on it.

10806

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SENATOR LAMB: Vote.

SENATOR CLARK: Senator Beutler, for what purpose do you arise? Time is up on the bill. We're going to vote on it now to suspend the rules for the bill.

SENATOR BEUTLER: Did we just vote on it prospectively or did we vote in the past? It was up...the last bill was....

SENATOR CLARK: The way we've been doing it is after the time is up we vote on the bill without any debate.

SENATOR BEUTLER: Mr. Speaker, I just wanted to clarify what we, in fact, voted on just then, please. It seems to me that we voted on the prospective application of the fifteen minute rule. We did not vote on the retroactive application of the fifteen minute rule. Could the Clerk clarify that?

SENATOR CLARK: I will give her another fifteen minutes on the bill. Does that satisfy you? Will that satisfy you, that we'll give her fifteen minutes more on the bill and not make it retroactive?

SENATOR BEUTLER: Well all I want to do is go by whatever we decided. If it is retroactive, fine, then let's vote on it, on the motion to suspend. If it's not retroactive, then her time is up and we should pass to the next bill. I'm just asking, what did we vote on?

SENATOR CLARK: Senator Lamb, do you want to clarify it?

SENATOR LAMB: Mr. President, members of the Legislature, it is my understanding that we voted to limit it to fifteen minutes on this bill and all subsequent bills and I ask that the vote be taken on the bill at this point.

SENATOR BEUTLER: Okay, fine.

SENATOR CLARK: All right, there will be no more debate. Right now we will vote on the suspension of the rules for Senator Labedz. It takes 30 votes to suspend. All those in favor vote aye, opposed vote nay. Have you all voted? One more time, have you all voted? Record the vote.

SENATOR LABEDZ: (Mike not turned on immediately.) ...have everyone check in and a roll call vote. We'll take call ins.

SENATOR CLARK: A roll call vote has been asked for. Will everyone check in please. I'll bet you can all check in without me calling your names. I'm only betting a nickel though. The Clerk will call the roll.

10807

CLERK: (Began roll call vote.)

SENATOR CLARK: There is no way we can hear up here with all this noise going on.

CLERK: (Continued roll call vote as found on page 1894 of the Legislative Journal.) 25 ayes, 18 nays, Mr. President, on Senator Labedz's motion to suspend the rule.

SENATOR CLARK: The motion lost. Go to the next bill. The next one is 799. Senator Lamb. Senator Lamb, are you taking fifteen minutes on every motion or just on the bill? I understood it was just on the bill. Otherwise we have ten motions up here and it would take an hour and a half. All right, we will take 799 then. Yes, state your point.

SENATOR WIITALA: Could the Clerk list the motions, the bills that motions have been made on?

SENATOR CLARK: Pardon?

SENATOR WIITALA: Since we really don't have it on our agenda could we list all of the bills that motions are....?

SENATOR CLARK: I don't know whether it has been handed out or not, has it, Mr. Clerk? We'll get you a motion on it. I could give them to you. Until it comes back I'll give you the first four or five.

SENATOR WIITALA: Thank you.

SENATOR CLARK: 799...if you want to listen and write these down, you can. LB 799, 799A, 757, 933, 602, 924, 255, 255A, 242, 412, 488, 412, 568 and I'm surprised that someone hasn't hollered bingo at this time. Senator Goll, for what purpose do you arise?

SENATOR GOLL: Are the amendments all printed on all of these? Where can we look these up?

SENATOR CLARK: No, they are not printed. These all came in later. I hope they would be passed out. Senator Nichol, for what purpose do you rise?

SENATOR NICHOL: Mr. Chairman, I noticed that we've just gone through some of these bills, spent our fifteen minutes on amendments, okayed or turned them down, advanced the bills. Now we're starting all over again I understand on these just for motions? Is this correct?

SENATOR CLARK: These are motions up here. I have no....

SENATOR NICHOL: I know but what my question is we just got through with some of these bills (interruption.)

SENATOR CLARK: That may be but you can return a bill at any time, anyone...

SENATOR NICHOL: Okay, now I want to know this because I'm going to pull something I've never pulled in my life. If we're going to continue over these same things over and over, then I'm going to start putting on amendments. I have nothing further to lose. So I just want to clear the air as to whether we're going to keep going over these same things again and again.

SENATOR CLARK: Well, Senator Nichol, are you worried about 568?

SENATOR NICHOL: Yes, that is just for an example.

SENATOR CLARK: That is the last bill. If we get to that thing I'm going to be the most surprised person here.

SENATOR NICHOL: Well, is that going to be the play though, the game from now on, because we just got through with that a few minutes ago...

SENATOR CLARK: Senator Nichol, I don't play their games. Everyone is playing a game in here. My only purpose up here is to try to keep the games straight and I am attempting to do that but it is getting harder and harder to do.

SENATOR NICHOL: I don't mean to give you a hard time at all because I appreciate your position. I just wanted to know what we're going to do.

SENATOR CLARK: I don't know what we are going to do and if anybody does I'd like to know who it is. Senator Chambers, for what purpose do you arise?

SENATOR CHAMBERS: Mr. Croupier, I would just like to comment on these that are coming up now. The bill may have been considered but there were motions on these bills which, in fact, were not considered because the fifteen minutes ran out. So it won't be a repeat of the same motion.

SENATOR CLARK: Senator Vickers, did you have a little something you wanted to say? Is there any more orators in the crowd? If not, we will continue. Put another orator over here. Senator Hefner.

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LB 242

SENATOR HEFNER: Mr. Chairman, a clarification of the discussion this morning. I understood that there was fifteen minutes per motion, not per bill.

SENATOR CLARK: The Speaker just said per bill. I'm going by his...I'm not the Speaker. I'm just going by his order. Senator Lamb.

SENATOR LAMB: I think we'll have to go fifteen minutes per motion because there could be a dozen motions on one bill. That's what we've been doing because under this procedure which has developed kind of like Topsy, there is nothing to keep somebody from bringing the bill back again so it's got to be fifteen minutes per motion.

SENATOR CLARK: We haven't been doing that before because we've taken bills off that had other motions on. But if you want to do that, we'll change right in the middle of the stream here. We'll go 242, we'll come back to 242. Is that the one you wanted? All right. Fifteen minutes on your motion. 242. Yes, we'll take 242 with the Hefner's, and take fifteen minutes on that one. Senator Chambers.

SENATOR CHAMBERS: I object.

SENATOR CLARK: I don't blame you.

SENATOR CHAMBERS: And I will tell you why. I know Senator Hefner is Senator Lamb's friend and I know that I am not Senator Lamb's friend but I also know that a bill came up, several did, which had more than one motion and when fifteen minutes ran out on the bill that ended it and Senator Hefner is not entitled to this and if he is as straight as he pretends to be all the time, he won't try to pull this shenanigan and Senator Lamb will stop it right now. They said 242.

SENATOR CLARK: Okay, now we'll give you the latest dope. 242 will be at the bottom of the list. So he can bring it up at the bottom of the list but not now. Senator Hefner.

SENATOR HEFNER: Mr. Chairman, I'd like a rebuttal with Senator Chambers. I wonder what bills we passed over before. I'd like to have him name those, give me the number of those bills.

SENATOR CHAMBERS: LB 568 right off.

SENATOR HEFNER: Who had the other motion?

SENATOR CHAMBERS: I did.

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LB 89A, 242

Welcome to the Legislature. Senator Haberman, for what purpose do you rise?

SENATOR HABERMAN: A point of personal privilege, a point of order.

SENATOR CLARK: All right.

SENATOR HABERMAN: Mr. President, I just have to correct my good friend, Senator Nichol, that...

SENATOR CLARK: That is not...

SENATOR HABERMAN: ...if it is \$82,000 in expenses (mike turned off.)

SENATOR CLARK: You are talking to yourself. The Clerk will now read 89A.

CLERK: (Read LB 89A on Final Reading.)

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay. Have you all voted? This will require 30 votes. Record the vote. Senator Marsh.

SENATOR MARSH: A roll call vote.

SENATOR CLARK: A roll call vote has been requested. The Clerk will call the roll.

CLERK: (Roll call vote taken. See pages 1931 and 1932, Legislative Journal.)

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: I would request that mine be changed to not voting for purposes of reconsideration.

SENATOR CLARK: All right.

CLERK: Senator Marsh changing from yes to not voting for purposes of reconsideration. 26 ayes, 18 nays, Mr. President.

SENATOR CLARK: The bill having failed to receive the constitutional majority failed on Final Reading. The Clerk will now read 242.

CLERK: Mr. President, I have a request from Senator Nichol to lay over LB 242.

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LB 242

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, you will recall the last few days this has been over there on Final Reading and several have wanted it so we left it there in case somebody needed it for a special purpose but you will recall this is the bill that had to do with payment of boarding of prisoners between the State of Nebraska prison and largely Douglas County but a couple of other counties I guess were involved also. But since Charlie Benson has been out at the prison I understand the problem has been resolved and we don't need the bill anymore so I would ask to pass over it.

SENATOR CLARK: All right, it is passed over. That completes Final Reading for today. Senator Lamb, do you want to recess until one-thirty?

SENATOR LAMB: I would move we would recess until one-thirty.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. We are recessed until one-thirty.

Edited by:

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