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LB 257, 272, 272A, 272, 813
LR 216

the question about the agenda tomorrow and while Rome continues to burn may I suggest to you that there is...that there is a motion on the agenda tomorrow to suspend the rules to permit consideration on Final Reading of bills having a fiscal impact of a million dollars or less. I want the body to think about it this evening, it is published in the Journal. I continue to suggest to you that you are in very deep water, very deep water. As of this morning we had about 30 hours of Final Reading stacked up. It is humanly impossible for our two Clerk's to handle the amount of Final Reading now backed up in the three days, the first three days of the week. We need to start getting the logjam unjammed. I would hope that you would give that some consideration. I have shared it with a member or two of the Appropriations Committee and I don't believe there is any particular problem in their minds. So that is the reason for the motion tomorrow. Also, because some of you continue to ask, I continue to suggest to you that 813 and 814 must move tonight along with four other bills that are unamended at the present time and can move very quickly. We presently have seven amendments remaining on 813, seven amendments remaining on 814. I told the governor's office early on that this Legislature would do everything in its power to get the budget bills to her by Friday evening. That would give the executive branch ample opportunity to consider vetoing, over the weekend, and use some great care and diligence. As announced earlier, it would give this body ample time then to give a lot of consideration to whether the vetoes would be sustained or overridden. At the present pace it appears we may not be able to hold our end of the bargain and then all bets are off. All bets are off, I guarantee you. Any questions? Senator Landis.

SENATOR LANDIS: Other than if anybody is interested in getting some pizza I would make a list and a... we will be here for a long time.

SPEAKER BARRETT: Bully. Thank you Sir. The call is raised. Mr. Clerk, the next amendment.

CLERK: If I may, right before that, a motion from the Speaker regarding rule suspension. Amendments to LB 272 by Senator Ashford. Senator Scofield has amendments to 257. New resolution LR 216. (Read brief description.) New A bill, Mr. President, 272A by Senator Landis, appropriate funds to implement LB 272.

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LB 84, 95, 247, 247A, 250, 250A, 261
261A, 272A, 277, 277A, 290, 283, 303
303A, 312A, 312, 356

emergency clause attached.

CLERK: (Read LB 312A on Final Reading.)

PRESIDENT: Having complied with all provisions of law relative to procedure, the question is, shall LB 312A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as it appears on page 2516 of the Legislative Journal.) 43 ayes, 0 nays, 4 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT: LB 312A passes with the emergency clause attached. May I introduce some guests in the north balcony, Senator Schmit has 30 third and fourth grade students from Dwight and their teachers. They are from the East Butler Elementary School. Will you folks please stand and be recognized. Thank you for visiting us today. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. I have an Attorney General's Opinion. (Re: LB 356, found on pages 2516-2520 of the Legislative Journal.)

I also have an explanation of vote, Mr. President, by Senator Warner. (Re: LB 84, found on page 2520 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign, LB 95, LB 247, LB 247A, LB 250, LB 250A, LB 261, LB 261A, LB 277, LB 277A, LB 280, LB 283, LB 303, LB 303A, LB 312 and LB 312A. Are you ready to go on?

CLERK: Yes, I am, Mr. President.

PRESIDENT: We will go on to the General File, LB 272A.

CLERK: Mr. President, 272A is a bill introduced by Senator Landis, it's a bill for an act to appropriate funds to implement the provisions of LB 272.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. Speaker. LB 272 is the Mortgage

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LB 272A, 651

Bankers Licensure Act which this body passed to Select File last week. In that act, we created a Cash Fund raised from fees which we exact from mortgage bankers. It is necessary, however, to have the authority for the Banking Department to spend the money which is in the Cash Fund. LB 272A is that authority to spend the money raised for the Cash Fund by fees from licensed or registered mortgage bankers. It does not have any dollar figure, no General Fund impact, it is merely the authority to spend the Cash Fund. I move its advancement.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the advancement of 272A to E & R Initial please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 272A.

SPEAKER BARRETT: LB 272A is advanced. Moving to Select File committee priorities. Mr. Clerk.

CLERK: Mr. President, LB 651 is on Select and I have Enrollment and Review amendments, first of all, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 651.

SPEAKER BARRETT: Shall the E & R amendments to 651 be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, I now have an amendment from Senators Hall, Withem and Warner to LB 651, AM1910, copies are being distributed to the members.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. President, I would yield to Senator Warner.

SPEAKER BARRETT: Senator Warner, on the amendment to 651.

SENATOR WARNER: Mr. President and members of the Legislature, this is, being handed out to you, a distribution of student

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LB 95, 247, 247A, 250, 250A, 261, 261A
272A, 277, 277A, 280, 283, 303, 303A
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SENATOR LANGFORD: Mr. President and colleagues, I move we recess for lunch until one-thirty.

SPEAKER BARRETT: Anything to read in, Mr. Clerk?

CLERK: Mr. President, Enrollment and Review reports LB 272A to Select File. Bills read on Final Reading have been presented to the Governor, Mr. President. That's all that I have. (Re: LB 95, LB 247, LB 247A, LB 250, LB 250A, LB 261, LB 261A, LB 277, LB 277A, LB 280, LB 283, LB 303, LB 303A, LB 312 and LB 312A. See page 2522 of the Legislative Journal.)

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

RECESS

PRESIDENT NICHOL PRESIDING

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

PRESIDENT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 216. I would like to introduce some guests in the north balcony if I might. We have Carl and Iona Taylor of Lincoln, and Mrs. Taylor is a cousin of my wife. Would you folks please stand so we can welcome you. Treat them kindly and don't tell us about them and don't tell them about us. Thank you for visiting us today, Mr. and Mrs. Taylor. Mr. Clerk, before lunch, we were where?

CLERK: Well, Mr. President, we were, well, let me...may I read one item for the record, Mr. President, before I...

PRESIDENT: Yes, please.

CLERK: Senator, I have a new resolution, Mr. President, LR 219 offered by Senator Abboud. (Read brief explanation. See pages 2523-24 of the Legislative Journal.) That will be laid over.

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LB 228, 272A, 289A, 588, 651A

please record your presence.

SENATOR CHAMBERS: And I'll accept call ins.

SPEAKER BARRETT: Call ins are accepted. Senator Labedz.

SENATOR LABEDZ: I request a roll call vote.

SPEAKER BARRETT: Roll call vote has been requested. Please record your presence. Check in, please. Senator Moore. Senator Nelson, please. Senator Goodrich. Senator Bernard-Stevens, for what purpose?

SENATOR BERNARD-STEVENS: I would just like to request reverse order.

SPEAKER BARRETT: Reverse order has been requested. Senator Schmit. Thank you. On the motion to advance the bill. Mr. Clerk, roll call in reverse order.

CLERK: (Roll call vote taken. See page 2535 of the Legislative Journal.) 25 ayes, 17 nays, Mr. President, on the motion to advance.

SPEAKER BARRETT: Motion prevails, the bill is advanced. The call is raised. Anything for the record?

CLERK: Mr. President, amendments to be printed by Senator Schmit to LB 289A; and Senator Warner to LB 651A; Senator Landis to LB 272A. That's all that I have, Mr. President. (See pages 2536-42 of the Legislative Journal.)

SPEAKER BARRETT: Mr. Clerk, let's move back to the issue of LB 228, I believe it was, the bill that is to be returned from the Governor's office.

CLERK: LB 228 has been returned from the Governor's office pursuant to action by the Legislature. I now have a motion, Mr. President, to reconsider the Final Reading vote on LB 228. That motion is offered by Senator McFarland. Senator McFarland is excused, however.

SPEAKER BARRETT: Senator Withem, would you please handle it.

SENATOR WITHEM: Yes, again I'd be happy to. A few moments ago

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 272A.

CLERK: Mr. President, 272A, I have no E & R amendments. I do have an amendment pending by Senators Landis, Schimek, Chambers, Warner, Wesely, Hall, Labedz, Crosby and Lynch.

PRESIDENT: Senator Landis, are you going to handle that? All right. (See amendment found on page 2537 of the Journal.)

SENATOR LANDIS: Mr. Speaker, members of the Legislature, this amendment, which appears in your Journal at 2537, is a \$33 million bill. It takes its appropriation over two years, about \$16.5 million in each of two years. It is for the reimbursement of depositors at American Savings, State Securities and Commonwealth. It's my hope that we will not burden the body with a lengthy debate and that we can dispense with this issue before twelve, noon. The case for these institutions has been well made, and I know that there are those who oppose them as well. In this period of time, that we call the crunch time, the Legislature ultimately sets priorities. And I ask you to look at the people to whom this state has turned with a welcome and supportive eye. They have included a great many people on the green sheet, lots of individuals in need, certainly, lots of institutions which want to expand their bricks and mortar, a lot of programs that want to expand their budget. I do not decry the people on the green sheet, they represent human need in many forms. But there is no place on that sheet that I can identify that the human need is as crying, as legitimate as the suffering of the people who have had their life savings defrauded from them over time through these financial institutions and through the negligent management, in my estimation, by the State of Nebraska. There can be no doubt, we are not under a court order, we are not obligated to pay this money under a court direction. This Legislature has repeatedly in the past chosen, however, to appropriate money where need existed without a court order. We've certainly done it when there was no chance of state liability. In the case, for example, of Joe Soukup, where several years ago with an individual who we had hospitalized and treated with experimental drugs, and basically continued them in an institutional lifestyle without proper authority, where the statute of limitations (inaudible) and Joe had no legal right to pursue the State of Nebraska for recourse, this Legislature voted recourse

because we knew it was wrong, we knew we had done badly by him, and we made a trust fund for Joe to take care of his needs. It was without legal obligation, it was because of a moral obligation. And the depositors of these institutions stand in that same relationship that Joe Soukup stood several years ago when this Legislature voted remedy and recourse. I have more time in my opening, but we have a number of co-introducers. I'd be happy to share it with any of them. I'm looking basically for an opening and a couple of speeches perhaps in opposition, if they need to be there, and a closing so we can do this by twelve o'clock. Senator Chambers, let me (inaudible) time to you.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, I'm not going to take the full allotted time either, but I definitely want to be on record in favor of this effort. I have felt from the beginning that the people with investments in Commonwealth had been dealt with unfairly. I've supported every effort of every kind and variety that was undertaken for the purpose of bringing about justice. In a moral society, there is a perpetual effort to achieve that elusive standard of justice that we're talking about here today. It's a wonderful principle to discuss, it's an even better one to direct our conduct by. As representatives of the state, we have an obligation, I feel, to put the state in the position of the one who, when shown that it has erred, will correct that error. This may be the last opportunity we'll have, during the lifetime of some of the offended Commonwealth depositors, to make the record straight, to bring about justice, to balance those scales. And I hope that we will vote in favor of this amendment.

PRESIDENT: Thank you. We have an amendment, Mr. Clerk.

CLERK: Mr. President, Senator Goodrich would move to amend the amendment by deleting "Commonwealth". (The Goodrich amendment appears on pages 2571-72 of the Legislative Journal.)

PRESIDENT: Senator Goodrich, please.

SENATOR GOODRICH: Mr. President, members of the body, going to be right up front with everybody. We have, in this particular proposal, we have a proposal here that would pay the Commonwealth people in the neighborhood of 25, 26 million

dollars, and the rest...the other two institutions in the neighborhood of \$7 million, that would be American Savings and State Securities. Consequently, we've already...and considering the fact that we've already paid Commonwealth 8.5 million, and we give them another 26 million, that would be a total of about \$32 million, 33 million, for Commonwealth alone. Now, and this is the part you really want to listen to, if, for example, this body chooses to do that, that is one thing, if we establish sufficient cause, sufficient basis in the amendment and in the legislation to the effect that the policy of the state is sufficiently warranted, the payment of an additional amount to Commonwealth, to the satisfaction of the court, then we might be able to get away with it.

PRESIDENT: Excuse me, Senator Goodrich. (Gavel.) Let's hold the conversation down, please, so we can hear. Thank you, Senator Goodrich.

SENATOR GOODRICH: As I say, if it's established in the legislation that a sufficient basis is built up to warrant the public policy being served by giving Commonwealth more money, then we might be able to do it, if the court approves of the policy established in the legislative proposal. However, if the court sees...finds rather that we did not establish sufficient public policy merit, then we, each one of us, can be personally liable for the misappropriation of the money, which means in the neighborhood of 25, 26 million dollars, because we did something that the court feels that we did not establish sufficient public policy ground work for it. So, consequently, two things. Number one, there is the possibility, at least, that personal liability for each and every one of us for the amount that we would give Commonwealth. But, beyond that, we arrived at a solution and a settlement for Commonwealth, and consequently I, for one, cannot vote for more money for Commonwealth. I am perfectly willing, this, right now or any time in the future to give American Savings and State Securities that which...equivalent of what we gave to Commonwealth depositors, that I'm willing to do. That is in the neighborhood of...between 6 and 7 million dollars. But, beyond that, I think we're at great risk doing it, and I would strongly recommend and I will not vote for a proposal that gives Commonwealth any more money. I would suggest that we adopt this amendment to delete Commonwealth out of it, and then we leave the American Savings and State Securities in for the same equivalent amount that we gave to Commonwealth so that we are reimbursing those people in

the same way that we did Commonwealth, and then I have no problem with the proposal. Thank you.

PRESIDENT: Thank you. Senator Wesely is next, but may I please introduce some guests, please, of Senator Ashford. We have 50 students in the fourth grade from Harrison School in Omaha, District 6, with their teacher. Would you folks please stand and be recognized. Thank you for visiting us today. Senator Wesely, followed by Senator Dierks.

SENATOR WESELY: Thank you, Mr. President, members. I would rise in opposition to the Goodrich amendment and again encourage all of you to support the amendment as presented by Senator Landis and the rest of us that co-sponsored it. We're really talking about a fundamental concept of justice here, people that lost their savings, whether they be in Omaha, Lincoln or around the state, people that had money in these institutions. Losing that money, we need to be good and return the money as the federal government is trying to do with the savings and loan crisis. It costs money. It's an unfortunate circumstance, but to do otherwise is an injustice, and injustice is what we've had too much of in this issue for too long. To do what Senator Goodrich is saying, and to eliminate Commonwealth out of the bill really does cause us great anxiety because that is the real big problem. The \$20 million figure that we're talking about, or the 33 million here, obviously, shows how much of a loss these people have suffered. And what we need to do is bring all of them up to the same point, which is to reimburse their principal. This takes out the interest. Senator Korshoj and others, Senator Nelson and I think others raised the issue about the interest payment. That's out of this amendment. This would only return all the depositors in all those institutions up to the amount that they had invested and lost five years, six years ago, whenever that took place, and not reimburse them for the interest. Now that is fair, that is equitable, that is just, and that is the way we should go. To take Commonwealth out is to deny that justice that they deserve and to treat them unfairly, I think. But to be fair we ought to bring all of them up to reimburse them fully and get this issue behind us, finish the issue off, and not have to go through this year after year, after year. This is our chance to finish the job and complete this issue and to bring justice to these people. I'll leave the rest of my time, Senator Schimek, I'll give you the rest of my time to you, if you'd like. I gave the rest of my time to Senator Schimek.

PRESIDENT: Senator Schimek.

SENATOR SCHIMEK: Mr. President and members of the body, thank you, Senator Wesely. I, too, will try to be brief. I guess I keep thinking in my own mind how I would relate this whole issue to the matter of my own pocketbook and here we're talking about the state's pocketbook. If I had just received a windfall and had a long-standing debt on my Visa card, and I wanted to redecorate my house, and I wanted to buy a new car, my first responsibility would be to pay that long-standing debt on my Visa card, and then, if I had left over money, to redecorate my house or buy my new car. Ladies and gentlemen, it's as simple as that. We have a debt and we need to pay it. It should be at the very top of our list this year. I would like to just read to you from the Attorney General's Opinion that puts it very clearly in perspective for all of us. It says, through LB 356 the Nebraska Legislature is making a good faith effort to address a situation which has seriously eroded confidence in state government. In LB 356 the Legislature clearly describes the circumstances and public purposes it is addressing, based on those circumstances. In my judgment, the courts would uphold the action of the Legislature here as the fulfillment of an appropriate public purpose, as identified and described by the elected representatives of the citizens of Nebraska. And, Senator Goodrich, I don't think that paying off part of my Master Card debt would discharge my responsibilities. I would still have the rest of that hanging over my head until I paid it. I would encourage you to vote against the Goodrich amendment to the amendment. Thank you.

PRESIDENT: Senator Lamb, for what purpose do you rise?

SENATOR LAMB: I would like a ruling from the Chair on germaneness of this issue, Mr. Chairman.

PRESIDENT: All right, thank you. Senator Lamb, as far as the amendment to the amendment, that is germane. Were you questioning that?

SENATOR LAMB: Pardon.

PRESIDENT: Were you questioning the germaneness of the amendment to the amendment?

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SENATOR LAMB: No, the amendment to...the bill to the...the amendment to the bill, the original amendment to the bill.

PRESIDENT: That's not before us at the moment, but I understand your question.

SENATOR LAMB: Oh, then I should raise this after this amendment has been disposed of, is that it?

PRESIDENT: Yes, yes.

SENATOR LAMB: Thank you.

PRESIDENT: Okay, so far the amendment to the amendment is germane. Now I have 16 lights on. I don't know if all of you want to talk to the amendment, or...Senator Dierks, please, followed by Senator Crosby.

SENATOR DIERKS: Mr. President and members of the body, I do want to talk to the amendment. I might talk around it a little bit, too. I had my light on last night about two hours and never did get to speak because the question was called all the time. I had some difficulties with some of the conversation that went on in here yesterday and the day before. I just wanted to register my feelings about that. I found people very easily bashing school boards and administrators. I want to go on record as taking serious offense at that particular method of doing things. I was a school board member for a number of years, and I felt that I was being chastised a little bit, and it was being done at the expense of another bill or other bills and I think probably because people felt a little bit threatened about that. But I don't believe that that sort of thing should take place here, and I just wanted to register that complaint. I think school boards in this state do an outstanding job. I feel that administrators in this state do an outstanding job and to bash them at the expense of a particular piece of legislation I don't believe is in the best interest of this body. I was reminded at one time, since we've been here, that...last night, since we've been here last night that it's better to...or isn't it more shameful to not vote your conscience than it is to not speak your mind about issues. So perhaps I was a little bit lax in not speaking my mind about the issue. I'm not sure which is more shameful. I would like to remind the body that this has not been my most famous week. I think we started out rather roughly on Monday. I question that people in this legislative

body really voted their issue on that particular subject, or voted their mind, their conscience on that particular issue. I hope that people will vote their conscience on this issue. I don't know how you can not be supportive of the people from Commonwealth. I think that it's way past time for us to provide those people with the remuneration that they deserve. There is no way you can see that, in my estimation, in any other fashion. I would support...I would not support the amendment to the amendment, but I certainly would support the amendment. I hope that the rest of you can vote your conscience and do the same thing. Thank you.

PRESIDENT: Thank you. Senator Crosby, please, followed by Senator Labeledz.

SENATOR CROSBY: Thank you, Mr. President and members. I would like to second the things that Senator Wesely and Senator Schimek said, just to begin with. I am going to speak against Senator Goodrich's amendment. I thought that Senator Schimek's point about obligations and where you put your obligations and how you number them is most of the point this morning on this particular amendment. I must remind you that Commonwealth is the cornerstone of this whole question. November 1, 1983, when Commonwealth closed that started a run on the other two, but the other two stayed open. Commonwealth has still never reopened, never will. The people in Commonwealth are the ones who are really hurt and hurt badly. Most of these people are not wealthy. They are not the rich and the famous, they are ordinary, I don't like to use that word ordinary because in many ways they are extraordinary that they have survived, since 1983. And Les Christiansen, one of them had a wonderful letter to the editor the other day about a letter that he got from the city telling him they were going to measure his sidewalks. The man doesn't have any sidewalks, and he wrote a letter to the editor saying he got up and went out and looked the next morning, still doesn't have any sidewalks. Well, he's keeping his sense of humor through all this. I thought that was a tremendous tribute to him and to these other people that they can keep going. I feel that this is the time to lay this issue to rest. It's been six years since the Commonwealth closed. It's time to reimburse these depositors. Commonwealth must be kept part of it. If Commonwealth is removed with this amendment, I will not vote for the rest of it, I absolutely will not support it without Commonwealth. And I want to support it also. I beg of you, please do not adopt this amendment to the amendment, which would

take Commonwealth out. Thank you.

PRESIDENT: Thank you. May I introduce some guests, please, in the north balcony of Senator Chizek. We have 30 eighth graders from Mars Junior High with their teacher. Are you folks still in the north balcony? Would you please stand and be recognized. Thank you for visiting us today. Senator WeiHING, please, followed by Senator Nelson.

SENATOR WEIHING: Mr. President and members of the Legislature, would Senator Landis rise to a question, please?

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: I'll rise to a question any day, John, you bet.

SENATOR WEIHING: Yesterday I received a reply from the Attorney General with regard to the constitutionality of this if we were to vote to reimburse Commonwealth and State Securities. Did that...and that letter became known throughout the body, the report from the Attorney General, did that have any bearing on this amendment that was created and put on today?

SENATOR LANDIS: I was searching for a vehicle for this amendment prior to that. I would have done it without regard to whether the opinion had been issued. I do think the issue is timely and I'm glad that it's on the floor. I, by the way, thank you for the letter and the Attorney General's Opinion.

SENATOR WEIHING: Yes, the reason I asked for that is because I'd had conflicting answers ever since I've been within the legislative body regarding this issue. So, in order to get an opinion and one from an authority, the letter was written to the Attorney General and received it and, in his opinion, the bill is constitutional. I will not speak to this issue because there are others who have been intimately involved, and those are my remarks. I simply wanted this area clarified. There is the Attorney General Opinion on the issue. Wait a minute. I'll give the rest...some time here to...I see that Senator Landis would...

SENATOR LANDIS: Thank you. We have a couple of issues ahead of us, and I'm hoping for a tidy disposition of them. First, we have the Goodrich amendment, and I hope we will have a call of the question and a vote on that. Apparently, there will be a

question of procedure following that. It's not my purpose to tie up this body a great deal on time. I am asking the body to deal with the issue, and that I hope we can do in a timely fashion. Thank you.

PRESIDENT: Thank you. Senator Nelson, please, followed by Senator Warner, then Senator Schmit.

SENATOR NELSON: Mr. Speaker, I'll try to make this very brief, too. I guess this is one of the times in the body that maybe I'm not even quite sure yet how I will vote on this. Probably vote my conscience or I guess maybe how I kind of feel down inside of my stomach and stand the heat, maybe, on a few other issues or some big ticket items out there, too. I'm not quite sure. Somewhat just for the record, a question that I asked Senator Landis a few minutes ago, kind of memory and back through, since we've gone over this issue through the years, am I...or maybe Senator Wesely could answer me. I see him by the microphone. Somewhere around 49 or 50 million dollars of this, of Commonwealth, all but about 12 or 13 million of the 63 million was actually in Commonwealth, the deposits, I think it was 1979 or something, before the NDIGC was ever created. Am I correct in my memory, or maybe Senator Warner, whoever can answer that.

SENATOR WESELY: Senator Nelson, I had some figures on General File that indicated that there was money in the institution beforehand. But overall in these depository institutions it went up dramatically, and so from the time that we started the guarantee to the time that they failed, but in Commonwealth's case I think you're probably in the ball park.

SENATOR NELSON: Thank you. I guess the only other thing is I think Senator Dierks and I are maybe expressing the same feeling right now, or feel the same feeling right now. And that's about all I have to say on the bill. Thank you.

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

SENATOR WARNER: Well, again, briefly, Mr. President. Obviously, the purpose of the amendment is to kill the original amendment, and we all understand that. The comment was made also that there was something about personal liability, if the Legislature would pass such an appropriation, and that,

obviously, just simply isn't true. So don't fear about that. We pass things all the time here that are unconstitutional, and I haven't been sued yet. So that's not an issue. Senator Landis brought this amendment around. I told him and I told him I was going to say it, because I felt kind of hypocritical signing it because the money, I knew, was not there. We spent it night before last. That being the case, now I'm faced with what is my second choice, and I don't like my second choice. But my first choice or the first responsibility was that time had gone long enough without resolving the issue. So now my choice is to vote yes and to vote yes on an appropriation knowing full well that, if it's passed, it means an equal amount of vetoes. And I guess that's how it has to be. So I'm going to support it knowing that not very long ago we could have done this in a very easy way, created no problem, now it's going to be a very difficult way but just as necessary. So I'd urge you reject the amendment, recognize it for what it is, and then support Senator Landis on his motion.

PRESIDENT: Thank you. Senator Schmit, please. Senator Labedz.

SENATOR LABEDZ: Question.

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

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

PRESIDENT: Debate has ceased. Senator Goodrich.

SENATOR GOODRICH: Yes, Mr. President, members of the body, this amendment, just in case there is somebody in here that was not here when we first opened it up, the...my amendment would amend the Landis amendment, I'll call it that for want of a name for it. He, in essence, is going to say give 16.5 million per year, this year and next year, for a total of 33 million, to Commonwealth, American Savings and State Securities. My amendment would say strike "Commonwealth" out of it, leave just American Savings and State Securities, let them get treated the same way we treated Commonwealth, three or four years ago, whenever it was. I would also like to remind the body, though, that if we do...if we do not take Commonwealth out of it, if we give Commonwealth 25, 26 million, whatever it turns out to be, we are giving them that 25 million, roughly speaking, plus the

8.5 million we gave them five years...four or five years ago, total of about 33 million. That just plain can't be justified. My motion would strike "Commonwealth" out of it, leave American Savings and State Securities both in it, we treat them the same way we treated Commonwealth. Senator Landis, for example, is correct when he says, for example, that Commonwealth, for example, is foregoing the interest that they had coming on this deposit...on those deposits. This is only the principal, return of principal. Well, remember four or five years ago, those of you that at least were here, they said give us 8.5 million and we'll go home. Now they're back asking for the rest of their principal. Give them this 25 million and they'll be back next year, now give us the interest on our money. There is no end to the demands and requests that Commonwealth will throw at you. So, consequently, let's strike "Commonwealth" out, adopt this motion to strike "Commonwealth" out, let's leave the American Savings and State Securities in it, treat them the way we did Commonwealth, and go with it and be done with it.

PRESIDENT: Thank you. The question is the adoption of the Goodrich amendment to the Landis amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please. Senator Goodrich.

SENATOR GOODRICH: We've got to have an expression from everybody on this one. Let's have a call of the house, check them in and roll call vote.

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

CLERK: 17 ayes, 2 nays, Mr. President, to go under call.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return so that we may move on. Please record your presence. Senator Lowell Johnson, Senator Hefner, please. Thank you. Senator Chambers, Senator Labedz, Senator Coordsen, Senator Scofield, Senator Rod Johnson. Senator Rod Johnson, please. The question, ladies and gentlemen, is the adoption of the Goodrich amendment to the Landis amendment. And a roll call vote has been requested. Is that correct? Okay. Please take your seats so that we may begin on the roll call. Mr. Clerk, please.

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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 19, 1989

LB 272A, 525

ASSISTANT CLERK: 8 ayes, 23 nays on the adoption of the Moore-McFarland amendment, Mr. President.

SPEAKER BARRETT: The motion fails, and let the record reflect that Senator Moore had some guests in the north balcony, 8 fourth and fifth graders from Larson Academy in York, Nebraska. Next item, Mr. Clerk.

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 525 as amended be advanced to E & R for Engrossment.

SPEAKER BARRETT: The question is the advancement of the bill to E & R Engrossing. Those in favor say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. Have you anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Then, as per the previous announcement, we will return to Select File, Item 7, LB 272A.

CLERK: Mr. President, when the Legislature last discussed the issue there was pending an amendment by Senators Landis, Schimek, Chambers, Warner, Wesely, Hall, Labedz, Crosby and Lynch. The amendment is on page 2537.

SPEAKER BARRETT: Senator Landis, explain to the body where we are at this particular point in time, will you, please.

SENATOR LANDIS: Mr. Speaker, I have offered an amendment to LB 272A. That motion has been debated. An amendment to that amendment has been considered by Senator Goodrich, it has been defeated. Senator Lamb, in the meantime, has I think signaled an interest in challenging the germaneness of the amendment to the bill. And having just defeated the Goodrich amendment we're back on that question, I suppose.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Lamb.

SENATOR LAMB: Well, Mr. President, members, I would ask the Chair to rule on the germaneness of this amendment to the bill.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. President, members of the Legislature, if I could make an argument to the Chair.

SPEAKER BARRETT: Certainly.

SENATOR LANDIS: First, the amendment has been before the body and acted upon by the body in the rejection of the Goodrich amendment. I'm not sure that Senator Lamb's objection is now timely filed and can be considered by the Chair as out of order. Secondly, the amendment that I've offered strikes the provisions of 272A and, in essence, there is nothing for the amendment to lie next to measure its germaneness. The measure is a replacement of that which is there and, in that sense since no two elements coexist between the bill and the amendment, I'm not sure that germaneness applies. Third, in the event one is to apply the germaneness rule, it is whether or not language that is offered achieves a different objective than the introducer's intention. If you'll take a look at the names on the bill and the amendment, I am both the introducer of the bill and the amendment. And it's my intentions that we're being compared to. Let me assure the Speaker that I know my own intentions and I don't intend to achieve a different result than what I want. I'll be pleased to accept the amendment to my own bill. Thank you.

SPEAKER BARRETT: And our immediate concern, Senator Landis, is AM1935? Senator Landis, we're considering AM1935, is that correct?

SENATOR LANDIS: If that's what is found on 2537, yes, Mr. Speaker.

SPEAKER BARRETT: Senator Lamb, any further comment?

SENATOR LAMB: Well, Mr. President, I would just draw your attention to the first page of LB 272A, title page, it says a bill for an act relating to appropriations, to appropriate funds to aid in carrying out the provisions of LB 272, Ninety-First Legislature, First Session. I just maintain that that is not the purpose of the amendment. The amendment is not related to that statement, and therefore is not germane.

SPEAKER BARRETT: Thank you. The Chair, I believe, is prepared to make a ruling on the germaneness question. First of all, Senator Landis, I believe that germaneness can be challenged at any time prior to the adoption of the amendment or prior to the closure of debate. Secondly, 272A is a bill, as suggested, to appropriate funds to carry out the purposes of 272, and it does appropriate funds from the Mortgage Bankers Cash Fund to be used to regulate mortgage bankers. If I'm reading 1935 correctly, the amendment would repay certain depositors of industrial savings institutions and, therefore, according to Rule 7, Section 3 (d), I would declare it to be a nongermane amendment relating to a substantially different purpose. Senator Landis.

SENATOR LANDIS: I would not overrule the Chair, I would move to suspend the rules to allow the consideration of the amendment, and I'd like to be introduced as the mover of that motion.

SPEAKER BARRETT: Thank you, sir. We are on now the motion to suspend the rules. I have a number of lights on. I'm not sure that you want to speak to the suspension motion, but we will go through the lights. Do you want to say something at the outset, Senator Landis, or shall we proceed?

SENATOR LANDIS: I'm the maker of that motion, I'm entitled to open, am I not, Mr. Speaker?

SPEAKER BARRETT: Yes, you certainly are.

SENATOR LANDIS: I'd like to do so. Members of the Legislature, actually I think this exercise is valid, it's legitimate to object to this on the germaneness basis, I understand that. I now appeal to you to separate the question of whether we are going to prevent ourselves to talk about this question from the disposition of the question itself. I wonder if we have become so jaundiced to the Commonwealth issue that this body will not understand how uncompassionate it would be to choose not to suspend the rules to allow us to have a vote on the issue. Let me ask this, let me ask a favor, if you will, from among colleagues, favors that I have granted at other times to people whose values were different from my own, to separate matters of procedure from matters of substance. In this situation, it is necessary to suspend the rules to permit this body to consider, in a brief limited window of opportunity, I've not asked for debate to be extensive. I'd be happy to have it limited to 20 minutes or less. I've not renewed my light. Those questions

that have been asked have been not of my making, but it would be painful indeed if the Legislature said that amongst all the rest of the claims that we have entertained, and amongst all the groups that we have listened to and have debated repetitively that we would not entertain the Commonwealth depositors making their claim at this moment as well. I understand that there are many of you who do not support the claim of these financial institution depositors. I expect when we get to the underlying motion we'll have a chance to make that moment clear. What I ask from you now is a favor, and that is to grant us the right to place the issue before the body by suspending the rules. Thank you.

SPEAKER BARRETT: Thank you. Senator Beck, would you like to discuss the rule suspension?

SENATOR BECK: No, Mr. President. I would like to, if we do suspend the rules, I would like to speak to the amendment.

SPEAKER BARRETT: Thank you.

SENATOR BECK: In order to do that, do I just leave my light on and wait?

SPEAKER BARRETT: Yes, I'll leave your light on.

SENATOR BECK: Thank you.

SPEAKER BARRETT: Senator Abboud, on the suspension.

SENATOR ABOUD: Yes, Mr. President, colleagues, this has been an issue that has been around for a number of years. When it's around a number of years, we've had a number of votes on it. Most recently we had a vote on it in the form of LB 356, a bill that appropriated \$40 million to the Commonwealth, State Security and American Savings depositors. I have compassion for these individuals, but responsibility comes with this job. If it was an idealistic world, where there was unlimited resources, where there were no obligations nor responsibilities, I would say give the \$40 million to these individuals. But that is not the case. Forty million dollars is not a small item, it's a major budgetary consideration on our part. And as much as I would like to say let's look at this in a vacuum, that will not be the case. The Legislature has spoken on this issue. Unfortunately, some of the depositors have not listened. We've

made a decision, let's stand by our decision and let's move on to a further decision on retribution to the American Savings and State Security depositors. It's unfortunate for those depositors that Commonwealth has been a part of this because, as far as I see, this year they will not receive any money. I feel that maybe next year, maybe if this bill fails, maybe if these proposals fail, we can get on to giving financial retribution back to American Savings and State Security depositors. The votes aren't here. There are not 30 votes, maybe there is, I don't know. But there sure isn't 25 to pass this and to overcome it. We've talked on this a long time, let's end the discussion by not voting to suspend the rules. Thank you.

SPEAKER BARRETT: Senator Beyer, on the suspension. Thank you. Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker. Senator Abboud, you're right, we have spent a lot of time on this issue, not too much today, but just for one second more. I, too, would beg of you to give us the opportunity to address the issue and at least vote on it straight up. You've got to understand, and I know you do understand that there are thousands of individuals involved here watching what we do today, and these are people that are not politically sophisticated, they are exhausted from the ordeal they have been through. And it's very difficult to tell them yesterday, as I did when I was interviewed after the Attorney General's Opinion came out, that the good news is that the Attorney General has said we can do this, we can constitutionally provide return of the money to the depositors in these institutions. But time is running out in the Legislature. The bill that would do that is sitting on General File and it doesn't look like we're going to have the opportunity to bring it up. And they don't understand why, now that a green light has been put up there to give them the chance to go forward and constitutionally deal with this issue, they won't have the opportunity to proceed. So, on a procedural vote, one that requires five more votes than we need to pass the bill, I'd, as Senator Landis has, beg of you to give us the chance to address this issue. You know there have been some misconceptions, I think, by Senator Goodrich and Senator Abboud about where we're at on this issue, that we did give \$8.5 million to the Commonwealth depositors and now they're coming back for more. But you have to understand, we had a \$20.5 million plan that \$12 million of which was eliminated, and \$8.5 million of which was passed. So there never was an

agreement, outside of the \$20.5 million figure that we had talked about some years ago. At that time, we weren't really sure of the extent of the losses. The losses were greater than we thought they would be. So it's not fair to say that the Commonwealth depositors got their money, now they're coming back for more. They didn't, they didn't get their money, they got much less than they had hoped for and it's only fair and right that they come back. To treat them fair and the other depositors fair you need to return all of their deposits, all of their investment that they lost. So I think it's simply inappropriate to try and characterize the Commonwealth people as coming back, coming back, and if we give them this, they'll come back for more. That's not the case. If we can deal with this issue, deal with this amendment, pass this bill, we'll be done. I promise, as a strong supporter of the Commonwealth, State Securities people, I won't be back again. The interest will have to be lost. It will be something we just give up in the process. It's a substantial amount of money that these people have lost in interest, but if we can at least get their principal back, the issue will be gone as far as I'm concerned and I think as far as the other co-sponsors will be gone (sic), we will be done with it, it will be over, we won't come back every year, and we can finally rectify the wrong that has been done to these people and justice will be served. I really believe that, and I hope you'll help us with that. I also hope you'll have a chance to read the Attorney General's Opinion as you consider this. I'm going to quote from that. This is Attorney General Spire, I believe the courts would agree with the Legislature, there can be no more important public purpose than public confidence in government, and the public confidence in government is directly involved here. Through LB 356, the Nebraska Legislature is making a good faith effort to address the situation which has seriously eroded confidence in state government. In LB 356, the Legislature clearly describes the circumstances and public purpose it is addressing based upon those circumstances. In my judgment the courts would uphold the action of the Legislature here as a fulfillment of an appropriate public purpose as identified and described by the elected representatives of the citizens of Nebraska. In other words, it is the right and just thing to uphold public confidence in government, and public confidence in government was eroded by making a promise that wasn't kept, by saying there was a guaranty that we didn't fulfill, by not returning the people their deposits which we told them the state would back. So I would ask you to help us suspend the rules, consider this

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issue and please help these people to put this behind them and put to rest this issue for the State of Nebraska.

SPEAKER BARRETT: Senator Moore, please. Would you like to speak to the suspension rule? Senator Landis, would you care to speak again? The question is called on the motion to suspend. Are there five hands? There certainly are. All in favor of ceasing debate vote aye, opposed nay. Record, please.

ASSISTANT CLERK: 25 ayes, 0 nays to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Landis, would you care to close on the motion to suspend the rules?

SENATOR LANDIS: Mr. Speaker, I do not happen to like people who start their closings by having calls of the house. I don't like the notion of using the rules to enforce an audience that one can't compel by the power of one's own words and thoughts but, in this case, I look around the room and find a number of people gone. I am going to ask for a call of the house as part of my closing.

SPEAKER BARRETT: The question is, shall the house go under call? Those in favor vote aye, opposed nay. Record.

CLERK: 22 ayes, 0 nays to go under call.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Those outside the Chamber, please return. Senator Ashford, please. Senator Schmit and Senator Pirsch. Senators Hefner, Rod Johnson, Withem, the house is under call. Senator Langford, please, the house is under call. Senator Landis.

SENATOR LANDIS: (Mike not activated immediately.) ...concluding my closing at this point while others are coming in...

SPEAKER BARRETT: Fine.

SENATOR LANDIS: Close off the call of the house, and then proceed to the vote, if that's acceptable to the Chair.

SPEAKER BARRETT: Please proceed.

SENATOR LANDIS: I've done what, for me, is an exceptional

thing, and that is to ask for a call of the house while I close on this motion because I don't normally do that, and I don't appreciate when others do it, but I don't want others to be out of the room while I have a chance to summarize this special situation. The Commonwealth issue, American Savings, State Securities have lived...we've all lived with it for years and it won't go away, it's true. Many of us have long-standing feelings and we know how we vote. Frankly, on its best day it has 24 votes, sometimes 25, but in this case we're caught in a procedural problem. When many of our colleagues have had more than one bite of the apple, like state aid to education, or whatever else that we have repeatedly debated issues, this is one that in this closing crunch time now allows itself a chance to be heard only in this format that requires a 30-vote rule suspension to be considered. Frankly, I know that if everyone votes their conscience on this issue, this motion will fail. I'm asking the body to suspend the distinction between the procedural question of whether we'll talk about this and, whether we believe in the idea itself, to give a measure of compassion and respect for people whose claims we are considering, to not throw them out of court without voting on them in the proper format which is a 25-vote up or down situation. That format requires not only attachment by a 25-vote...a motion here, but advancement of 272, and I'm sure that would require 25 votes, I'm sure it wouldn't be a voice vote, and I'm sure it would be on Final Reading as well. I have not the underlying issue itself to call upon for your understanding, because I think the body is too narrowly divided to count 30 supporters for the measure. I ask you, as a colleague who may some day be in this situation, when you have this kind of hurtful, painful situation that when times are flush and we're handing money out to everyone else should at least have their claims be heard by this body and entitled to the same standard of acceptance or rejection than otherwise. I urge the suspension of the rules and a vote by the house, Mr. Speaker.

SPEAKER BARRETT: Thank you, sir. Senator Withem. Thank you. The question is the suspension of the rules. Thirty votes required. All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 34 ayes, 6 nays, Mr. President, on the motion to suspend the germaneness rule.

SPEAKER BARRETT: Motion is adopted. Senator Landis.

SENATOR LANDIS: Thank you. I only want to be recognized for a point of personal privilege. I understand that was an act of charity by my colleagues and I'm grateful. Thank you.

SPEAKER BARRETT: Thank you. We are back to a discussion then of the amendment itself. The rules have been suspended. Senator Beck, please.

SENATOR BECK: Mr. Chairman and members of the body, I appreciate Senator Landis's position and I appreciate the analogy that Senator Schimek gave earlier. And I, too, am concerned about these elderly folks who have such sad stories about their losses, and they are not stories, they are true. I have a file that is over three and a half inches thick and it's right over there. I've read all the letters and I know you have, too. Now as a new senator without the experience of those of you who have been in the body and gone through the Commonwealth problems and so forth, and I've watched this thing from afar, I believe that what we have here and have had here is another pharmacy building, and in that those who are really responsible are probably beyond the statute of limitations.

SPEAKER BARRETT: Senator Beck.

SENATOR BECK: Yes.

SPEAKER BARRETT: Excuse me. The Chair will allow the call to be raised with another admonition to stay close. This will be a vote which will involve every one of us, so please stay close. The call is raised. Excuse me, Senator Beck.

SENATOR BECK: Okay, that's fine. You scared me there for a minute. (Laugh.) I mean the one time I'm ready, Senator Barrett, and I thought maybe we'd have a call of the house and see if I could speak. But, at any rate, I voted to fix the building, and I wish I could support this with my head as I do with my heart. I've read these letters that I showed you. But, you know, we've been cautioned and cautioned about our priorities, and that was wise because we only have so much money. In fact, Senator Landis cautioned us the other day, I believe it was on state aid to schools, that we could not go on spending the money because it wasn't in the budget. Now, if it wasn't there then, it's probably not there now, even though this

amendment addresses what may be the worthiest of all the projects that we've encountered this session. I just wish that we could have encountered it sooner. At any rate, over and over again I've tried to narrow my priority list, keeping the taxpayers always in mind because the same elderly who have not received their funds are also taxpayers. I have American Savings depositors in my home district, and I've sent detailed questionnaires to each of those people that I could identify. We need to remember that American Savings depositors and State Security depositors have received no state funds whatsoever. Now many of those questionnaires that I sent out have come in, and over one-half of those questionnaires that have been returned have comments to the effect that although they have not received their money, and they want their money, and would I please do what I can to get them their money, and I want to do that. Most of my depositors have received from 25 to 40 percent of their investment, not...over 70 percent of some of the supporters of LB 356 have stated these folks are concerned about the taxpayers. They don't know if the taxpayers should pick up the tab, and I'm just reading you their comment. They realize who will pay the cost will be themselves. Now Senator Scofield and Senator Pirsch said early in the season, and certainly Senator Hannibal has said in the middle of the season, and Senator Wehrbein and Senator Warner and the people around me have said now at the end of the season pick carefully what you want to support and what are your priorities. So I chose teachers' pay, and that's 40 million, and I chose property tax relief, and that's 98.2 million, and then I chose the income tax reduction and that will cut out 18 million, and then I decided to choose state aid to schools, and that's 18 million, and that is more money than I've ever seen in my entire life. I don't want to jeopardize the income tax reduction, and I'm afraid that that may happen, or that LB 84 will be jeopardized, or perhaps any of a number of things that Senator Bernard-Stevens was so good to mention to us. When we first voted on LB 356 I chose to be present and not voting because even then my heart said...

SPEAKER BARRETT: One minute.

SENATOR BECK: ...yes to the American Savings and State Securities and even to the Commonwealth, but I wanted more information. And now I have it and my heart still says yes, but my head has to say no. I think that what we need to do is to make this bill a priority at the beginning of the session, the very beginning rather than at this point. And I could support

it then, and I would support it. And I just wish with all my heart that I could support Senator Landis in this attempt. I supported him to recall it or to reconsider it, to bring it up before us, to suspend the rules, that's it, thank you. But I just can't vote for it, and it just really hurts that I can't. I hope that we can do this next year, first of the line, and let's take care of all these depositors. Thank you.

SPEAKER BARRETT: Thank you. Senator Moore, would you like to speak on the suspension? I'm sorry, there is an amendment on the desk.

CLERK: Mr. President, Senator Lindsay would move to amend the Landis et al. amendment. (Lindsay amendment is on pages 2580-81 of the Legislative Journal.)

SPEAKER BARRETT: Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President and members. The amendment, I believe it's going to be getting passed around here, is a...the intent of the amendment is just to make it, hopefully, a little bit easier for people to vote, I guess, for the Landis amendment. I was somewhat, and I guess still I'm somewhat torn on whether to vote for it or not. I've got some...I think there's strong arguments that go both ways. But one of the arguments that has come up and if the Landis amendment is indeed adopted, one of the concerns has been they keep coming back, they keep coming back, are they going to come back? What this amendment is designed to do is to accomplish three things. Number one, this will require that that amount paid to the depositor, if accepted by the depositor, would constitute a release of any claim based on the guaranty, including any claim for interest. It makes it clear that they won't be coming back for interest if they accept what I think the Commonwealth people and the...I should say the industrial savings people have said is a compromise, this makes it clear that it is indeed a compromise. Number two, it provides that by failing to accept the amount that is offered by the state, that is this amount that we're saying, that constitutes a release of the state from any obligation under the guaranty, under the terms of the act. And, finally, number three, while I don't know if it's possible, as long as we're doing this at this time, we should make it complete and that is it would provide a subrogation interest for the state and that is, by accepting payment, the depositor to the extent of the amount paid would be

assigning any interest he or she might have, or it might have, in any claim against any entity which gave rise to the loss of the deposit. In that, the idea being that if the state is going to pay for the deposits, if there is any chance of recovering any of it, my guess is the statute of limitations has expired on it, but if there is any question of whether the state can recover on it, the state would be entitled to recover that as opposed to the depositors, from whoever might have caused the loss. I believe it is, although my judgment on what is controversial and what is not hasn't been too great, I believe it is noncontroversial. And, with that, I guess I would yield the balance of my time to Senator Landis.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Members of the Legislature, I've reviewed the technical language that Lawyer Lindsay has offered. It seems satisfactory to me. It does not disturb the concept of the bill. I would suggest that we call the question on this amendment forthwith since it's not the real issue that we all know and are concerned about, and then forthwith call the question on 272A.

SPEAKER BARRETT: Thank you. Before proceeding to the speaking order, I'm pleased to note that Senator Smith and Senator Rod Johnson have guests in the north balcony, 21 sixth graders, 19 fifth graders and three teachers from Silver Lake Public in Bladen. Are you folks with us still, and if so, would you rise and be welcomed. Thank you. We're glad you're with us. Let the record also reflect that we had some guests in the north balcony, guests of Senator Wesely, Ingra Marrs of Lincoln and her guests Karen, Kira and Derek Marrs from Schwaikheim, West Germany. Discussion on the Lindsay amendment to the amendment. Senator Langford. Thank you. Senator Crosby, would you care to discuss the amendment to the amendment?

SENATOR CROSBY: Thank you, Mr. Speaker, I'd just be very brief. I think Senator Lindsay has given us a real boost here and I would urge you to vote for his amendment and then vote for the amendment to the amendment and then vote for the amendment. Thank you.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Question.

SPEAKER BARRETT: Question has been called. Do I see five hands? I do. Shall debate now close? Those in favor vote aye, opposed nay. Record, please.

CLERK: 25 ayes, 3 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Lindsay, would you care to make a closing statement?

SENATOR LINDSAY: Yes, thank you, Mr. President. I'd like to address a couple of questions that were brought to me, just to make it clear for the record. One is that the intent of this section, this section is basically Section 6 with those additions put into it. It is not intended to acknowledge any liability on the part of the state except as set forth in the rest of the body of the Landis amendment. That is...if there is any liability or the purpose or basis for payment would be as set forth in the Landis amendment itself and not in this section and that should be made clear. Number two, there has been a little question on the subrogation. The subrogation is basically, it's just an assignment by the depositor of whatever right he or she may have in a lawsuit against somebody else. For example, if whoever was in charge of the particular industrial savings was the cause of the loss, that...and there is a lawsuit pending or a lawsuit that is filed, their interest in that loss to the extent of the amount the state pays, the state would then gain the control of it, would then gain the right to. Like I said, I don't know, there was a suggestion that there may be one suit pending, I don't know. If so, then depositors who accept payment under this would be, to the extent of that payment, giving up those rights to the state so that the state is...there wouldn't be a double recovery on that side and the state would be at least reimbursed if there is a reimbursement coming. Again, I would urge the adoption of the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the amendment to the amendment. All in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: The amendment is adopted. Back to the Landis

et al. amendment as now amended. Senator Lynch, discussion.

SENATOR LYNCH: Mr. President, members, I would like to convey to you all that I support the Landis amendment as amended. I know it's an awful lot of money. I committed early in the session to supporting this obligation and responsibility we have. I, in fact, have voted during appropriation considerations to more than make up for what it would cost to provide this money. It's not important how we all voted, but just so you know I had that in mind when I voted that way. Those decisions were not easy. Where I live in Omaha, Nebraska, there are some people who were involved with this unfortunate circumstance. But I also live in an area where there were people who were involved with the Franklin community closing. It's hard for my neighbors, one who had money committed in Franklin community center, and those who had money committed in savings, State Savings or Commonwealth, to understand how, within a matter of weeks, six weeks, the federal government, who underwrote the responsibility for Franklin, paid off with interest that obligation, but the state still sits here and does nothing. Just in case, for those that might be listening and, in fact, maybe even a constituent or two who are concerned about those who may be in the Legislature now who were here when the NDIGC was began, there are six, names aren't important, I want them and anybody else who might be curious to know that when that bill was passed, 291, back in 1977, that legislation simply created a vehicle which could, in fact, hopefully, guarantee the risk for those people doing business in an industrial savings and loan because there was none before that. It was not the Legislature, they should understand that, that, in fact, raised the obligation from what the bill contained, \$10,000, to 30. It's my understanding some people wanted it to be 40. But it was the banking department at the time, and I think that's important maybe at some point in the debate for the people to understand. But it seems to me that this is something that we should, in all good faith, fund whenever and, in fact, probably better for all of us at an earlier date, as was suggested by Senator Warner. It's never a good time to accept an obligation of this size at all. But I think it's never too late, on the other hand either, to understand the obligation we all have. I, in fact, think the good name of the State of Nebraska is involved with this unfortunate circumstance. I would like to think that the Legislature understands that as well. Hopefully, you'll support this amendment and provide the kind of justice. Unfortunately, it's too late for some of those poor souls that

have already died and will never realize that some of their obligations were met. But for those that are left, give them a chance to be treated by the State of Nebraska like the state treats other obligations that involve guarantees, like the feds treat people who also have guarantees. I think it's our obligation, and I hope you support it.

SPEAKER BARRETT: Thank you. An amendment on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Abboud would move to amend by striking Section 1.

SPEAKER BARRETT: Senator Abboud.

SENATOR ABOUD: Mr. President, I plan to withdraw this amendment after I get a chance to speak because of my belief that we should at least discuss this before the question being called, and that's my only purpose here. We've heard a lot of really good discussion about the good reasons behind this particular proposal. In sitting on the Banking Committee, I grew to empathize greatly with the Commonwealth depositors, and I empathized with them a great deal when we considered this the first time. Part of the problem with the situation, at least as far as I was concerned, was that I thought we put this issue to bed when funds were paid out prior to this time. Maybe that is where the disagreement therein lies. I feel payment has been paid...has been made. Now, what is the proper amount? I guess on the one side we have Commonwealth depositors that said they should get all of their money, in addition to that they should at least get interest payments on top of it. And this proposal was brought before us when we considered it the very first time. And it was my belief that when the Legislature voted on this proposal we decided, we said, no, you're not going to get back interest; no, you're not going to get up to this particular amount. And the reason was because there was no legal obligation on the part of the Legislature. And in the payment to the Commonwealth depositors, we specifically stated that there is no legal obligation, but we feel that there was a moral obligation to make some payment, period. There was no legal obligation on the part of the Legislature. Now if you want to morally...if you feel there is a moral obligation, then you vote for the \$40 million payment. But I want you to understand that there is no legal obligation on the part of the Legislature. Maybe the bill should never have been passed. I agree. You

know how things go, a bill gets out of Banking Committee and it's usually so confusing you don't bother to...don't bother to argue with it, it gets passed here on the floor this year and in years past, but understand that there is no legal obligation. I'd like to give the remainder of my time, Mr. President, to Senator Goodrich.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Senator Goodrich, please.

SENATOR GOODRICH: I don't want to talk on your amendment, and your motion, for example, says strike Section 1, that's not what I want to talk about. So I'll pass his time and wait for my own.

SENATOR ABBoud: Mr. President, I'd like to withdraw the motion.

PRESIDENT: The motion is withdrawn. We're back on the Landis amendment. Senator Schimek, you are next in line.

SENATOR SCHIMEK: Mr. President, I very respectfully call the question.

PRESIDENT: Do I see five hands? I do see five hands. All those in favor of ceasing debate vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 25 ayes, 11 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Landis, on the closing, please.

SENATOR LANDIS: Thank you. I know there are at least Senator Beyer and Senator Goodrich who have some questions. Should the amendment be adopted? Remember that there is a motion to advance and there is an opportunity to raise those questions. We have a very full agenda, and I'm just trying to propitiously move through it as quickly as possible, but those questions can be raised at that point. Leave your lights on should, for some reason, this amendment be adopted. Chris Abboud, I think, correctly stated the law. Chris Abboud said that there is not a legal, binding obligation on the part of this Legislature to vote for this amendment. It's true. There is no gun to our head, no court order. That's not where the appropriateness of

voting for this amendment lies. The appropriate vote for this bill, I think, is in part because we respond to people in need, and these three institutional failures have created need, have created problems, problems that arose, it seems to me, out of what we knew to be an inappropriate marketplace with wrong-doers, that we knew who were doing wrong and we allowed it to continue in a Pollyanna hope of finding a successor purchaser for organizations that would get us out of the quagmire rather than biting the bullet. That decision played out too long, the string was pulled, and thousands of people went without because of our choice, by creating the law itself, creating implication, secondly, and, third, overseeing that law to the Department of Banking. I ask for the adoption of the amendment. I have a little bit of time left. I'm going to yield it to Senator Warner to explain an appropriational aspect that responds to a concern that Senator Beck rose during the debate on this issue. I would leave the rest of my time to Senator Warner.

PRESIDENT: Senator Warner, you have a little less than three minutes.

SENATOR WARNER: Thank you, Mr. President, members of the Legislature. Particularly in response to the concern that Senator Beck raised, and that was the issue that this was \$32 million that we may not have and it's competition. What I want you to keep in mind, and Senator Landis has also indicated, that there will be time for further amendments if this is adopted or discussion on the bill. The bill does carry an appropriation in it in two year, of 16 million each year. The thing which is significant, however, is that before you can make an appropriation you have to have an authorization. The bill very specifically states, or the amendment, that if the Legislature does not appropriate the full amount of \$32 million, that then it will be the intent of this session that succeeding legislators...Legislatures can appropriate the balance as money is available until the full pledge of their...return to those depositors has been accomplished. So you can vote for this amendment, you're not jeopardizing anything. You can reduce the appropriation, obviously, the Governor could reduce the approp...because of the time of the session, could reduce the appropriation. But, if you vote for it, what you will have done is followed your heart, if that's...and that's not a bad idea, by the way, you will have followed your heart by placing the authorization for an appropriation, if not now, at least it will become substantive law that this Legislature recognizes that

there was an injustice that needs to be met, and the vehicle to do that is the substantive legislation contained in the amendment. The level that is done this year can be adjusted downward yet...

PRESIDENT: One minute.

SENATOR WARNER: ...by this body, or through the Governor. But from this time forward there will be the opportunity to reimburse those individuals through an appropriation each time the Legislature meets and as soon as it's possible, hopefully, this session. But you are not committed to the appropriation by adopting the amendment. All you're doing is placing into substantive law the ability to begin to make that payment to those individuals and the level of funding can be over a period of time, if that is what is necessary.

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

SENATOR LANDIS: Perhaps a call of the house is appropriate. If we could, I'd be happy to accept call in votes during the pendency of that, then once the body is here a roll call vote would be appropriate.

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

CLERK: 25 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Please record your presence. Those not in the Chamber, please return and record your presence. Senator Abboud has requested a roll call vote. Senator Peterson, would you check in, please. Senator Moore, would you check in, please. Thanks. We're all here, except those excused. And the question is the adoption of the Landis amendment. Roll call vote is requested. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 2581-82 of the Legislative Journal.) 26 ayes, 15 nays, Mr. President.

PRESIDENT: The Landis amendment is adopted. Do you have any other amendment, Mr. Clerk?

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

PRESIDENT: All right, we're back on the bill. The call is raised. I've had a request to keep track of those speaking for and against. Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. President, and fellow senators. Twenty to 25 years or more from now people will look back on the 1989 legislative session and remember it for one thing, if this bill passes, they will remember it as the time that the Nebraska Legislature had the integrity and the decency to approve of a compensation for a promise that we made several years ago. They will remember this Legislature as a Legislature that had the courage to acknowledge past errors, to accept responsibility for compensating people, even though they were not under any technical, legal obligation, but because they were under a moral obligation to reimburse the State Securities, Commonwealth and American Savings depositors up to the \$30,000 guarantee. For that reason, I urge advancement of the bill. I know that there are lots of people who could make excuses to vote against this, and we've heard them all. It used to be that the excuse was that the bill was always unconstitutional. We have, I think, a legitimate Attorney General's Opinion saying it is constitutional. We've heard the objection that perhaps by reimbursing the depositors I've heard that maybe we're letting American Savings and State Securities off with their obligation. But I think Senator Lindsay's amendment on the subrogation rights takes care of that excuse. There are probably enumerable excuses that can be used. But the fact of the matter is, if you have the decency and if you have the integrity to reimburse these depositors, you will be remembered and this legislative session will be remembered for that. And, Senator Beck, I would just ask you to vote with your heart this time, and I would ask your fellow colleagues and our fellow colleagues to vote with your heart and reimburse our brothers and sisters who have been misled and deceived by the guarantee and who thought that they were insured and protected up to the \$30,000 guarantee. Vote with your heart to reimburse them. I know Senator Beyer had some questions. I would yield my time to Senator Beyer.

PRESIDENT: Senator Beyer, please.

SENATOR BEYER: Thank you, Senator McFarland. Mr. Speaker and colleagues, got a couple of statements I want to make and then I want to ask some questions. Basically, I was on the Banking

Committee at the time this started, back in '83. I was on both the Commonwealth Committee and also the Special Committee on State Securities. I sat through all those hearings very diligently. There was basically the...when we got done with it, and I did sign a letter that most of that that we come up with was a lot of misappropriation, but more thievery than anything. We did sign a letter to the Attorney General and to the Lancaster County Attorney stating our findings. They had basically all the information available to them and nothing was done, and the statute of limitations ran out. That's a little bit of my explanation. Now, with that, I want to ask Senator Landis a question.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Yes.

SENATOR BEYER: Senator Landis, and you and I have talked about this, it's my understanding, I want to know if it's yours also, that when we...if we do reimburse the depositors that we will basically make both State Securities and American Savings in Omaha whole. And what I mean by that is that under their bankruptcy proceedings they issue both A and B stock; A stock is paid off out of dividends, the B stock is in another situation, granted it could be 20 years to get it all paid off. But is it your understanding also that if this does go through that those institutions are basically made whole and have no more payments to make on that stock?

PRESIDENT: One minute.

SENATOR LANDIS: I can answer in two of the three situations. I can answer that in American Savings I believe your characterization is correct. In State Securities, I do not know the answer to your question, and it may be correct. I know that in the situation of Commonwealth there is a loss that goes uncompensated, and...

SENATOR BEYER: Yeah.

SENATOR LANDIS: ...in the case of American Savings I believe that you're correct, that the company has said over the next 10 years we will make these depositors whole through the operation of our bank, and that that plan has been filed with the court. I believe that is correct.

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SENATOR BEYER: But, if we do this, and we have no chance as a state of collecting any of that money back then, they basically come off without having to pay that out of their profits, right?

SENATOR LANDIS: Here is the situation, yeah, I think it would play out this way. Unlike say Commonwealth, where if we reimburse and the Commonwealth properties continue to accrue in value and get money, the state would get that money.

SENATOR BEYER: Right.

SENATOR LANDIS: In the case of American Savings, you would have these people who are down, if the state comes in and pays, that will be the end of the obligation and our exercising that obligation will relieve the existing court filed plan of the responsibility (inaudible).

SENATOR BEYER: Thank you.

PRESIDENT: Time has expired.

SENATOR BEYER: (inaudible) few seconds, basically it's just the idea that we're making a couple of institutions whole here by doing this, that really their misappropriation and thievery was the cause of the whole thing. Thank you.

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

SENATOR SCHMIT: Mr. President and members, I'll be very brief. I just want to say this, I want to thank our colleagues who voted to adopt the amendment. I was perhaps first involved with the problems of Commonwealth...not Commonwealth but the NDIGC when the Dwight Co-op Credit fell upon hard times prior to the demise of Commonwealth. And we have many times on this floor debated who was at fault and who was the greatest sinner. I said five years ago or more there is plenty of fault to go around, plenty of blame to go around, but I think this afternoon we've demonstrated and, hopefully, finally, that it's never too late to right a wrong, never too late to say we're sorry. I want to thank particularly Senator David Landis who ought to probably be under a doctor's care but is here today because he believes very strongly in this. I know sometimes there is a tendency to think that this is a Lincoln appropriation, that is

not true. Most of the counties in the state had some losses here. It's kind of interesting that these individuals who suffered these losses were the frugal kind of people, people who traditionally save and try to plan for their future. I especially appreciate the Attorney General's Opinion which emphasized that the integrity and the credit of the state, the good word, so to speak, of the state is at stake here. I think under those conditions any of us were justified in casting a yes vote, and I want to thank all of you who did.

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

SENATOR MORRISSEY: Question.

PRESIDENT: No, I can't do that, we've only had one against and four for.

SENATOR MORRISSEY: I would like to yield a little bit of my time to Senator Goodrich, then.

PRESIDENT: To whom?

SENATOR MORRISSEY: Senator Goodrich, would you like some of Senator Morrissey's time?

SENATOR GOODRICH: Senator Landis, would you yield to a question?

SENATOR LANDIS: Yes.

PRESIDENT: Senator Landis, please.

SENATOR GOODRICH: In looking at the Lindsay amendment, we were trying to figure out what would happen to the real estate assets of Commonwealth in the event that they were paid off with the full 30,000, each depositor, in other words. I don't really think he's quite covered the fact that those assets would transfer to the state. But also, even if there was not sufficient assets in, I'm sorry, sufficient money in the appropriation to pay the full 30,000 off, then those people that did not get the full 30,000 would still have the claim on the assets, the real estate. Third category was those that had over 30,000, they would still have claim on those assets and the state would still come behind all that. I don't think there is

enough to pass around. How do...what I'm thinking we're doing is we're paying the \$30,000 off, eventually off all these assets...all these depositors of Commonwealth and they are going to keep the assets in the trust arrangement, whatever they've got going there in the entity, in other words, receivership entity, and wind up with us getting nothing out of it.

SENATOR LANDIS: Fine. I'll use the rest of the time, if I can, to respond to that set of questions. Senator Goodrich's question is disposition, if the real estate property comes in, and we wind up having reimbursed people and we have actually more property left over through real estate. Secondly, what happens if you have less than the \$30,000 guarantee in the payout, where does the state lie with respect to that real estate? Third, what happens to the people who have more than \$30,000 and where is the state vis a vis them? Fair enough. Here's the answer to that question. This payoff places the state at acknowledging the up to \$30,000 guarantee of the depositors, and then the state, acting as the receiver, receives back against this that we have put into the liquidation, we become a priority claimant to get back our money. So, if we put this money in and for some reason the Commonwealth properties turn around and make big gains, money comes...that money from the receiver will come back to the state. What happens if our state amount of money is less than the \$30,000 guarantee? Hypothetically, the situation that Glenn suggests might be, in fact, a trouble, if we had not gone to quite considerable accountant and actuarial minutia to discover the appropriate amount of money necessary to meet the \$30,000 guarantee. The money in this bill does that. So that while there may be a legal problem in that situation, Glenn, it's not present in this bill because this bill contains the money to meet the \$30,000 guarantee. With respect to claimants and depositors who had more than \$30,000, remember that this is a state injection of funds for a public purpose and we can limit that public purpose. Our limited public purpose, if you read the face of this document, is to take care of a limited set of situations, depositors up to \$30,000. Therefore, our claim and our right to this money is higher than a depositor who has more than \$30,000 in Commonwealth. We will get our money back before that depositor would get money out of this pocket. And in that sense there is no priority. What this money will do is one thing and one thing only with respect to Commonwealth,...

PRESIDENT: One minute.

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SENATOR LANDIS: ...it will be to pay off up to the \$30,000 guarantee, should the Commonwealth receiver's properties, after this time, make us more money than is projected by this analysis, if it makes more, then the state will receive money back from the receiver, because that is the purpose for which this money is given. And that is my answer to the question. Thank you.

SENATOR GOODRICH: Then you're...have we got a minute left? Then, Senator Landis: what you are saying then is that we may not be able to get any money out of the assets. They would continue to keep the assets and let that accrue to themselves as well.

SENATOR LANDIS: In the event the assets produce at the rate that they are expected to, that money is figured into what we need to pay them off, and you're right, we'll get nothing from it. If they produce higher than we have anticipated, then we'll get that money.

PRESIDENT: Time has expired. Senator Wesely, please.

SENATOR WESELY: Question.

PRESIDENT: We still have four for it and two against. The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr Clerk.

CLERK: 14 ayes, 10 nays to cease debate, Mr. President.

PRESIDENT: Debate does not cease. Senator Hall.

CLERK: Mr. President, I have a motion.

PRESIDENT: You have a priority motion?

CLERK: Yes, sir.

PRESIDENT: Okay.

CLERK: Senator Lamb would move to bracket LB 272A until January 10, 1990.

PRESIDENT: Senator Lamb.

SENATOR LAMB: Mr. President, members, my reason for putting the bracket motion up there is to get an opportunity to speak, and I will withdraw it. But I wanted to make a point that I don't think has been made here. We certainly are in sympathy with the problems that have been developed because of the failure of these banks. But...and, Senator Landis, if you could help me with the numbers because I have not looked it up, but I remember in previous years when we debated this issue that the great majority of the money was in Commonwealth before there was the \$30,000 guarantee. Is that correct?

SENATOR LANDIS: A majority...the growth of the amount of money in Commonwealth was significant, but there was a good, healthy portion, and certainly majority is the right word, prior to the \$30,000 guarantee.

SENATOR LAMB: If I remember something...it was something like a \$12 million growth after the guarantee. But before the guarantee there was something like 50 or 60 million, and then later it was maybe another 10 or 12 million dollars later. I wish I had the exact numbers.

SENATOR LANDIS: I'll give you some...perhaps we can agree to this. My recollection is 46 to 66 over the course of the 10,000 and the 30,000 dollar guarantee.

SENATOR LAMB: I don't think it was...I don't think there was that much, but I could be mistaken. But my point is this, the great majority of the people who put their money in Commonwealth and, as has been stated, they are certainly good, great people, working people who saved their money and I know that and I sympathize with them. But the fact of the matter is most of them put their money in there for the higher interest rates. They did not put it in there because of the guarantee. A few of them, after there was a guarantee, did put in more money, but that was a relatively small number compared to the amount of money that was in there before the guarantee. So...and then, beyond that, we have already paid them \$8.5 million. So, there...for most of those people the guarantee was not the reason they put the money in there. They put it in there because of the higher interest rates. So you can talk about a moral responsibility, but, in my opinion, there is not a moral responsibility for the great majority of the funds that were

deposited in Commonwealth. And we've already paid them as a result of court action \$8.5 million, then they have also, of course, gotten some funds back from the assets of Commonwealth. So, while it is a sad situation, it's not nearly as sad as you might believe if you don't delve into the facts. Now, I'd like to pay them. I'd like to pay them, I'd like to pay every farmer that went bankrupt. I'd like to pay everybody that has a problem, but, unfortunately, that can't be done. Now there is a case that there is some money there that was lost probably because the people put it in there because of the guaranty, but it certainly was not a big amount. And we've already paid \$8.5 million of that amount. I think the remaining amount is very, very small. I just don't see how we're justified in doing this, in doing this at all. Yes, I'll withdraw the motion, Mr. President.

PRESIDENT: Okay, the motion is withdrawn. Okay, we're on the discussion of the advancement of the bill. Senator Hall, your light is next.

SENATOR HALL: (Response inaudible.)

PRESIDENT: The question has been called. Do I see five hands? Now I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Please vote, if you care to. We're voting on ceasing debate. Record, Mr. Clerk, please.

CLERK: 26 ayes, 8 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Landis, on the advancement of the bill, and this is your closing.

SENATOR LANDIS: Thank you. Actually the debate on Commonwealth probably will never stop, I think we all know that probably, pretty fair to say. And, if this bill doesn't move today and doesn't pass, why we'll all be back here again. I do want to read Section 5 of the bill for you. If, after all depositors have received the guaranteed portion of their deposits, the successor companies or receivers recover additional amounts of liquidation of assets, such additional amounts shall be used to reimburse the state for the amounts appropriated for purposes of Section 4 of this act, and any remaining amounts shall be expended according to law. That's the purpose. What's in the bill? Sixteen and a half million dollars this year, \$16.5 million next year, although actually malleable by the

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Legislature depending on how available the funds are, according to the testimony of Senator Warner previously. There are about 12,000 Commonwealth depositors, about 4,500 State Security depositors, about 3,000 American Savings depositors; about \$3 million of losses in American Savings, about \$9 million at State Securities and the rest at Commonwealth. And it's a matter of political philosophy, it's a matter of personal morality, it's a matter of legal interpretation as to whether or not you feel the state is responsible. I agree with Senator Abboud's analysis that this does not arise as a matter of legal binding obligation. On the other hand, when you've wronged someone you try to make them whole and that is the idea behind this bill at this point. I urge its advancement. I can see that there are empty chairs with the coats behind them. It's pretty clear to me that the body is not fully assembled at this moment. Mr. Speaker, let me ask for a call of the house and then we'll proceed to a machine vote.

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

CLERK: 24 ayes, 0 nays, Mr. President.

PRESIDENT: The house is under call. Will you please return to your desk and record your presence. Those not in the Chamber, please return so that we may continue. While we're waiting for you to return, may I introduce a special guest under the south balcony, two of them. Senator Rogers has his one and only sibling, his sister, who is Mrs. Wendle Smith of Sedalia, Missouri. Would you please stand, Mrs. Smith. And he also has his daughter who is Gina Rogers Edwards now of Honolulu, and at one time worked here with one of our senators. Gina, would you please stand and be recognized. We're happy to have both of you here today. Thank you for visiting us. Senator Ashford, would you check in, please. Senator Conway, Senator Korshoj, Senator Scofield, Senator Lindsay, Senator Schellpeper. Senator Lindsay and Senator Scofield are the only two we're looking for, the others are excused. Senator McFarland.

SENATOR MCFARLAND: I'm shielding my eyes from the lights, so I can see the board.

PRESIDENT: Oh, all right.

SENATOR MCFARLAND: Thank you.

PRESIDENT: All right, we're all here at this time. Now the question is the advancement of the bill. And a roll call vote has...no. Machine vote. All those in favor vote aye, opposed nay.

SENATOR ABOUD: Roll call vote.

PRESIDENT: Roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 2582-83 of the Legislative Journal.) 26 ayes, 18 nays, Mr. President.

PRESIDENT: The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Mr. President, Enrollment and Review reports LB 706 as correctly engrossed. (See pages 2583-84 of the Legislative Journal.) That's all that I have.

PRESIDENT: Okay, we will move on to LB 311 on Final Reading. LB 311, Mr. Clerk.

CLERK: Mr. President, I have a motion. Senator Landis would move to return LB 311 to Select File for a specific amendment. The amendment is on page 2437.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Thank you. There is no money in this one at all. This is an amendment suggested to me by the firm of Kutak Rock to make an adjustment to some language that I accepted in the Scofield amendment earlier on this bill that has to do with wastewater treatment and the use of bonds. It allows the State Investment Officer to utilize a bond trustee to invest the funds and in so doing it's possible for us to make sure that we get the maximum return on our investment. Our State Investment Officer invests funds at a variable rate but in the years when the invested interest rate, it perhaps might be lower than the issuance rates of the bonds, it's necessary to use the trustee and have the bonds invested rather by a trustee and a guaranteed account at the rate of interest that the bonds were let at. Then the accounts break even and no money can be lost. In other words, if you use the bond trustee mechanism, you can ensure

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guess you can start reading LB 285. We'll not be holding you to the seats for this next half hour.

ASSISTANT CLERK: (Read LB 285 on Final Reading.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 285 become law? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Read record vote as found on pages 2589-90 of the Legislative Journal.) 36 ayes, 1 nay, 7 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 285 passes. Again, consistent with the announcements earlier today, we'll...yes, we'll go to the A bill next. We'll proceed, after the A bill, on Final Reading, bills with motions to return. Nine o'clock is the operative time, nine o'clock. I should hasten to advise that there have been three amendments filed under other motions filed with the Clerk. We have amendments to 209, 183, and 761A. You know what we have to continue, finish, under Item 9, three additional amendments. We stop at nine o'clock for Final Reading. Mr. Clerk, the A bill.

CLERK: (Read LB 285A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 285A, with the emergency clause attached, become law? All in favor vote aye, opposed nay. Have you all voted? Please record. We've got 33, um-huh. Yes. Record.

CLERK: (Read record vote as found on pages 2590-91 of the Legislative Journal.) 34 ayes, 0 nays, 9 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 285AE passes. For the record, Mr. Clerk.

CLERK: Mr. President, Enrollment and Review reports LB 272A as correctly engrossed; LB 311 as correctly engrossed; LB 357 as correctly engrossed; LB 357A, LB 525, and LB 566 all reported correctly engrossed, all signed by Senator Lindsay as Chair of

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311, 362A, 377, 487, 487A
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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,

Commonwealth bill that has been back before us. I offer the motion to bracket for this reason. This is the last of the major spending issues to be put on Final Reading for the body to consider, and frankly, we are at a gridlock on budget issues. There is certainly a murky taste ahead for 272A regardless because of the well-fought and very close division of sentiments on it. However, it is also the case that because of the way issues are now structured, everyone sees every other bill as a potential malefactor, potential blocker, that keeps their bills from getting passed, and the only thing that's going to add some clarity to our deliberations is to pass the measures that we have before us, send them to the Governor's desk, allow her to do her work and return the budget with her vetoes to see what work she has done, to see what priorities she has. If, after that priority status has occurred, if the body has sent over the bills it supports and the Governor has sent back the bills that she opposes and has put on the table the vetoes, if at that point we have a list of priorities that would permit this issue to go forward, that's the time to take up 272. Unfortunately right now, both rumors and innuendo are rampant that a vote for one bill is as good as a vote against another bill. If you support this measure you are sealing the fate of that measure. I would suggest to the body that the best way to have this issue come forward is, at the end, in a balancing kind of act that we'd have to play with a greater clarity that we'll know following dispositions of considerations tomorrow, and that's the reason for the bracket.

SPEAKER BARRETT: Thank you. Discussion on the bracket motion, Senator Wesely, followed by Senators Hall, Schmit and Abboud. Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members, I want to rise in support of the bracket motion. I also want to rise and commend this Legislature. When you voted a couple of days ago to amend LB 272A and advanced the bill. It was one of the best days I've had in 11 years in this Legislature. We're very concerned right now about whether we will eventually pass this bill and the hope that you gave, those of you who voted for that bill, the hope and promise of relief that you gave to those Commonwealth, State Securities and American Savings depositors, we can't let that die and we're very afraid at this moment with the circumstances we're in, that that's exactly where we're at. We understand how hard the vote is and we appreciate very much your vote the other day and we know you're in a tough spot and a

difficult situation. I don't think we're ready at this point to decide how this places in the other issues before us and so rather than proceed we're asking you to wait till tomorrow. At that time we'll have a better clearer picture of where we're at and we can decide what we want to do, but I want to tell you right now at this time that hopefully if we can bracket and get back to this bill tomorrow, that I as one who have supported Commonwealth all along and want very much to see the money returned to those people, if nothing else, if nothing else, if we can pass this bill without any funding even, I will be as happy about this legislative session as I've ever been, again, in my 11 years down here because we will have righted the worst wrong I've seen in the state in that period of time. And even if we don't get the money, even if the bill passes and we make an agreement with the Governor and there is no money in there we will have said we will deal with this issue, we will right that wrong and to me that is the step forward that we've just got to take, the first step in a series of steps of righting that wrong. And so I just want you to know that I'm very proud of all of you that voted for this, that it was a difficult, tough vote that you're in a spot right now, I know, with many other priorities and concerns facing us and with a lot of questions about what will happen and I just am proud of you and I want to keep that pride there and I hope that we can delay till tomorrow the decision on what we do. But if nothing else, at least we're in a position to deal with this issue and I thank you for that.

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. Senator Landis, would you respond to a question?

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Sure.

SENATOR HALL: Senator Landis, is it your understanding that we will receive the budget bills back and vetoes yet today, or by bracketing this bill do we delay that in any way?

SENATOR LANDIS: I do not have understandings with the Governor beyond anything else that the body has and actually I think the Speaker has characterized those relationships for us all. My expectation is that vetoes will be made, that we will know more tomorrow than we know today. We'll certainly will have seen

bills on the green sheet either pass or fail with support of the body. We will know more tomorrow than we do today by which the body can make a more knowing evaluation of its priorities. I do not have special inside information, Senator Hall.

SENATOR HALL: Thank you, Senator Landis. Mr. Speaker, would you respond to a question?

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. Speaker, would you respond to a question?

SPEAKER BARRETT: That depends on the question, Senator Hall.

SENATOR HALL: I thought that might be your answer, but... Senator Barrett, what is your understanding with regard to when we will receive the budget bills back? Is that going to take place yet today?

SPEAKER BARRETT: It is my understanding that the budget bills would be returned to us today. That has been my understanding and that was a comment that I shared with this Legislature on two previous occasions.

SENATOR HALL: Appreciate that, so...now you are worth three for three, right? All right. Thank you very much.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I guess I have a little concern, and especially concerned with the remarks of Senator Wesely about passing the bill without any money in it. My support for the reimbursement for Commonwealth depositors is equal to or better than any other member of this body including the Lincoln senators and I make no apology for that, in fact I am pleased with it. I would have to say that I am somewhat concerned because of the spoken interrelationship of the various bills. Having very little personal involvement in a number of those bills which are deeply involved in the budget process, I perhaps have less interest in what happens to some of them than some of you might have, although overall, I do maintain a broad interest. I just want to go on record here and I'm going to speak I think on behalf of a large number of persons, both those who supported the bill and who opposed the bill, that if there are any negotiations taking place, clandestine, above board,

behind closed doors in smoke-filled rooms, anything of any kind or nature whatsoever, I'd like to be involved in whatever kind of negotiations are going to take place. There is a tremendous difference in using the scalpel on a bill than using the meat-ax and when we start talking about matters of equity I think that there ought to be input from the maximum number of individuals. I understand, of course, that if the bill passes and it arrives at the Governor's desk, the prerogative of how it is treated there is hers and hers alone. But as one who has had a deep interest in this program for a long time, I volunteer my input for whatever it may be worth. And I can tell you very frankly that having negotiated a few 25-vote bills in the past, that it is easier to lose a vote than it is to gain one and we are not in a position where we have the luxury of treating this bill in a manner which is not considered to be equitable. I believe the depositors of Commonwealth have waited a long time and we would perhaps be guilty of the most cruel hoax of all to pass this bill without any funding. There are a number of programs which we have outlined here, most of which I have voted for, many of which can perhaps be put on the back burner for a year or a little longer. But the appropriation for Commonwealth and American Savings and State Securities, in my estimation, should have a very high priority in the matter of trying to make available funds reach to all corners of the budget. I say that also because I am deeply concerned that given some adjustments, rather some very fine-tuned adjustments in the taxing procedure that the funds may not be, may not be quite as available next year as they are today. And so for those of you who say that we may have to wait until next year, I want to caution you the needs will continue, be whatever...ever they come from, whether it's state salaries, whether it is university, whether it's the various aid programs or capital construction, but the likelihood of a continued super inflow to the treasury is not likely to continue forever and so I just want to say that I've heard all sorts of rumors floating around here this morning and in the words of former Senator Carpenter, I don't want any chicanery going on out here that I'm not a part of. So with that, I close.

SPEAKER BARRETT: Senator Abboud, followed by Senators Lamb, Hefner and Warner.

SENATOR ABOUD: Yes, Mr. President, colleagues, well we're getting at the end of the session now and I think we all pretty much know that we're going to have to make some decisions on our

budgetary matters. At the current time we will have to cut approximately \$55 million out of our budget in order to balance it. Now that \$55 million will most probably come in the form of vetoes. It may come in the form of some bills not being passed, 525 for example that is up next. There are some bills that we still are considering where we have a possibility of reducing our budget by \$55 million before the final day of the session. Should Commonwealth be a consideration in that \$55 million? I believe it should. It's a part of the budget, it's going to be an appropriation of approximately \$33.8 million and it's just as much a consideration as state aid or any other bill that we're going to be considering here in the final days. I think we're painting ourselves, as well as the Governor, into a box by not taking up this bill today. If I was the Governor of the State of Nebraska, I wouldn't return any vetoes. I would wait until we had the final budget. \$33.8 million is a lot of money. I think it's too much money to be viewed in light that it shouldn't be a consideration in the budget. As for passing this bill without the financial backing to support it, I think that would be once again a promise that the Legislature does not keep. If you're going to support this bill, fine. Get the 25 votes, pass the bill. The will of the majority stands. But don't pass a piece of legislation without the funding to it. I think we all realize that this has drag on for years and years and years and a conclusion is what we want to reach, be it a payment or a nonpayment. But a promise to the depositors of Commonwealth or American Security, or State Security or American Savings without the financial backing is a hollow promise and I hope the body does not take that approach. I understand sometimes the votes aren't there for a particular day and sometimes you want to wait a day or two or a month or a year. That's understandable, that's a part of the process, but at the same time we have to make some final decisions and those final decisions won't be made until Commonwealth is on the budget table as well.

SPEAKER BARRETT: Thank you. Senator Lamb.

SENATOR LAMB: Mr. President and members, I also rise to oppose the bracket motion. It seems to me that there are several reasons why this should not be bracketed and Senator Abboud has spelled out several of them that all these spending proposals should be on the Governor's desk at the same time so that the choice can be made. Beyond that, it seems to me...you know, I hear the rumors. I really don't have any input from anybody on

it except I hear the same rumors that everybody else has and one of those rumors of course is that the Governor will assume that Commonwealth will pass or this bill will pass if she makes her veto decisions before it actually has passed and so that, in fact, places some of the other legitimate spending motions, measures at risk just because if that is true that she assumes that if the bill has not been disposed of by the time she makes her vetoes, which I understand she has promised to make in time for us to have an override attempt tomorrow, then that places some of these other measures at risk and I really don't have any there, but it seems unfair to do that and sort of place the whole situation in a position of uncertainty at this point. And I think at this point we should vote on the bill and if it passes, send it over there and the Governor makes the decisions on all these measures at the same time.

SPEAKER BARRETT: Thank you. Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I rise to oppose the bracket motion. This is crunch time. This is D day. We need to take action either up or down. I don't see any reason why we should wait till tomorrow. I realize there is several senators on the floor that for the last week or ten days have been telling us we've got to stand up here and say no, we've got to say no, we've got to have guts enough to say no to some of this spending. We've even had a couple meetings during the noon hour trying to see where we could cut and where we can't, but you know with a body of 49 senators it's hard to do that because we each have the appropriation bills that we're going to support and that we're not going to support. So in the end it's going to end up in the northeast corner. It always has, it always will because we as a body here of 49 senators cannot decide collectively what we want to do and what we don't to do when it comes to appropriation bills. So I would just say to you this morning, let's go ahead and read the bill, take a vote on it and if it gets 25 votes, well it goes over to the Governor's Office and then we'll have to see what she vetoes and what she doesn't. If she vetoes some, which I'm sure she will, then it will be up to this body to decide which ones we want to override and so I just say let's oppose the bracket motion and go ahead with the vote on the bill.

SPEAKER BARRETT: Thank you. Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, when

John Kelly was working for Morrison he used to bring me one-liners, many of which I loved, one of which I remember is you deal with things as they are, not as you wish they might be. And we are now dealing with budgets as it is. The determination of where we are now was made over the last few weeks and we all participated. I'm not going to lay it on any one thing. It's always the cumulative consequences of all acts and each of us individually, no doubt, can find how we voted yes and no on a variety of things and on the base in our votes, everything balanced, but collectively it doesn't and that's how it is so we deal with it now. I'm inclined not to support a delay because I don't think a delay will cause any change. The other day when 272 was advanced, an amendment was adopted, I knew I was making a choice then and I knew that choice was that the money was going to come out of 813, 814, A bills, substantive legislation that's passed. It was obvious. You knew that was, at least I knew I was making that choice and I was ready to accept it and still am. It doesn't make me feel very good. If we wait till tomorrow and force the Governor to veto a bunch of things to make room for it, it's not going to help 272A I don't believe. Maybe it even makes it more painful not to pass. I agree with Senator Abboud. This issue has drug on and drug on and it has drug on long enough. And whatever we have to do to rectify the mistakes of the past over a lot of people, as far as I'm concerned this is the year to do it and whatever the price we have to pay, we pay. By the way, that \$55 million gap does not solve 32 million worth. It is only 8 million that it solves on the green sheet because you divide any one-time expenditure by four. It helps this year, there's no question about that if it isn't done on the budget side but that by itself doesn't solve the problem that we still have or the Governor still...well, the Governor doesn't have a problem, we've got a problem. So I'd urge you to, if you believe that, as I do at least, that the wrong should be made right, then we ought to vote for 272A knowing that we built the situation, all of us, including myself, I'm not critical of anybody, and get it done, get it over with and behind us. And then those things that are not funded that have been enacted or those laws that have been passed that will have to be vetoed, those can be done next year.

SPEAKER BARRETT: Thank you. Senator Langford, followed by Senators Moore, McFarland and Wesely.

SENATOR LANGFORD: Mr. President, I call the previous question.

SPEAKER BARRETT: Senator Langford moves the previous question. Five hands I do see. Shall debate now close? Those in favor vote aye, opposed nay. Record, please.

CLERK: 33 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Landis, for a closing statement.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, I'll renew my motion which is to bracket till tomorrow, hoping that the body will have by that time a greater sense of priority and knowing where the money is, acknowledging that that won't be absolutely clear, but we will know more than what we know today. Secondly, let me say that I think each of us tries to do the best we can for our bills. You try to read the street. You try to say what's my best opportunity, and frankly, the way I analyze it, I've had a better opportunity when people know more about the budget than I do today. That's why I make the motion. I've got to say I think fair words, fair arguments by Senator Abboud, Senator Hefner, but in a personal note let me distinguish those arguments from the arguments of Senator Lamb who on his own spending priority, suspends the rules and moves his bill ahead of everyone else's for consideration to make sure that it isn't in the gridlock that the rest of these are, and now to defend the system is, in my estimation, to be hypocritical. For the rest of us I think there are fair arguments to be made and much more legitimate arguments and I certainly acknowledge them to apply in this case. With respect to this situation I do the best I can for my people, I do the best I can for my issue and this is the best way I can to exonerate these interests. I move to bracket the bill till tomorrow.

SPEAKER BARRETT: Thank you. You've heard the motion to bracket the bill until tomorrow and the Chair advises the body that the motion to bracket, having been made by the introducer, requires a majority of those voting to prevail, simple majority. All in favor of the motion to bracket vote aye, those opposed vote no. Have you all voted? Have you all voted if you care to vote? Record, Mr. Clerk.

CLERK: 18 ayes, 24 nays, Mr. President, on the motion to bracket the bill.

SPEAKER BARRETT: Motion fails. Mr. Clerk.

CLERK: Mr. President, I have a second motion by Senator Landis to bracket LB 272A until January 3, 1990.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Thank you, and I'll take this matter up briefly as well. Let me tell you my intentions and you'll be able to measure your own choices against them. I intend to offer this bracket motion. If it fails, I intend to have the bill read and rather than to make any request for a limitation of funds, we should read the bill straight up and see how it does. Now, having told you what my intentions are, let me tell you my reasons for this motion. I have since Select File had four, I would imagine four votes fall off the bill. It seems to me that I do not have 25 votes. I've got votes that want to vote for 272, want to vote for Commonwealth and believe it to be a priority, but not a higher priority than other important spending issues. And I can't disagree with them. A number of those priorities I voted for myself. I believe in them, I want to see them be law. I can understand why when they have to make a choice, if they are jeopardizing a higher spending priority by voting for this bill, that they create a problem for themselves, and frankly, you know that to be true and I know that to be true. And because that's the case, I want to live to fight another day. That's why I offer the motion. Thank you.

SPEAKER BARRETT: Thank you. For discussion, Senator McFarland, followed by Senators Warner, Moore and Hall.

SENATOR MCFARLAND: Thank you, Mr. Speaker. Ideally we should vote on bills not on the basis of what point we consider them in time or how are they, are listed on the agenda schedule or whether they come up during the middle of the session or in the last of the session. Ideally we should look at each bill on its own merits, vote on it whether we approve of it or disapprove of it and have those bills that are the most meritorious be the ones that pass. In my view, of course, this is one of the most if not the most meritorious bill that we had before us this session. The people of State Securities and Commonwealth and American Savings have been waiting years to be reimbursed on the guaranty that was provided to them when they deposited their savings, their life savings, their futures in the institutions only to find out that those savings were not protected and they

had technically no legal right to them even though the Banking Department had failed in its obligation to monitor Commonwealth and State Securities and American Savings for that matter. We should not be voting on this bill on the basis of rumors that we hear and innuendo. Rumors can be circulated in all areas and I dare say that many rumors prove not to be true when we hear the final facts. I would just ask those senators that voted for this bill on Select File and who put this bill in the form that it is now in to consider that vote and ask any of those senators who are now considering reversing their positions to ask them how they can vote for that bill and raise the expectations and the hopes of all of those, I think there are at least 8,000, more than 8,000 people who would like to have some kind of reimbursement for the life savings that they lost. How can you justify a reversal of that vote? How can you explain to yourself a reversal of that vote and how can you rationalize or excuse yourself from taking that type of position and voting on Select File to provide reimbursement, long overdue reimbursement to these people whose hopes have been dashed time and time again and then to be so cruel and callous and insensitive as to vote in favor of that on Select File and then vote against this bill on Final Reading? It would be nice to end this session, I think for all of us, to be proud and pleased with having served in this Legislature and I hope that we do not end it this day or the last day in a fashion of rejecting this proposal. I will just ask each of you individually to not act as politicians for once and just to act like a caring and concerned and compassionate human being and vote to approve and pass this bill so that these people that have suffered so long...

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: ...and have fought so hard can finally can get some kind of compensation and understanding from the state. Thank you.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I guess I'm in the position of probably supporting this on the assumption that the votes aren't there to enact 272A. The other half of the equation for me then is, irregardless of...regardless, I'll get that right, regardless of the number of vetoes, I will support all vetoes because the only way I know to make this work in January is save every dollar we can and

hope it's...and then I understand that that is no guarantee because there will be 10 organizations or 20 or 30 all after the same money so it's a new fight all over again. The Attorney General's letter I thought was exceptionally conscience-driving kind of conclusion that there was a public purpose here, the most fundamental public purpose there is and that is the confidence in government. And whether you're one of the 8,000 or not, everybody's confidence in government has been weakened some. I suspect even those who believe that it shouldn't be done feel that way. I've got a motion also, if we decide to vote, which would be the sense of the body type of motion, suggesting to the Governor that we would support or urge to veto the number down, I suggest 5 million each of the two years. There are some other places I'm sure where that could be picked up in the way of vetoes without naming them specifically. But I will support the bracket motion on the conditions that I...from my own viewpoint, knowing full well that we have let down people again and absolutely gave them nothing in the way of assurance for a year from now. But at least there's something live, even though a long ways from enacted.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Question.

SPEAKER BARRETT: The question has been called. Do I see those five hands? I do. Shall debate cease? Those in favor vote aye, opposed nay. Please record.

CLERK: 20 ayes, 2 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate does not cease. Senator Moore. I'm sorry, Senator Hall.

SENATOR HALL: Thank you, Mr. President. Thank you, Mr. President, very much as a matter of fact. I don't know whether to rise in support of the bracket motion or not. Senator Warner, I have a problem and I'm looking for a little guidance. See my head tells me that I should support the bracket motion, but my heart tells me that I shouldn't, and the reason for that I guess is because some of the points as you laid out with regard to the bracket motion does keep the bill alive and I think it makes good sense when you can count and you don't reach 25, you know that you can't get the bill passed. But in listening to my heart I also see the fact of the matter

is, is that this is something that's long overdue. It's a wound that has not yet healed and we're jabbing it one more time, we're breaking that scab and I'm afraid that if we don't get it done this year that there are no guarantees that it will ever heal. Now for that point I guess I probably will listen to my head and support the bracket motion, but I also think that should the bracket motion fail and we read the bill today, that it ought to pass and it ought to pass at the expense of anything that I put into the budget or anybody else put in the budget or the budget I guess in its entirety because this is clearly of the highest priority I think for the state. It's not an issue of paying back the Commonwealth people, it's not an issue of paying back the State Securities people or American Savings. I think it's an issue of how we are perceived and how the State of Nebraska is perceived not by those outside the state, but by those inside the state. What are we made of? What do we think of ourselves? I think this clearly is the barometer by which we judge ourselves, not by how others judge us because I'm not really worried about what other people think of me, anyway, and that's clear by my actions from time to time here on the floor. But the point here is this is clearly one of those right things to do and I guess if I know that when we delay it, it means that we'll be able to work out a payback plan like we have on some other things, extended appropriation over a number of years and we can get it done in 1990, then great, let's go ahead and do it. But if the bracket motion fails I sure hope that the 27 votes or so that were there on Select File are there again because this takes priority, I think, over anything that we've done and I think it's unfortunate that we have it before us on the 89th day. It probably should have been an issue that we dealt with on the first day. With that, Mr. President, I would urge you to bracket the bill until next year.

SPEAKER BARRETT: Senator Scofield, please, followed by Senator Ashford.

SENATOR SCOFIELD: Thank you, Mr. President and members, I rise reluctantly to support this bracket motion for all the reasons that all of you support Commonwealth have used, but facts are facts. There is a saying I remember from the first political science course I ever took and that is, even the dumbest politician can count, and Senator Landis is not a dumb politician. So even the smart politician in this case has got to conclude that this issue may well be in trouble. It shouldn't be, but it might be. And I'm not willing to take that

risk. One of the reasons that I did not vote for the income tax bill, frankly, is even though people were taxed unjustly, it seems to me that in my order of priorities anyway, that it wouldn't have hurt to ask those folks to have that wrong righted until we have righted the Commonwealth situation. That doesn't solve some of the other problems we face out there but that's one step that I chose to take. There is another bill coming up called the trailer bill, 525. It has some items in it that I opposed and I would still take them out if you gave me that option. You won't, and I'm going to suggest we go ahead and send that bill over there but, again, I'm not going to push the Governor to leave any of those things in there. It will be on her plate with everything else. But I really think Nebraska fell down in its responsibilities to regulate and we have an obligation to make this right and if we can't do it this year, I'll be with Senator Landis and others trying to make it right next year. I support the bracket motion.

SPEAKER BARRETT: Senator Ashford, please.

SENATOR ASHFORD: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate close? All in favor vote aye, opposed nay. Record.

ASSISTANT CLERK: 30 ayes, 3 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Landis, to close.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, I don't think I've had a tougher time on the floor that I can think of than this moment. I don't know what it would be if I had to reflect back because at the very moment I, too, think what a great session it has been to have this issue on Final Reading where it has never been before. How terrific to have just three days ago, the people of this body have their consciences moved and to advance the bill. But I tell you there is...there is a hard thing called a vote count and they keep taking our temperature every day a couple of times a day, see how we're doing and those vote counts change and they change for good reasons, not for whimsical reasons, not for lack of political moxie in some cases, but because we have to make choices. And, frankly, this bill has affected those choices

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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

May 24, 1989

LB 272A, 814

CLERK: (Roll call vote taken as found on pages 2755-56 of the Legislative Journal.) 18 ayes, 21 nays, Mr. President, on the motion.

SPEAKER BARRETT: Motion fails. The call is raised, again with a request to stay very close. If you have to leave, stay very close. Next item. Senator Schmit, for what purpose to you rise?

SENATOR SCHMIT: Mr. President and members, I have a motion on the desk, please. Would the Clerk please read the motion.

CLERK: Senator, your motion reads as follows, to postpone LB 272A to a time certain, specifically 4:38 p.m., today, May 24, 1989.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I will not take much time because time is of the essence here and I believe it is important that we recognize that all of us have some priorities here which we need to address and I have agonized over this most of the day to determine whether or not I should bring it up. After having reviewed with some of you the actions yesterday, legislatively, to the bracketing of LB 272A, and after having read some of the comments in the paper this morning and after having visited with some of you again today, I felt it was important that we do vote this year on LB 272A, commonly known as the Commonwealth bill. I'd like to just say at this time I do not think it's necessary that we review the past. We can, and many have tried, to deny that Commonwealth was robbed...the depositors were robbed and that State Securities was worse than Commonwealth or that there was some interconnection between the two, that there might have been cover-up and concealment, but deep down we all know very well that the people who were depositors there were not treated well. It's easy for us to stand here on the floor and shed crocodile tears for those individuals who have lost their savings. We know that there have been times when it might have been not politically expedient for one interest or another to correct the inequities that developed as a result of not paying the depositors at those institutions. For those of us with a memory, the bill is now 272A. It's very similar to the bill which was introduced in the special session shortly after the demise of Commonwealth that

would have provided for the state to take over the assets, pay off the deposits and handle the assets the way the FDIC does at the federal level and the manner in which today we know many other similar institutions were handled by other states, but that is water over the dam. It is time now in my estimation to stop the charade. I think it is time to admit that we have in effect hustled the people of Commonwealth and State Securities and now also American Savings of Omaha. We have undergone the largest spending spree in the history of this Legislature, at least in the history that I have been here, and I know there are those who are going to say that we just couldn't take care of this problem. There have been trades made on and off this floor and the hottest trading item in stock was 272A. Now I do not criticize those who chose to link the issues, but I want to say at this time that I do not believe and I will not be used one more time on this issue and I will not allow the victims of Commonwealth to be used one more time to have their hearts and their minds shattered by having the rug pulled out from under them at this last stage on one pretext or another. Senator Chizek borrowed a quote from President Reagan the other day. He said, if not now, when; if not us, who? For us to bracket this bill until January and string along these people for another six or seven months borders upon criminal intent. There are members of this Legislature who worry constantly about the abuse of the elderly. Ladies and gentlemen, in my opinion we are committing it now. I was concerned because some senators had commented that the bill would not pass. Senator Landis and I had a discussion about that this morning. Senator Landis emphasized that he never...he has always been, and I know him to be, deeply committed to the depositors of Commonwealth. Some might have misconstrued comments about the difficulties of passing this bill as being lack of support and that is not true. I think it is time to stop the charade. I think it is time to vote on this bill. The bottom line as far as I am concerned is that we ought to vote today to give these people their money. I'm not going to participate in stringing them along for one more session to be used as pawns in another pile of spending that will again result in perhaps a second highest level spending proposal for another year. I think that it's time to stop the nonsense. I think it's time to either give the people the money or have the intestinal fortitude to let them know where they really are and what the real game plan is. Mr. President, if this motion does not succeed, then as much as it pains me to say so, I want to know and go on record that I will not be a party to any further attempts, no matter how well-intentioned they are, to repay the

depositors. We may as well admit and concede that there is no hope left and be done with it. If we do not make that commitment this year at a time when we have more money than we ever have had in the past, I do not believe that we will ever do so. I ask you, Mr. President, to perform as I have indicated on my motion, to bracket the bill for a time certain as of now and to read the bill and vote upon it immediately. Thank you, Mr. President.

SPEAKER BARRETT: Senator Landis, your light is on, followed by Senator Wesely.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, there is so very much of what Senator Schmit says that I agree with, that it is hard to rise and point out a difference at what seems to be the rind of the fruit, not the pulp, not the heart of it, because I listened to Senator Schmit and I hear him express the frustration that I have, at this body and its inability to fashion fair remedy to Commonwealth depositors. I hear that anger that says, why hasn't it happened by now? Why haven't we already done it? Why haven't we done it this year if we have the money? And on that score I agree 100 percent. The question is, what do you do, what do you do when the supporters of the bill, the lobbyists for the bill, the analysts for the bill say we don't have the votes? Senator Schmit's notion, I think is, let the chips fall where they may, put the body on the record. I understand and find great allure in that option because I, too, think that there is a difficulty and a painfulness in having this issue remain unresolved but tantalizingly available to the body and heartbreakingly close but never secure for the depositors. That is a burden that we all bear. For myself I choose an oriental guerrilla fighter's words of advice. When your opponent outnumbers you, retreat; when your opponent pursues you, evade; when you are stronger than your opponent, attack. And at this point, a little diversion, a little evasiveness is what is going to keep this bill alive. It's only, I think, a guess. I've asked Senator Schmit if he thinks that there are for some reason a change in the conditions. He's not sure. I'm not sure. I don't have a reason to believe that they are different and the funny thing is, here are two people who want nothing more and have no higher priority this session, as Senator Schmit and I do, than to pay off Commonwealth and to find that we oppose the method of trying to achieve that end. I wished we saw this procedural opportunity this...this crevice, this crevasse that we're at now and have a difficult time

knowing how to proceed. Senator Schmit wants to see if the horse would jump the crevasse and I'm looking to find a ford that will ensure a better result, but we both want to get to the other side. I personally am going to vote against the motion. I think you're all free actors to decide for yourselves how to proceed, but the body has before it many other priorities and options and, frankly, I don't think today, if it's put to a vote, will bring relief for people who deserve relief and I would assume if that's going to be the result that I fear, have another day when the opportunity is better to try to strike out for that remedy.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Mr. Speaker, members, I want to thank Senator Schmit for raising the issue on the floor. I know it has caused a lot of consternation among people and appreciate their indulgence. I guess the issue is just one that won't go away and we've said that time and again whether it's today or next year or the following year or whatever, but on and on and on we will continue to look at this issue until it's resolved and these people are repaid their principal. I think that's maybe a point that has not been lost on anybody on this floor. You know it, and I'm simply stating it. It's not...it's the most important priority to me, it's the most important priority to a number of other senators, but it's also not the most important priority to a number of you who have been helping us with the bill and we understand that and appreciate that. But there is a way in which we could act on the legislation. We can bring it up and we can vote on it and we could pass it and we can send it over there and the Governor has options. She isn't locked into a position of signing and fully funding the bill. She has options. She can veto it down to a level of funding that with the other budget items she has got over there and that is a course of action I think we should take. I know that there has been a lot of talk of linking the Commonwealth issue with other issues and it has scared votes off the measure and I'm sorry to see that, sorry to hear that. We want very much to understand a couple of things. First off, if the bill passes, even if no funding is included we cross the threshold of saying will we do something about this problem. And at least we will cross that and say, yes, we will. And then the question becomes, how do we finance it, when will we finance the issue? Hopefully, we could get that done this year. It looks like that may not be possible because of all the other commitments that seem to have been

made. But if we can at least move on this issue, the other question about holding the bill up next session, next session it will have to wait again until the end of the year before we can act on it and really we gain not very much by that action. So, I, for one would like to see us pass the bill this year for whatever level of funding fits into the budget and at least when we go back into next session the budget can be built understanding that we need to take care of this problem to some degree and start working toward a solution of the financing aspect of this. I know there is a lot of frustration on the floor. I won't take any more time but, again, I reiterate my strong support for this, my feeling of disappointment, deep disappointment that we didn't act yesterday to act on this measure. It is the greatest disappointment I've had this year, the greatest disappointment I've had in all my years in the Legislature and until we resolve this problem it will continue to be the one sore point that I guess I'll continue to have until we take care of this, that will really, I think, drive me to continue to bring the issue before you. So I would ask your indulgence and support for Senator Schmit's motion.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker, fellow senators, after yesterday's vote to delay consideration on LB 272A until next year I was deeply distressed. I felt extremely ambivalent about it. I felt very strongly that Senator Landis had made every effort he could to try and get that bill passed and through his efforts and the efforts of Senator Warner and the rest of us we had been able to put together a bill that got 26 votes to reimburse the depositors at the various institutions, and I appreciated the fact that some of the senators were indicating they would not vote for the bill on Final Reading and that, certainly, the choice of laying it over to next year to live and fight another day, as was said by Senator Landis, could not be really criticized because the reality of the matter was that the votes were probably not there. But then over the evening and thinking about the matter, it troubles me extremely that the State Securities, Commonwealth and now American Savings, that whole issue has always been bartered against some other issue. Every year it seems like that issue is contingent upon another issue passing and you have to choose between one or the other. That issue concerning reimbursement of the victims at those institutions has never been addressed on its own merits, disregarding its impact on

other issues. And it's troublesome to me that various politicians and people on the floor of the Legislature have always tried to use that particular bill or use that particular issue for their own personal benefit on issues that they want to have passed or want to see preserved. The problem with delaying the thing until next year is that you, in effect, as Senator Landis said, you don't put senators on record and I guess I have to side with Senator Schmit and I have to admire him for bringing this before us today. I think the senators who are going to switch their vote should be put on record. If they are going to vote for this on Select File and then be so sheepish as to withdraw that support on Final Reading, let them be put on record, let them explain their vote on the issue. I have a certain sense of hope I guess and maybe I'm very idealistic. I have talked with some of the senators who have felt that they were in a bind, that they were worried about other bills that are presently...have not yet been signed. I appreciate the fact that it does put them in a bind, they are in a dilemma, but I am hopeful that those senators who are in that dilemma will, in fact, as Senator Beck said, look to their hearts and not to their...the political reasoning that is being provided to them, and appreciate the fact that if we're going to reimburse these depositors, now is the time to do it. There is no better time to do this. I fear that if we delay it, we make our chances even worse and so I'm hopeful that those senators who find themselves in a dilemma will have the courage and the forthrightness to go ahead and vote for the bill and vote for Senator Schmit's proposal and get it done. If they switch their vote...

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: ...and change to voting no or to not voting, which would even be just as bad, then it seems to me they should be identified and they should have to explain that switch. And if they can, in their heart, justify a switch like that, then so be it. But I am hopeful myself that the time has come to pass this bill. It is something that provides to a certain extent for optional funding. I mean, it can be signed and not funded this year. It doesn't force a veto of other measures. It's not...it's not definite that just because this bill would pass that there would be vetoes of other bills. As a matter of fact, you could...the other bills could be signed and this bill could be signed and not funded if there is not sufficient funds. And I would urge the other senators to consider this. I think it's

unfair to prolong it for the people that have waited so long for justice to be done. Thank you.

SPEAKER BARRETT: Senator Chambers, followed by Senators Rod Johnson, Abboud, Schmit, Korshoj, Crosby, Langford, Schellpeper, Schimek.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, there are some matters which, when postponed, might have a better chance of succeeding than they do at the moment, but there are others which are of a moral nature that have to be confronted at the time they are presented to us and this is a moral question and I'm not going to spend time talking about depositors suffering, whether they gambled on a high rate of interest or any of that. The morality in the issue comes into play based on how we as the Legislature are going to solve this problem. Senator Schmit, I hate to tell you that I don't believe Ronald Reagan said if not us, who; if not now, when? He might have said if not us, when; if not who, how, but he wouldn't have said what you thought that it was that somebody said he said. Senator Landis's reaction, which I can understand, to Senator Schmit's motion is similar to a little story that came to my attention when I was studying Spanish. This youngster wanted to impress a famous Spanish poet so he showed him two poems that he had written. And he asked the poet which of these is the better? The poet read the first one and he said, the other one is better. And the youngster said, how can you say it's better when you haven't read it? He said, nothing could be as bad as this one that I read. Senator Landis feels that nothing could be worse than what Senator Schmit is suggesting that we do. Senator McFarland gave us a rationale as to why we should do what Senator Schmit is suggesting. If this bill doesn't go this year, it can be offered next year if we think that there will be a higher moral tone pervading this body than there is now. But there is, I think, a point that has been reached which requires us to make a decision. I think the decision is that we should give these people the money back, not because they are better people than anybody else, not because they've had very sad Christmastimes, that they put all of their money in Commonwealth and lost it, but because of the nature of Legislature that we are. During various attempts to override, during the whole session we have found occasion individually and collectively to make appeals to a higher law than that found in the statute books, to a higher type of decree than would be issued by a court or an executive. We have talked about that

which is right and that's where we find ourselves now. Some people would like to resolve the issue on the basis of political expediency and that is always easy to do. But if we would give the right vote today and this righteous act becomes an accomplished fact, then it's not something we have to trouble ourselves about anymore and with the praise that will be heaped on the Legislature, everybody a year from now will be glad that we had done it. Senator Landis talks of his frustration, Senator Wesely, but I'm more frustrated than all of them because when Commonwealth went under there was a meeting at a school across the way and I told those people that they needed to demonstrate. They needed to walk around the Capitol Building, walk around the Governor's mansion, point accusing fingers and make as much noise as they could because I had learned as a black person during the sixties that the wheel that squeaks get the grease. There were various senators who said, the people in the Banking Department, the Governor, the others, are people of goodwill. Don't listen to what Chambers says.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: Let these good people solve the problem. A year later those very people at that meeting were coming back to me saying they wished that I had done as they suggested, as I suggested, because the momentum was lost. But in addition to that, I get scurrilous calls, I get letters talking to me about what a terrible person I am for not supporting Commonwealth. I was the one who said at that meeting that the Attorney General probably should be impeached and the other senators there said, no way. Those were Lincoln senators. Yet they're the heroes. Senator Beutler one year voted against us voting \$9 million or whatever it was but asked me to vote for it so that he could tell his "Commonwealthians" that he was against this small amount, but by me voting for it and others voting for it, the money would, nevertheless, be there and that's how some of the Lincoln senators have played this thing. I want it to play out now. I hope we vote up Senator Schmit's motion, then I hope we pass the bill.

SPEAKER BARRETT: Time. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President, members, I would just indicate my vote is here for the Commonwealth, all the depositors, this year or next year. It doesn't matter to me, but I have a question about the way that this motion has come

forward. As I followed the agenda today it was my understanding that we would work through the overrides on LB 813 and 814. Then the bills that happened to be vetoed, and last was going to be the issue of unbracketing of LB 272A, and I guess I would ask the Chair, Mr. Speaker, I would ask the Chair under what guidelines of the rules did we make this decision to amend the agenda today?

SPEAKER BARRETT: A question has not been asked of the Chair until this moment, Senator Johnson. It would be the feeling of the Chair that the motion to postpone to a time certain would apply to a specific bill, one that's under consideration at this present time. We were on the subject of LB 814 and not on the subject of 272A, therefore, I think 272A is perhaps improperly before the body. We are overruling the Speaker's agenda, in essence.

SENATOR R. JOHNSON: So, if I'm following correctly, I should have made this motion earlier or are we going back to 814 at this particular point based on your ruling?

SPEAKER BARRETT: My ruling, if you are asking for a ruling at this point, would be that the motion is not in order, unless the Speaker's agenda is overruled.

SENATOR R. JOHNSON: Well I would simply say that I would prefer to go back to 814, but I don't want to tie our process up here this afternoon. I just feel like there are a lot of folks who have waited for their overrides to come up and now we're amending the agenda to take this issue up and it's a matter of principle, it's not a matter of I'm not for or against this issue. So I would ask the Speaker to, if it's possible, to override and go back to the original agenda.

SPEAKER BARRETT: The Chair has in essence said the motion is out of order. I repeat, in the Chair's opinion the motion is out of order, subject to challenge of course. Senator Schmit.

SENATOR SCHMIT: Mr. President, I respectfully disagree with both the Chair and my good friend Senator Rod Johnson who have been supporting this motion. I offered the motion to bracket to a time certain. That is a priority motion. There have been at least three or four speakers on the bill. That means that the bill is before the body. Now you cannot hide a horse no matter how homely it might be or how much you dislike it or how much it

bucks or kicks or bites or bellers, but every horse does. But the point is, ladies and gentlemen, the issue is before the body. It was not challenged when I raised the issue and, secondly, Mr. Chairman and members, notwithstanding the fact that the Speaker, it was not on the Speaker's order, it is a priority motion and we have now begun to discuss it. It is under debate. The bill is properly before the body and I am not going to stand here and be ruled out of order at this point by those who, for whatever reason, do not want to confront the issue. And I would ask...(interruption)

SPEAKER BARRETT: Senator Schmit, excuse me. The Chair has made a ruling. Are you challenging, are you overruling the Chair, that's my question?

SENATOR SCHMIT: Mr. President and members, is it not proper that the Chair would not rule...would rule me out of order prior to the time that debate began on the bill?

SPEAKER BARRETT: Not necessarily, no.

SENATOR SCHMIT: In other words, it is proper for the Speaker at any time he so chooses during the course of the debate to then determine that the Speaker's order is being overruled?

SPEAKER BARRETT: Not necessarily, no.

SENATOR SCHMIT: In other words, it is sort of like when Burbach was Speaker, he made up the rules as he went along.

SPEAKER BARRETT: Not at all, Senator Schmit, not at all, and I think you know that that is not the case.

SENATOR SCHMIT: Mr. Speaker...

SPEAKER BARRETT: You above all know that that is not the case.

SENATOR SCHMIT: Mr. Speaker, you have overruled me many times, but never once have you overruled me during the course of the debate.

SPEAKER BARRETT: Are you challenging the Chair? Are you overruling the Chair?

SENATOR SCHMIT: I am challenging the procedure, Mr. President,

whereby you have chosen to rule me out of order during the course of debate on a bill which is properly before the body.

SPEAKER BARRETT: The Chair has ruled that the bill, that the motion is out of order.

SENATOR SCHMIT: Then, Mr. President, I will use my mechanism and challenge the ruling of the Chair.

SPEAKER BARRETT: Thank you. That is open to debate.

SENATOR SCHMIT: (Mike not on.) ...properly before the body.

SPEAKER BARRETT: Certainly.

SENATOR SCHMIT: Thank you, Mr. President. It is now five-o-six, and, Mr. President, I intend to take as much time as is necessary here to bring this bill to debate. Now we have all sorts of people here who have walked away with hundreds of millions of dollars and are going to truck along back to their home districts, wherever they want to go, and say well once again, once again, we got our shackles and we left the Commonwealth depositors holding the bag, empty though it be. Oh, we gave them a promise. We said we are going to come back next year, believe it or not. That will only be seven years after we shucked you loose and we're going to give you a chance at it next year. Ladies and gentlemen, Senator Landis is far too kind to you. He allowed you to hoodwink him a little bit because he is a gentleman and he said, well, okay. These votes have faded. Very, very difficult, isn't it, to understand why on the 85th or sixth day of the session the votes are there and on the 89th day or the 90th day they are not there. Well I can tell you why, ladies and gentlemen. We've seen it happen many times. I have had a number of 24-vote bills and I bitterly disagree with those who would hide behind procedure to keep from bringing this to a vote. I voted with the majority yesterday because I intended to ask for reconsideration. Today, when I first offered that motion, I was advised that that was not a priority motion. So having read the rule book a time or two, I went to the priority motion which is to postpone to a time certain. I have done so and I am telling you at this point in time, as Senator Chambers has warned you, admonished you from time to time, that if when you live by the rules, you die by the rules. Ladies and gentlemen, this is a proper motion. I have been here as long as most of you and I understand the rules, and

if you want to play this game, you're going to play them by the rules in the book. This is a priority motion. Oh, yes, it's an unpopular one. Oh, yes, we'd like to all go to the party and forget about that obligation to the Commonwealth people as we have forgotten about obligations to a number of people, particularly when we have lined our own particular pockets and my bills safely passed and signed by the Governor. I am no better than anybody else or no different than anybody else, but, ladies and gentlemen, this bill can be addressed today just as well as any other bill, the hundreds of other bills. Now there are those who don't want to address it. I'm going to tell you that in 1984 regular session, many individuals stood on this floor. We had the bill within one vote of passage and all of a sudden the terrible admonitions came down the line, if you pass this bill now you are second guessing the court. And so as a result the very individuals, mostly Lincoln delegation who had the most to gain, fell prey to that warning and said, we'd better wait for the courts. I don't like to bring up the name of DeCamp again because on this floor that usually costs you five votes, but the facts are that DeCamp stood here and said, if you allow this bill to go down the drain now, if you wait for the courts, the depositors will never be paid. Ladies and gentlemen, does anyone on this floor believe that if we do not pay the depositors today with the largest surplus we have ever had, with the largest spending bill we've ever had, that they are ever going to get paid? Does anyone believe there will be more money here in January of '90 than there is today? Does anyone believe that our Governor cannot address this issue just as she has addressed all other issues we have sent to her? She may veto all of it, she may veto part of it, she may sign it. But, ladies and gentlemen, then, as has been said before on this floor many times today by my good friend Senator Rod Johnson, the ball is back in our court, but at least we have acted. It makes absolutely no sense for us to...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...once again hide behind the charade of procedure and try to lead and mislead well-intentioned, elderly, conscientious people with the idea that in January of 1990 we're going to take care of them. You know it's a lie, ladies and gentlemen. It is a lie and I do not believe in lying and I'm not going to lie to those people anymore. And so I'm telling you, I'm asking you to overrule the Chair and address this issue today and do not come to me afterward if you vote negative and

say, well, Loran, I'm just not ready to do it now, it's a bad procedure. Ladies and gentlemen, I know a procedure as well as anyone on this floor. I know how to get done what has to be done and I know how to stop something that you don't want to get done. I know how to avoid the tough votes and that's what we are doing if you do not vote to overrule the Speaker. Mr. President, I apologize for my personal involvement with you. I'm deeply committed to this program as I know many of you are. Sometimes, as Senator Landis says, we use different procedures...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...to come...to arrive at the same goal. I ask you to overrule the Chair.

SPEAKER BARRETT: Thank you. Senator Abboud.

SENATOR ABOUD: Yes, Mr. President, colleagues, I, as I said a couple of days ago when we were discussing this particular issue, I thought that the issue should be resolved either one way or another, and at that time I was ready to take a vote on the bill as I'm ready to take a vote on the bill today on Final Reading if this particular motion does occur and then we move on to the next motion and then eventually Final Reading. I think it is an issue that probably the Legislature should address. Either the money goes to the Commonwealth depositors or it does not go to the Commonwealth depositors. This is the year to make a decision on the particular issue. If we are unwilling to provide the funding to reimburse the Commonwealth depositors the total \$32 million, then next year we should move on and decide whether that money should go specifically to the individuals that deposited money in American Savings and State Security, and I'm willing to look at it from that perspective. That's why I feel we should have moved to the motion, even though I do not support it, make a decision and then move on next year to make a further decision as to State Security and American Savings. Mr. President, I'd like the remainder of my time to go to Senator Ashford.

SPEAKER BARRETT: Senator Ashford, please, about three minutes.

SENATOR ASHFORD: Thank you, Mr. President, Mr. Speaker and members, I hesitate on this last day to get into any debate with my very good friend Senator McFarland, having ran with him every

day for the last five months, jogged with him at noon, but I tend to disagree with him and the thrust of what he was saying. I have supported this bill because, first of all, obviously, I was not here when many of the problems that occurred in '85 and whatever were before this body and I wasn't here when Senator Schmit dealt with those things and many others, Senator Chambers and others in this body, dealt with the problem of Commonwealth. But I do, from a purely in one sense, a legalistic sense, believe that there is a very good case to be made for the fact that this state does have some obligation to these particular...

SPEAKER BARRETT: Excuse me. Senator Withem.

SENATOR WITHEM: Yeah, I raise the point that the item under discussion at this point is whether the Chair ruled correctly or incorrectly in a parliamentary sense in ruling this motion out of order. The speakers have proceeded to go forward and debate the merits of the issue. The merits of the issue are not properly before us at this time. I appreciate Senator Ashford's remarks except I think at this point the question of whether the Chair ruled properly or improperly is what is properly before us and I've not heard anyone addressing that to this point.

SPEAKER BARRETT: Your point is well taken. The question before the body is the overruling of the Chair and I was going to make that point as I recognized the next speaker. Thank you, that is correct.

SENATOR ASHFORD: Thank you, Mr. Speaker, but I think I am entitled to give some background to the point I am going to make, am I not? I think that Senator Johnson is correct. I don't believe that the Chair should be overridden, both on the merits and on the technical reasons stated, and I felt that it was important that I do give some background for that point and I will vote to not to overrule the Chair on this motion. Thank you.

SPEAKER BARRETT: Thank you. Senator Crosby, on the question of whether the Chair shall be overruled.

SENATOR CROSBY: I have to get Senator Abboud to move away from my jellybeans so I can talk. Thank you, Mr. Speaker and members. I agree with the Chair, that this should not have been brought up and should have not been allowed to speak and I hope that the depositors, and God will forgive me for saying that. I

went out of here yesterday at noon in shock after I heard all of the speeches that were given against the depositors and also learned the fact that several people who had voted for it last Friday were not going to vote for it yesterday. So at this time, I don't think it's a good time to bring it up. Senator Schmit I guess has wandered off some place. I'll say two more things and then yield the rest of my time to Senator Withem if he'd like to have it. I think that there's some...something escapes me here in procedures and perhaps courtesy, collegiality...collegial courtesy, this bill happens to be Senator Landis's bill to start with. The original bill is my priority bill. Senator Schmit did not even approach me as to whether I thought this might be a good idea to bring this up today and I think that might have been the courteous thing to do. So I do agree with the Chair and I will support the Chair in its ruling. Senator Withem, if you'd like to have the rest of my time...

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Thank you, Senator Crosby, I appreciate that and I appreciate the opportunity to make a procedural point because I think lazy afternoon while everybody is waiting to get home, you're about, if you do not agree with the Chair, are about to set a terribly dangerous precedent because what did Senator Schmit do? Senator Schmit walked up, filed a motion on a bill that was not properly before us and by filing a bracket motion to bracket a bill to now, is basically what he is doing. He has developed a method to bring any bill to the floor of the Legislature for debate at any time if you let him get away with that. I'm telling you, right now I just filed a motion to bring LB 244, to bracket LB 244 to five-thirty this afternoon. I don't care if you debate 244 or not, but if this motion is in order, so is mine. You can bring any bill at any time immediately to the floor for debate if you let Senator Schmit get away with this. You can't do that. A couple of other points. Number one, the Chair needs to be defended in his timing on the ruling. We maybe should have rules that allow the Chair, when he sees something going on out here that is obviously way beyond the rules of procedure, to immediately lead forward and say you're out of order, but we don't have that procedure. The point must be raised from the floor. Senator Johnson, as a courteous senator, waited until his time to come up. He wasn't rude like I was with Senator Ashford a few moments ago and leaped to his feet and make the point of order.

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The Chair could not rule until the point was brought to him. Another point I'd like to make is LB 272 has been bracketed until next year. You can't file another bracket motion on a bill that has already been bracketed until it's unbracketed. The proper procedure is to unbracket this bill. If you let Senator Schmit get away with this, and I'm not arguing on the merits of the issue, whether it should be supported or whether it shouldn't, whether he's right or whether he's wrong on the issue. But if you let him carry a yellow sheet of paper up to the Speaker's desk to allow any issue to be brought before the floor immediately for debate at any time a member chooses, you might as well throw out the green sheet and just we'll take turns filing bracket, bracket a bill we want brought up to now and have it brought before the body for consideration. It's...it borders on being ridiculous but it appears as though if Senator Johnson had not filed this motion we might have allowed this to happen. I appreciate the Chair's ruling and I think if you do not overrule the Chair, you're allowing an incredibly dangerous precedent to be established here. We have gone from...at an hour ago I guess it was, talking about veto overrides on LB 814 and there are some senators here who had some real concerns about 814 and we've just allowed by a yellow sheet of paper being filed on the desk, been allowed to move to something entirely different. The Chair really desperately needs to be supported in this ruling.

SPEAKER BARRETT: Thank you. Senator Langford. Question has been called. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Please record.

CLERK: 28 ayes, 2 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Schmit, would you like to close?

SENATOR SCHMIT: Mr. President, it's not unusual, of course, it is now five twenty-one. I would appreciate it, Mr. President, if you would use that gavel once again.

SPEAKER BARRETT: I certainly will. (Gavel.)

SENATOR SCHMIT: Thank you very much, you're a fine Speaker, though I disagree with him. (laughter) Mr. President and members, it is entirely appropriate, of course, that we spend a grand total of 21 minutes or 24 minutes on this or less. It's

only a \$30 million issue, give or take a few million bucks. It's only a few old people who are involved and they don't have any PACs, they don't have any group parading around the Capitol, they do not have any other entity to argue for them. My contention is this, and I want you to listen carefully. Most of you, of course, are highly skilled in this procedure and I never...I'm not. But, ladies and gentlemen, once the procedure was allowed to be discussed, how can anyone stand here and say it's not before the body? Had the Speaker immediately challenged my motion, then I would have to have said, Mr. Speaker, you've caught me short-handed, you've got me by the short hair. That's not hard to do with me. But when the Speaker allowed debate to proceed and three or four members got up and argued on the bill, one for, one against, others, well then the bill was before the body. Now Senator Withem says oh, this is a terrible precedent. Ladies and gentlemen, we plow new soil on this floor every day, every day, and I would guess there will probably be some rules to be sure that this doesn't happen again next year and bar all this other stuff. Ladies and gentlemen, we break the rules, we make the rules every day and we break them every day. Ladies and gentlemen, this bill is properly before the body because it was under debate, it was under debate. It was accepted. I was not ruled out of order when I began, even if the Speaker, because of graciousness, had allowed me to make my pitch and then ruled me out of order, then I would have had to sit down. But once debate began, I do not need to be a lawyer, I do not need to be a school teacher, I do not need to be an educated person, I am flat-footed 60-year-old farmer who knows the bill is before the body. Now you can rule me out of order, you can vote against me, ladies and gentlemen, but there is one thing you will not be able to do. If you vote against me, if you vote to uphold the Speaker, ladies and gentlemen, there will be thousands of depositors out there who will know that is a vote against the payment of the Commonwealth debt. If you vote with me, ladies and gentlemen, the depositors will know it is a vote for the payment of the Commonwealth debt. And I am amazed, I am absolutely amazed at my senator friends here who have begged me, pleaded with me, although I was here before any of them, and asked me to help pay Commonwealth who now have lost the starch out of their backbone and have said, oh, no, now now, we can't do it now, he's out of order. Ladies and gentlemen, I'll tell you what's out of order on this floor, courage is out of order on this floor, determination is out of order, hypocrisy is in. Use those people, ladies and gentlemen, use them again. Why? Why vote now? We can use them again next

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session. We can hold them in abeyance all summer long. We can talk and we can encourage and we can console and counsel and we can use them again. And maybe I can pass a bill that says, Schmit gets a 100 million bucks or a 100 bucks or a 100,000, maybe somebody else can...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...based upon the promise that I'll give my good friend Senator Landis a vote on Final Reading for Commonwealth. Ladies and gentlemen, if all the people who had promised to vote on Commonwealth in the last seven years, at one point or another, were to be brought together in this room you couldn't hold them all. They've all been there at one time or another and when the time comes we're always one vote short. Ladies and gentlemen, I'm asking you to overrule the Speaker because the Speaker did not rule me out of order immediately at his first opportunity to do so and once the debate began, LB 272A is before the body and it is a logical issue for debate. I want to say it once again, if you vote with me to overrule the Chair it is a vote to pay the Commonwealth depositors. If you vote...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...against me, it is a vote not to pay the Commonwealth depositors and it will be the last vote that will be cast on this floor if I have anything to say about it in that respect. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. The Chair has ruled the motion offered by Senator Schmit out of order. That has been challenged. The question before the body now is, shall the Chair be overruled? Those in favor of overruling the Chair vote yes, those opposed no.

SENATOR SCHMIT: In order to save time I ask for a call of the house and a roll call vote.

SPEAKER BARRETT: The question is, shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 17 ayes, 15 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please

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return to your seats and record your presence. Anyone outside the Chamber, please return and record your presence. Senator Lindsay, please. Senator Moore. Roll call vote has been requested. Again, the question, shall the Chair be overruled? Those in favor vote yes, opposed no. Mr. Clerk.

CLERK: (Roll call vote read. See pages 2756-57 of the Legislative Journal.) 8 ayes, 31 nays, Mr. President.

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

CLERK: Mr. President, I do.

SPEAKER BARRETT: The Chair advises that the certificate to the Secretary of State is being signed advising him of the overrides which have taken place today.

CLERK: Mr. President, LB 814?

SPEAKER BARRETT: Back to, yes, back to LB 814.

SENATOR CHAMBERS: Mr. Chairman.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: By 40 votes, the session can be extended, I believe, or whatever the number is, so I move that we adjourn until May, eight o'clock, May 25th, 8:00 a.m. in the morning.

SPEAKER BARRETT: You've heard the motion to adjourn, or, excuse me, to extend the session to May 25th, Senator Chambers? Eight o'clock in the morning. State your point.

SENATOR WESELY: The question I have is 40 votes would extend the session. If less than 40 votes but more than 20...but a majority vote in favor of adjournment until tomorrow morning, is that "adjournment" without extending the session, however? I wouldn't want us to adjourn sine die without knowing it.

SPEAKER BARRETT: 40.... Senator Chambers, the Chair is a bit confused as to your motion. Were you moving to extend the session, or were you moving to adjourn until Monday?

SENATOR CHAMBERS: I'm moving that we adjourn until tomorrow

appropriation and by resolution create the program or urge the regents to create the program, I frankly feel more comfortable having this in statute as a program that the Legislature established and basically leaving it in the hands of the Boards of Regents to continue or not continue on their own so I think it's probably a good idea to also pass the legislation. As I say, the Education Committee was quite impressed with the presentation we heard and we think it's an excellent program and would urge the members to support it.

SPEAKER BARRETT: Thank you. Other discussion? Senator Chambers, would you like to close on the advancement of the bill? Thank you. The question before the body is the advancement of LB 543 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 543.

SPEAKER BARRETT: LB 543 is advanced. Anything to read into the record, Mr. Clerk?

CLERK: Mr. President, I do have a few items. One new bill, LB 1123 offered by Senator Moore. (Read by title for the first time. See page 303 of the Legislative Journal.)

Mr. President, I have a motion from Senator Landis that will be laid over regarding LB 272A.

Mr. President, notice of hearings from the General Affairs Committee. That is offered by Senator Smith as Chair of the committee. And a notice of hearing from Judiciary, signed by Senator Chizek as Chair.

Mr. President, I have amendments to be printed to LB 163, signed by Senator Johnson. That's all that I have, Mr. President. (See page 304 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. The next bill, 503 will be temporarily passed over. Senator Goodrich has been excused until he arrives. He will be here. We can come back to the bill. The next bill, Mr. Clerk, LB 422.

CLERK: Mr. President, 422 was a bill introduced by Senator Abboud, Goodrich, Dierks, Crosby, Beck, Lynch, Schellpeper,

Thank you.

PRESIDENT: Thank you. Senator Baack, would you like to close on the advancement of the bill? Okay, the question is the advancement of the bill. All those in favor say aye. Opposed nay. It is advanced. Move on to Senator Landis's motion. Mr. Clerk.

CLERK: Mr. President, Senator Landis would move to suspend the rules and permit the reading of LB 272A on Final Reading today.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I know it may not show sometimes but, in fact, I did go to law school years ago. At the end of the sixties, I went into law school and about 1971 I graduated. Then we went through a ritual called the bar exam which is a two-day very strenuous examination and I went through that test and there was no way to tell whether you were doing well or not. And, of course, there were lots of stories as to who failed and who didn't and what went into failing or not, and if you didn't pass it, you had to wait six months and it was really a rather traumatic experience. I had never had, in all of my law school career, a failure of, oh, the ability to sleep or eat or a real case of nerves. I didn't even have it when I was getting ready for the bar exam. But after you had taken the bar exam you had to wait six weeks to find out the results. Now they had done the grading in a relatively quick period of time, I think in the first week, but for some reason you had to wait six weeks to find out. And I had had three years of law school, I had this very vital necessary professional credential which was at risk, I had taken the exam, there was nothing I could do and now the clock was running for six weeks. Midway through the six weeks I wound up going to the doctor, asking if I had developed an ulcer because I couldn't eat, I couldn't sleep, I had pains in my stomach and I thought, I don't know what is happening but I have developed an ulcer. And in the middle of the examination the doctor was trying to explain why I was having these feelings because he said, you know, there is nothing wrong with you, Dave. You don't have an ulcer. And I told him I was in the middle of waiting for my grades from the bar exam. And he said, well, that's it. You know, there is just a real difficult, physical emotional problem when you've got this situation that you're helpless to do anything about, but you've got to wait and let

the clock run. Now, I had the bar exam and it was a simple matter, I mean, I could have retaken that and it wasn't the end of the world. My guess is that each of you have had one of those kinds of moments where you had done what you could do, but you had to wait to find out the results, and that was the most trying time of all. It wasn't the trying time when you were putting in your efforts and your energies, but when you had to just sit there and wait for somebody else to do their job, that was the worst. Well, that's the situation that the Commonwealth depositors find themselves in because they have to wait on us and our scheduling and our rules and our protocols for an answer on the legitimacy of their claim. Now if the answer is yes, terrific; if the answer is no, at least they can plan, but as long as it is up in the air, they have the same kind of reaction that you and I know happens when you just have to endure the agony of waiting. Now the reason they are waiting is because we have a rule and that rule says we've got to wait for 45 days, backlog all the A bills, backlog all the budget issues and then deal with them at one time. Well we've tried that one time with this issue and, frankly, it got locked in with a lot of other things and the steam came off the bill. But the teachers didn't have to wait, the property taxpayers didn't have to wait, the Legislature didn't have to wait, nobody else had to wait but the Commonwealth depositors. They were on the hook, over the summer, as their frustrations grew, over the fall, over the beginning of this session as well. I know many of you here believe in the legitimacy of that claim. I also know a large number of you don't believe in the legitimacy of that claim and that's a fair position to take, but what I hear is this. When I go to you and I sit there right next to you in your chairs and I ask you about this measure, I get something that says, listen, Dave, I have a lot of compassion for the depositors, but my constituency doesn't support it and I don't think it is due and owing. How many have said something like that? Perhaps you said it to the people who have called you or written you. Perhaps you said it to a lobbyist or perhaps you said it to one of the members of the body who supported this issue. This is the phrase I hear over and over again. I got a lot of feelings, I got a lot of compassion, my constituency is against it and, frankly, I don't think it is due and owing. I want to ask you about that first part of that expression, Dave, I got a lot of compassion, I just can't go for the issue. All right, if you can't go for the issue, that's the second half of the proposition, but today this question is the first part where you said to me, Dave, I got a lot of compassion, I just can't vote

for the bill. I'm asking you to make good on that statement about the fact that you do care about the depositors even if you can't vote for their issue, even if your constituency won't let you or you don't think that it is a claim that we should pay, that you have a compassion or a feeling or a sensitivity for the depositors themselves, because what I am asking for you today to do is to do the rule change which is simply protocol in here to bring to an end the agony of waiting. Following that vote you get a chance to stand up and vote your convictions on the issue and the chips will fall where they may. If you've got to vote against the bill, then you've got to vote against the bill. I understand that, your constituents will understand that, the depositors, I'm not sure they'll understand it, but at least you'll have made your case. But for many of you in this body who have said I do have some sensitivity for the suffering of people in need, I just won't be able to vote for the bill, I'm asking you to turn that compassion to something you can do something about and that's ending the agony of waiting which has gone on months and months and months. Yes, we have a rule to the contrary, yes, the protocol is to the contrary, but you and I know this issue is like any other and this suffering has gone on for a very long time. And if, in fact, it is true you have any ounce of sympathy for the depositors, then give them an answer even if that answer is no, but let them at least end the agony of waiting so that they can start building their futures around the answers. They deserve an answer and all it is for us is a protocol to wait 45 days. There is no suffering, no agony in here, there is out there. I ask you to end that by voting for the motion to suspend the rules. Thank you.

PRESIDENT: Senator McFarland, please, followed by Senator Wesely.

SENATOR MCFARLAND: Thank you, Mr. Speaker. Earlier this year, actually last year, we were asked to meet with the depositors at Pershing Auditorium, I think it was around November 1, which was the sixth annual recognition of the insolvency of Commonwealth, and talk about the issue and what the Legislature had in store this year. At that time, I said that the legislation creating the NDIGC and the whole apparatus with respect to the industrial savings and loans and the subsequent advance was an illustration of state government at its worst. I still adhere to that statement. I think that the real problem, of course, is that this legislation that created the industrial savings and loans and the guaranty corporation was flawed from its inception. The

committee studying that legislation had concluded that that legislation should have never been passed by this Legislature, but it was. Then the problem even increased in magnitude when once the insolvencies occurred and once it was discovered that the funding was not there to reimburse depositors, that this crisis and the legislation to reimburse the depositors was then used as a political tool and it was always the subject of political games that were apparently played in the Legislature. I am told initially that the reimbursement for the depositors was always played off against the lottery proposals. More recently, last year, in fact, it is my understanding that the teachers' salary increase was played off against the bill to reimburse the depositors at American Savings and State Securities and Commonwealth. The understanding was that if the bill passed, that then the teachers' salary increase would be vetoed. This bill has really and this proposal to reimburse depositors has never been really given a, I don't think, a true consideration on its own merits and independently of all the other spending proposals concerned. It's a trite expression and I know it has been said many times before, but my own view is that to restore the dignity and integrity of our state, it seems incumbent on this Legislature to reimburse the depositors. In similar situations in other states, other states have stood up and said, yes, this is a wrong done to these depositors. Similar situations in Ohio, Maryland, I think, California, I think there were three or four other states, each time savings and loans of this nature were declared insolvent for whatever reason, the state legislature came forward and in some way or another reimbursed the depositors so that they did not lose their savings, their life savings. Most recently, we've had the national crisis in the savings and loan industry and billions and billions of federal dollars have been put...set aside to make sure that the depositors or that, excuse me, the savings and loan industry has been...

PRESIDENT: One minute.

SENATOR MCFARLAND: ...protected from any real crisis and chaotic financial catastrophe. It seems particularly appropriate now that we show a courtesy to Senator Landis and at least allow the issue to be considered right now, that we suspend the rules, consider this bill on its own merits, independent of other bills that may be pending or may be on down the road, consider the issue in isolation at this particular time, vote your conscience whether you believe that the

depositors should be reimbursed or not, but at least give Senator Landis the chance to have his day, to have his time to speak on the merits of the bill and not have to worry about all the political games and shenanigans being played. I would urge you to at least suspend the rules at this time, give us the chance to argue the merits of the bill and then make your determination afterwards. Thank you.

PRESIDENT: Thank you. Senator Wesely, you are next, but may I introduce some guests, please. In the south balcony, Senator Rod Johnson has some guests up there and they are 35 seventh and eighth grade students from Clay Center Public Schools in Clay Center, Nebraska, and their teacher. Would you please stand and be recognized by the Legislature, all of you. We appreciate your being here today and please come back and visit us again. Senator Doug Kristensen has a guest under the north balcony, Jill Fritzen from Minden, Nebraska. I understand she is the secretary for Senator Kristensen out at Minden. Jill, would you please stand and be recognized. Is it true, Jill, you do all the work out there? Okay, thanks for visiting us today, Jill. Senator Wesely, you are the next speaker, followed by Senator Hannibal and Senator Haberman.

SENATOR WESELY: Thank you, Mr. President and members. I will attempt to be brief in dealing with this issue. I want to start by simply thanking all of the members of the Legislature that have in the past supported this problem and resolution of it. Many of you have voted to reimburse the Commonwealth depositors, State Securities and American Savings and it is appreciated very much by myself and others, especially the depositors involved. They do appreciate that show of support and, hopefully, today we can finish the job. And I want to start off by thanking you and then follow up by saying it's about time we were rid of the issue, that all of us, as Senator Landis started talking about it again, I don't know what you felt, but I felt I'm tired of hearing this. I'm tired of talking about Commonwealth, I'm tired of the depositors having to go through the agony they are going through. I'm just tired of the issue. Six years, it's too long a time to having to have this linger on and I think all of us probably share that. And once again, we get into another debate on the issue and I think the reason it is up before you is to put it behind us, that we're tired of it, the Commonwealth depositors are tired of it, the state is tired of it. I think what people want to see is that the right is...that right comes forward where a wrong has been, where justice is brought forward

where injustice has been and that we correct the mistake that we made now some years ago. And I simply feel that taking this step is the way to go because last year, with all of your support that were behind the bill we had, it looked like the votes to pass it, but, unfortunately, in the shuffle of bills, it got lost in that shuffle. Now we're coming back and saying we must step past that and not allow us to once again wait till the end of the session and be lost among all the different legislation and yet again not put the issue behind us. And so that's why we're saying let's deal with it now, let's bring it up now, let's put it behind us and let's go forward and we won't have to have continual pressure that we've had on this and agony that the depositors have felt on this go on any longer. So, I, for one, if you're sitting there feeling, you know, if you've been here a while, you know exactly what I mean, that here it comes again, but this is our chance. This is our opportunity. This is the year that we can finally deal with the issue and feel good about what has been a real sore spot for many of us for so long and feel good about dealing with it in solving that problem. So I ask very much for your support for this motion and then support for the bill.

FRESIDENT: Thank you. Senator Hannibal, please, followed by Senator Haberman.

SENATOR HANNIBAL: Mr. President, and members of the Legislature, I stand to oppose the suspension motion for issues unrelated to the merits of the specific issue, itself, that being whether we, as a Legislature, should appropriate funds for the Commonwealth depositors, but rather I stand because I am concerned about the suspension rule. If I am correct in understanding the rules that we are asked to suspend right now, we will not have any opportunity to discuss this issue after this motion is taken, if the motion is passed. It will take 30 votes to suspend the rules. Once that is done, the rules that we have suspended, and there is no list of them, by the way, and there is just only conjecture as to exactly what rules we do need to suspend, but among those would be any motions towards debate on Final Reading, any motions towards bringing a bill back from Final Reading for purposes of amendment, and, obviously, the motion that is, I think, tantamount in Senator Landis's mind is the rule that says this bill should not or could not be heard until after the 45th day of this session. So I would encourage any of you who are interested in voicing an opinion on either the procedure or the merits of the bill to

speak now because you will not have an opportunity should this motion pass. If it does pass, and there are some other questions in my mind as to what if it passes, this motion passes and we vote on the bill, the bill does not receive 33 votes to attach the emergency clause, we would be voting then after that without debate on whether the bill would pass without the emergency clause, which only takes 25 votes, maybe. Maybe it would take 30 votes because it is an appropriation bill, but we will have no discussion at that time, and if it does not pass with the emergency clause, but does pass without the emergency clause, then we have a two-year appropriation dealing, one, with this year, '89-90, and another appropriation in '90-91. We will be past the fiscal year, '89-90 before this law takes effect if it would be then signed by the Governor. So we would actually have a two-year appropriation, it would only have one year's worth of appropriation, that being '90-91, and so we are talking, I think, essentially, assuming we would not have 33 votes, that we are talking about a \$16.9 million appropriation. All that aside, I am going to argue against the suspension rule that I think Senator Landis has tantamount on his mind, that the bill should not be read before day forty-five, and the reason why is that I will oppose any bill that will come to us before day forty-five with a rule suspension that will have us vote on an appropriation before the main appropriations main budget bills are passed, with some notable exceptions, and that would be if there is, indeed, an emergency that needs to be taken care, and we have had that happen before, and I would support that. I don't put this bill in that category, notwithstanding Senator Landis's very good arguments that, indeed, there is an emergency in the minds of the depositors. We are going through right now a period that has not been...a recent period, at least, that has not been upon us in the last four years, I believe, where revenues are going down. Revenues from projections are going down significantly. At last count, for the first three months of this fiscal year, of this fiscal year, since the Forecasting Board met last on October 20th, we are approximately \$26 million below projected receipts.

PRESIDENT: One minute.

SENATOR HANNIBAL: We will be meeting, the Forecasting Board will be meeting on February 22nd to look at our forecast to decide whether we will have a change in our receipts forecast for the next year. I think it is entirely inappropriate for us,

as a body, trying to make such large financial decisions until we have more current facts in front of us, and a 38...\$34 million transaction is, indeed, a major or., in my estimation. I cannot support the suspension motion because I think we need to have the most current facts in front of us. I think that we will see, come February 22nd, that our revenues will be well below what we expect to have this year, and while it shouldn't necessarily make an impression or make an impact on your decision with this issue, I think it is important that we have those facts before us before we do make that decision, and I think that this issue could wait until that time.

PRESIDENT: Thank you. Senator Haberman, please, followed by Senator Warner, Senator Schmit, Senator Schimek, and Senator Chambers.

SENATOR HABERMAN: Mr. President, and members of the body, I feel maybe that, well, first of all, Senator Landis, I was overseas many years ago and, to get to come home from Germany, I had to have so many points. And it was a point system on occupation, how long you had been there, and a lot of other things, and I got to worrying about, am I going to have enough points to go home? Here I was over in Germany. I had never been home since I had been in the service and I, too, got an upset stomach. So I went on sick call, Senator Landis. And do you know what? They gave me an aspirin and told me to report for duty and I kind of survived that, so I just wanted to relate that to you, Senator Landis, that I have been through those throes that you have been and know how you felt. I think we ought to go back and examine a little bit this issue. I am going to start out by saying, the Nebraska Depository Insurance Guaranty Corporation, which indicates it was a corporation, then I am going to say, what about the Federal Depository Insurance Corporation? You hear a lot about the FDIC. Your funds are guaranteed to \$100,000. That is not the federal government. That is a corporation, just exactly as the NDIGC was in Nebraska, a corporation. So you have the same issue, they are both corporations. You could raise the question, is there enough money in the FDIC to cover it? We all hope so. So it was not a government agency. It was not the State of Nebraska that ran the NDIGC. Now I have here a report dated February the 11th, '87, and it shows that, as of December 31, '86, over \$21 million was distributed to the valid depositors. That was in 1986. The report also shows the increase in the net real estate owned by the Commonwealth issue was \$163 million. That

is what the real estate was worth in '86. Now I bring these points up for a reason. We do not have before us an accounting as to how much has been paid, how much is still in the account, how much real estate do they have, if it was sold. We don't know the financial situation on the Commonwealth funds at this time. I feel before we do anything that we are planning on doing now, suspending the rules, that we should be provided with a fiscal note that is up-to-date, so that we can see, in fact, is the \$34 million going to cover the issue. Maybe it is not enough. Maybe it is too much. So I can't, in good faith, support suspending the rules for those reasons, and there is another reason. If you will think back during your time being in the Legislature,...

PRESIDENT: One minute.

SENATOR HABERMAN: ...every time you have voted, not every time, but 90 percent of the time you have voted to suspend the rules, there have been 25 votes behind that 30, so I ask you to think this morning before you suspend the rules, think of Senator Hannibal's points, and oppose suspending the rules to take up this issue. Thank you, Mr. President.

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

SENATOR WARNER: Mr. President, and members of the Legislature, I'd rise to support the rules suspension, and it is a position that does not come lightly for me, and for some of the reasons of those who have expressed concern about the suspension of the rules have indicated, because I understand that position very clearly. But it is also, it would seem to me, equally true that the reason for the rule or rules that are being proposed to be suspended, at least the one relative to the expenditures, is to give structure to a priority for the funds that the state is going to appropriate during this session, as it is true in any session. Basically, those rules, as they were developed over the years, was to give some priority to what we usually refer to as continuation budgets or things that are in existence or already committed before you begin to start new or expanded programs, essentially, that was the purpose of the rule. Along with it, of course, is to provide a structure for orderly consideration, but, in my own case, there is no other priority that is higher than the one in which is dealt with with 272. That was true last year, it was true other years, and in every

instance I clearly understood that whatever dollar amount was appropriated was those fewer dollars available for something else. That is just simply a fact, as is true of any other measure that goes across. So I am perfectly comfortable with, particularly with a one-time cost, if we are looking at the issue, a one-time cost which is not an ongoing program. It is not an expenditure that will have to be repeated year after year. That this be done at this time seems to me perfectly reasonable. I go with one other position, and, incidentally, it should be clearly understood, and Senator Hannibal in his remarks pointed out that with less than 33 votes, we are talking about 16.2 million, that with 25 votes or more, you are you are talking 16.2 million, with 33 or more you are talking 32.4 million, because, as the bill is drafted, the appropriation is scheduled for the fiscal year '89-90, which we are currently in, would obviously have expired on June 30th and would no longer be a valid appropriation for that portion, so that should be clearly understood. But I look at this whole issue in a much broader sense, and if I can relate something that we talk about all the time in another area now. We talk a lot about how taxpayers felt about the promise of property tax relief from legislation enacted last session, and we make a lot of accusations and comments as to why it was or why it didn't happen, and that is not the issue with me at the moment. The issue was that we made a promise, the state made a promise, what was presumed to be a promise in good faith by all those who deposited funds in those industrials, that those funds were protected. The State of Nebraska said so because we passed a law that said so, and whether it was a private corporation or a public corporation, if it was private, and it wasn't supervised as tightly or as carefully or wasn't administered as carefully or as closely as it should have been, nevertheless...

PRESIDENT: One minute.

SENATOR WARNER: ...we made a promise, I don't talk about...the Legislature didn't make the promise, the state made the promise. Every time we pass a law, it is the state promising its citizens collectively that certain things are going to occur, and when those promises fail to materialize, when they are not there, it is no different than when you buy insurance, for life insurance, or automobile accident, or health insurance, you buy a promise that if you have a problem, if there is a problem comes up for which you thought you had coverage and it is not there, then that system failed you, and that is what this was. It was a

promise on the part of the state that these were funds that were protected. To argue that individual citizens should have known or could have known all of the things that we now know, it is irrelevant because there was no way, by and large, any of them could have known. They read, they believed, they had every right to believe the sign that we required to have every institution have on its door was true.

PRESIDENT: Time.

SENATOR WARNER: And I support the suspension of the rule, and the appropriation at 33 votes or 25 because I feel an obligation to keep a promise, just as each of you feel an obligation to keep a promise that we have made, except in this case, we made that promise on behalf of all of the citizens of the state, and some may not want to keep it but the promise was made, and we ought to abide by it.

PRESIDENT: Thank you. Senator Schmit, followed by Senator Schimek.

SENATOR SCHMIT: Mr. President and members, I'm not going to go into the details as evidenced by previous legislators here today who speak to the technicalities and the reasons for or against the motion to suspend the rules because Senator Warner has given a very eloquent explanation of his point of view. Senator Hannibal has presented another point of view and others will speak again to that. I've always supported the reimbursement of the Commonwealth depositors and now we have added a few others from an Omaha institution. I have done so because of the conviction that I felt that certain individuals, although perhaps not always motivated by the same reason, felt some degree of security based upon the creation of NIFA, pardon me, of NDIGC, that they could deposit their funds in Commonwealth and be guaranteed some degree of security after \$100,000, up to \$30,000. There were some errors made along the way. This Legislature did not make an error by creating the NDIGC. But errors of state government and by omission or commission, either one, did result in individuals losing money, individuals who had relied upon the guarantee. I said on this floor last year that I had given you my last vote in support of that issue because the people had been tantalized and tortured enough as to what we were going to do and it's very tempting to me today to stand here and say I told you and walk away from those individuals. I have to say at this time that it is not a popular issue in many

of our districts to reimburse individuals who are depositors in Commonwealth. Most of us from outstate, if we have any depositors in Commonwealth, know they are a very small percentage of the individuals. But I watched other institutions fail since the closing of Commonwealth and I know the disruption that it has caused, the heartbreak and the loss of businesses, the loss of farms, loss of security, it is a very difficult thing. It is unfortunate the state cannot make everyone whole. It is also unfortunate that when the failure took place we were in special session. There was a procedure offered to this body that would have reimbursed the Commonwealth depositors in full and had the state take over those properties. Had we followed that course of action, I doubt that there would have been any loss to the depositors and I doubt there would have been any loss to the State of Nebraska. Interest rates came down some, the value of real estate recovered and, in all honesty, we probably would have made money on the deal, but because we chose to vacillate and procrastinate, put the thing off and hide behind one excuse after another, depositors have suffered. More than anything, the State of Nebraska's image has suffered. I am going to vote to suspend the rules. I am going to vote to reimburse the depositors because I think it's the right thing to do, but I'm going to also, at the same time, point out...

PRESIDENT: One minute.

SENATOR SCHMIT: ...that this Legislature often by virtue of not addressing an issue in a timely manner, choose a more expensive course, a course that is more expensive to the state, the course is more expensive to the individual citizens. And so I'm going to vote as I have indicated and I hope that this will be the last time that I vote for this measure because I hope it will be successful this time and I hope that we will prevent in the future further anguish on the part of those individuals who have suffered long enough. Thank you very much.

PRESIDENT: Thank you. Senator Schimek, please, followed by Senator Chambers and Senator Hall.

SENATOR SCHIMEK: Mr. President and members of the body, if I had to describe my condition right now, I guess I would say that my heart is in my throat. I'm scared to death for those people who are standing out beyond the doors and for those people throughout the state and even in other states across the United States. I think this is probably the most important vote I have

had to cast in the Legislature, the votes on this issue because I believe there is such a fundamental principle here that we have to decide upon and that is the issue of the honor of the State of Nebraska. Originally, when I put my light on I was going to call the question very respectfully in agreement with what Senator Landis had said, and that is that it really...we couldn't really string this out any longer and keep those depositors on edge any longer and I thought even this debate is doing that, but I think that there were some things that were brought out in the discussion today which are important to discuss and, Senator Hannibal, I have a lot of sympathy with the reasoning that you had when you stood up to oppose the suspension. I think that we do have to be cognizant of the revenue shortfall, but I guess Senator Warner put it most eloquently, and I would have to concur and just say this is not just any bill. This is a bill that is long overdue, it is a past debt, I said this on the floor last year, I still believe it this year, we have to pay off our past debts before we can incur any new debts or any new programs. So I would just urge the body to support this motion to suspend. Thank you.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator Hall and Senator Scofield.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have supported from the very beginning the restoration of the Commonwealth depositors to the status they held prior to the going under of that institution. Others have been affected by the going under of another institution since then. Never have I wavered in that support and I don't now. It is not difficult for me to cast a vote in favor of suspending the rules or in favor of appropriating the money to carry out the requirements of this bill. There have been comments, and Senator Haberman most recently alluded to them, about federal depository insurance groups of one kind or another and indicated that they are not arms of the government. You notice though when that huge Lincoln operation in California went under, Congress scurried to get money to bail that out and when they were bailing people out in those instances, they were bailing out the ones we would call the fat cats. When there were institutions similar to the one we're talking about that went under in Texas and other southern states, the federal government, using tax money, some of which however small, Senator Haberman, came from Nebraska to bail those out. The issue before us, I think, is one of simple equity and justice. Any proposition that is

offered can find people coming down on one side or the other. I don't believe there is any statement which can be made about any subject which will not allow for statements on the opposite side to be made, so we're going to have an argument whenever a serious matter is before us and especially when that matter in the Legislature involves the appropriation and spending of money. If there is such a thing as ethics in government, if there is such a thing as morality in the collective act of a Legislature, this that we're looking at in terms of the Commonwealth and other depositors would fall into those categories. What is right to do is not difficult to determine. Whether or not we have the stomach to do it is where I think the rub comes. We know that if there were a member of our family, a close friend or ourselves, personally, who were situated in a situation that was described as a crisis, we would want whatever help could be rendered to rectify or alleviate that condition. I'm not aware of anybody in Omaha, I mean personally, who has money or had money in Commonwealth. I don't know personally, as a friend, anybody in Lincoln or any place else. I've talked to a number of people since this thing occurred so I can say I know who some of them are, but my reason in voting in favor of this has nothing to do with personal friendship or any attitude I have towards some of, I call them the "Commonwealthians". As a matter of fact, if I were to react to some of the scurrilous mail and phone I have gotten from people who lost money in Commonwealth, and I was the one who supported them from the very beginning, I would say, a plague upon all of you, but that is not the right thing to do, it's not appropriate. If person A is similarly situated to person B and person A does something to irritate or annoy me, that does not justify me in harming person B who happens to be similarly situated. At this juncture, I think we should be able to look beyond any activities that may have occurred that could have seemed annoying or irritating because if we look at the situation that those people face...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...they have behaved in a way that maybe most of us would have behaved were we similarly situated. The question for me is not how the people who have been harmed have gone about trying to correct the situation. The question for me is what my responsibility as an elected official of this state is and I see my responsibility as doing all that is within our power as a Legislature to make those people whole, so I will

support the vote to suspend the rules and then I will vote to support the bill.

PRESIDENT: Thank you. Senator Hall, followed by Senator Scofield and Senator McFarland.

SENATOR HALL: Thank you, Mr. President and members, I also rise in support of the motion to suspend the rules as brought to us by Senator Landis. I cut my teeth on Commonwealth. I was appointed to the Legislature for a special session that dealt with two issues, property taxes and Commonwealth. I have had the opportunity to deal with those issues every year that I have been in the Legislature. Property taxes I don't mind, I want that to continue. We need to bring to final resolution the issue of Commonwealth. Last year we had that opportunity. We decided not to do that. The money was there and I stood on the floor as I also championed to get property tax relief passed that let's take the money out of that LB 84. I will give up whatever it costs to do that. We chose not to do that. This year we have the opportunity to take LB 272A and address it up front in a very forthright manner to say this is a priority, and that's really all you are doing here. You are being asked to suspend the rules so that we can vote on this issue and we're asking you to make it a priority, put it up front. Suspend that rule that Senator Hannibal says you have to wait until the forty-fifth day. Senator Hannibal is a very honest, forthright individual, but I can make as many good arguments as he would have good responses to the fact that now we're in a biennium budget, maybe that rule doesn't apply, but that is not the issue here. Don't let a parliamentary procedure, at best, stand in the way of an opportunity to vote this issue up or down. Please don't do that. These people deserve more than that. That is not one place where integrity rules because I think the better part of integrity, in this case, is to vote green on a suspension of our rules. I'm ready to vote yes for this, as I have in every instance. I would ask you to do the same. I have always treated this issue as if I represented the district that Commonwealth sat in because I feel I do. I am a state senator. I happen to come from the district that elected me, but I am a state senator. This is a statewide issue. It is not reflected in one institution, one locality or one community. It is an issue that we have had to deal with for six years. We need to deal with it. We need to bring it to resolution, we need to appropriate the money and we need to suspend the rules first in order for that to happen. I would urge you to do that. It is

probably, as Senator Schimek pointed out, the most important vote that you will ever take and it's not whether or not you want to support the money, but it is the suspension of the rules vote right here, the 30 votes that have to take place have to be there. Ladies and gentlemen, if my district said to me, and I don't know that if one of them have money in any of these institutions, and I don't care, if you vote for that, we'll throw you out of office. So be it. I'll vote for it and I'll resign if that would make them happy. Might make a few other people happy, more happy, but I think that that is that important of an issue, that this issue goes far beyond any individual's priorities, integrity or what we feel is right or wrong in terms of the process. This transcends all of that and it sends a message to a number of individuals across the state and across the country how we, as an elected body, feel about issues that we sometimes don't have as much control as we thought we did over them. I would urge you to vote to suspend the rules because, in this case, the rule is not applicable. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Scofield, you're next but I'd like to introduce some guests first of Senator Schellpeper under the north balcony. We have Gloria Koch, Mary Jane Chilcoat, Jeanette Weatherholt and Ethel Weatherholt and they are all from Stanton, Nebraska. Would you ladies please stand and be recognized. Thank you for visiting us today. Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President, and members, when I looked at the suspension motion I had the same thought that Senator Hannibal has already expressed and that is, oh boy, does this ever set a bad precedent. And, frankly, this is not an issue that is going to be supported in my district, and I tell you right up front I'm going to do it anyway. If I were looking for a way to get out of voting for this, it would be easy to say, well, this is a dangerous precedent and we shouldn't suspend the rules, but I agree with the statement Senator Hall has just made, this is no ordinary situation, it's a special situation. It would be easy for me to take a walk on this issue. It would be easy for me to even vote no on this issue. I have got eight people in my district that were affected by this, that I know of. But I cannot do that and stick with public office. When I came into office my first year, this was the issue up there. In fact, I remember being on television with Vard Johnson that night. We got call-ins. I didn't know a

thing about Commonwealth. People were calling wanting to know what we wanted to do and I kind of had to turn and smile and look at Senator Johnson and say, okay, another question, take it. And as I have looked at this over the six years that this issue has been out there, I am convinced that we have an obligation as a state to do this no matter how unpopular it might be in the west. I think the very integrity of our government rests on decisions like this. Personally, had I been the governor, this would have been in my budget. I feel that strongly about it. There should be room to do this and I recognize that this is going to be in there competing with other funds that some of us might prefer to spend elsewhere. But this is the only way this issue is going to get resolved, is if we do it, and I think the Legislature has what it takes to do it. I think, as I talk to people in my district and around, that people really don't have any confidence in government any more and we have got to do some of these things to restore that confidence in government. And to duck this issue or to vote no, I think further erodes people's belief in government, it further enhances their cynicism in government and it does a great injustice to the people that are standing out here behind this glass. It's not a Lincoln issue, it's a statewide issue. And I hope that I never stand before you and say I have constituents in distress that the state has wronged and I need money, but if I ever do, I hope you will be there and I hope the state will be there. And so I feel an obligation to do this even though it's a really difficult vote for a western senator. But I do recall when we first addressed this issue that Senator Baack and Senator Nichol and I stood on the floor together and helped get it as far as it went, I think, because we all believed it was the right thing to do. So most of these people are grandparents, standing out here that I have talked to, and a lot of them don't have any money and I know people continue to say, even one of my editors recently said, we don't have any obligation to those folks, but I think we do, and I think the confidence in our government rests on making these kinds of difficult votes. I would like to speak briefly on the rule suspension issue because this concerns me. I don't want this to be perceived as a precedent, and, as a member sitting on the Appropriations Committee, don't come to me next week and say, well, you suspended the rules for Commonwealth. If it's an issue that's been outstanding for six years, I will listen to you, but if it's something that happened last week, don't bring it to us. This is not a precedent that should be repeated but it should be done. Thank you.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Moore.

SENATOR MCFARLAND: Mr. President, I respectfully call the question.

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

CLERK: 27 ayes, 0 nays, Mr. President, to cease debate.

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

SENATOR LANDIS: I'm sorry.

PRESIDENT: Senator Dave, would you like to close, please?

SENATOR LANDIS: Mr. Speaker, did you call on me to close?

PRESIDENT: Yes.

SENATOR LANDIS: I didn't hear that. Mr. Speaker, members of the Legislature, I want to first acknowledge what I thought were two very, very gracious and eloquent and well thought out speeches on the floor, first by Loran Schmit who appropriately reminded us of how difficult and how tortuous the history of this issue has been, and that even though we may be irritated along the way by the tactics or strategy or timing or schedules or some of the irritating letters or phone calls or whatever those personal irritations have been, you keep your eye on the underlying issue, and I thought that was a very statesmanlike speech. I also wanted to thank Senator Scofield for a speech that reminded us of the dignity of this body and the depth of our commitment to handling each other's problems, not just the problems of one area alone. Clearing our agenda of a major issue early in the session will help us all. We've got a full plate. Let's see if we can't knock one off the table if we can. Secondly, final resolution of this action is possible. It was perhaps available to us last year but it certainly is available to us now and we ask you to do that. In the event a constituent stopped you on the street and said, why did you vote to suspend the rules without regard to whether you wind up voting yes or no

on the bill, I think you say, listen, these were citizens petitioning their government for action and they deserved an answer. They have been on the hook for six years. They were on the hook all over the summer with their bill on Final Reading. We knew the issue was there and we gave them a timely answer. And I think there isn't a constituent in the state who wouldn't be...who wouldn't accept that answer to the question, why did you vote to suspend the rules? I accept the notion that this is not a precedent. There is no other issue like this. This, I think, was a point well made by Senator Scofield and I think, by the way, is the answer to Senator Hannibal's very thoughtful and appropriate speech. Let me conclude by saying that in dealing with this procedural matter we, on the procedure, lose nothing. We gain time, we gain timeliness and we save some heartache, but we lose nothing. Beyond this point is the issue of, do we pay Commonwealth or not? And that's a donnybrook, fair enough. We have very strongly held opinions, let's go after those, let the chips fall where they may, but the procedural question of how long these people have to wait before we will tell them what our convictions are is no skin off our nose, but very important to them. We can have this much compassion. Even if you oppose the measure, you can reach out and do this much closing of the difference, acknowledging of the harm and the injury and the hurt and making a simple gesture of at least ending the agony of the wait. I ask you to vote for the suspension of the rules. And, Mr. Speaker, I'd ask that we have a call of the house, then a roll call vote in reverse order. I want everyone to be here while we do this.

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

CLERK: 25 ayes, 1 nay, Mr. President, to go under call.

PRESIDENT: The house is under call. Please record your presence. Those not present, please return to the Chamber and record your presence. I understand four are excused. Requires 30 votes and a roll call vote in reverse order has been requested. Senator Ashford, will you check in, please, and Senator Nelson. Looking for Senator Hefner, Senator Moore, Senator Morrissey. Senator Chambers, will you check in, please. Thank you. We're waiting for Senator Hefner and there he is. Mr. Clerk, roll call in reverse order.

January 17, 1990

LB 259, 272A, 969, 987, 1041, 1114, 1170-1180
LR 241

CLERK: (Read roll call vote. See page 365 of the Legislative Journal.) 27 ayes, 13 nays, Mr. President, on the motion to suspend the rules.

PRESIDENT: The motion fails. The call is raised. Do you have anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. Yes, I do, Mr. President. Mr. President, a notice of hearing from the Natural Resources Committee, signed by Senator Schmit as Chair. (Re: LB 969, LB 987, LB 1041. See page 365 of the Legislative Journal.)

I have amendments to be printed by Senator Haberman to LB 259. (See page 366 of the Legislative Journal.)

I have a motion from Senator Lamb regarding LB 1114. That will be laid over. (See page 366 of the Legislative Journal.)

Mr. President, new constitutional amendment, LR 241CA offered by Senator Hall. (Read brief description. See pages 366-67 of the Legislative Journal.)

Mr. President, new bills. (Read LBs 1170-1180 by title for the first time. See pages 367-70 of the Legislative Journal.) That is all that I have, Mr. President. Yes, sir. Mr. President, I guess a reminder, excuse me, Reference Committee at three-thirty. Reference Committee at three-thirty in Room 2102. That is all that I have, Mr. President.

PRESIDENT: Thank you. Senator Jacky Smith, would you like to adjourn us until nine o'clock tomorrow morning, please?

SENATOR SMITH: Mr. Speaker, I...I don't know what to say. Vote to stay here? I would like to ask that the body be adjourned until nine o'clock tomorrow morning.

PRESIDENT: Thank you. You've heard the motion. All in favor say aye. Opposed nay. We are adjourned until nine o'clock tomorrow. Thank you.

Proofed by:

Arleen McCrory
Arleen McCrory

January 19, 1990

LB 272A, 1117, 1135, 1172-1242
LR 242-245

PRESIDENT NICHOL PRESIDING

PRESIDENT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We are happy to have with us this morning as our Chaplain of the day, Mr. Gerry Harris, who is the Executive Secretary of the Gideons, and lives in Lincoln. Would you please rise for the invocation.

MR. GERRY HARRIS: (Prayer offered.)

PRESIDENT: Thank you, Mr. Harris. We appreciate your coming and giving us the benediction, not the benediction, the invocation this morning. Roll call, please.

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

PRESIDENT: Thank you. Do you have any messages, reports, or announcements?

CLERK: Mr. President, I have a Reference Report referring LBs 1172-1242, and LRs 242-245, signed by Senator Labedz, as Chair of the Reference Committee. Senator Coordsen gives notice of hearing for the Business and Labor Committee for February 5 and January 29. (Re: LB 1135, LB 1117.)

I have a report of registered lobbyists for the week of January 18, and, Mr. President, an Attorney General's Opinion addressed to Senator Landis regarding LB 272A. (See pages 421-24 of the Legislative Journal.) That is all that I have, Mr. President,

PRESIDENT: We will move on, Senator Lamb, are you in position to handle that confirmation report. Okay.

SENATOR LAMB: Mr. President, and members, I would offer to the body the confirmation report for Mr. Myers.

CLERK: Senator, yeah, Lawrence Myers, the Nebraska Power Review Board.

SENATOR LAMB: Yes, Mr. Myers appeared before the Natural Resources Committee about two days ago and he is a reappointment. He was appointed, I believe, late last year and there was no opposition to his reappointment, and the committee voted unanimously to recommend that Mr. Myers be appointed to

to gut the bill, put my bill in its place. It is something that has been done several times in the time that I have served here. I remember Senator Vard Johnson doing it a lot of times on Select or General File, particularly if there was an A bill that was not being up, that was not coming up...

PRESIDENT: Excuse me, Senator McFarland. (Gavel.) Please, let's hold it down. It is very difficult to hear, please. Thank you.

SENATOR MCFARLAND: When an A bill is not coming up or not going to be used, what has been done in the past is that the bill has been gutted and another bill substituted in its place because of the position. After this morning, my understanding was that LB 159 was going to be passed over. It is here, ready to be advanced to Final Reading. It is a bill that I think is meritorious, that has a lot of support, and it is a bill that has not...I don't think anyone has ever testified against it in the years we have had it before Judiciary. The process that I am using I guess most recently comes to mind is what was done last year with LB 272A. LB 272A was an A bill that was not going to go anywhere. They didn't need the appropriations for that particular bill. So as a result, the bill was gutted. We substituted the Commonwealth bill, the motion to suspend, substituted the Commonwealth, American Savings, State Securities bill in its place. The motion was to suspend. There were 30 votes. It was done directly, just as I propose to do it here, and then the bill was considered and not voted upon, and it is still pending on the Final Reading. That is the process. It is not a novel process in here. It is something that has been used before, not a lot of times, but it is something that has been done when there is a bill that, obviously, is not going to go anywhere from where it is at. Talked about it with both of the sponsors of the bill, Senator Ashford and Senator Conway. I talked with Senator Kristensen about it. I talked with who had the amendments. I talked to Senator Warner and I talked with Senator Pirsch about it. And this is where we are at. I am asking that you suspend the rules to allow it to be considered. That if you don't like the bill in and of itself, then you can vote it down. You know, if you don't like the amendment, you can vote it down. It is an amendment that we have discussed before. I think it is a good piece of legislation. If it is not discussed today and not put on, it will not be considered. It is one of those bills that will not be there. It is something that we did not consider until after

March 29, 1990

LB 260, 260A, 272A

Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Read record vote. See pages 1700-01 of the Legislative Journal.) The vote is 36 ayes, 8 nays, 3 present and not voting, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 260 passes. LB 260A.

ASSISTANT CLERK: (Read LB 260A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 260A pass? Those in favor vote aye, opposed nay. Record.

ASSISTANT CLERK: (Record vote read. See page 1701 of the Legislative Journal.) The vote is 39 ayes, 6 nays, 2 present and not voting, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 260A passes. LB 272AE.

ASSISTANT CLERK: Mr. President, I have a motion on that bill. Senator Haberman would move to return the bill to Select File for a specific amendment, that being to strike the enacting clause.

SPEAKER BARRETT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the body, I intend to withdraw the amendment but I wanted the opportunity to make a few remarks. At the present time, \$10.5 million has been returned to the Commonwealth depositors, another \$2 million is on tap to be returned in the near future. So that would make a total of \$12.5 million. Now one of the reasons I am so opposed to the State of Nebraska refunding these funds is that the arguments of the proponents are that the state failed these people, that they did not follow through and do their job from the NGI (sic) board or the Department of Banking, or whoever. But I would like to call to your attention, fellow senators, back in 1984 when we had the Commonwealth problem we had many, many, many grain elevators go defunct and go under. Hundreds and hundreds of farmers lost their total grain income. Why did this happen? It's because a state agency, a state agency did not do their job proper. They did not do enough inspections. They did not see that the grain elevators were properly insured

and it was a slipshod method for the state government to operate. And this hurt many, many people outside of the cities, out in the country, out on the farms, to lose your total farm income. It is, in my opinion, exactly the same thing, if the state is going to be the problem and the reason that Commonwealth folks lost their funds, then the state is the reason and the problem western Nebraska and the farmers lost their funds. So I cannot understand, and I have tried, to see why we should take state funds of everyone in the state and pay the Commonwealth depositors and yet there has been no attempt, no investigation to take care of the folks who lost their funds due to another state agency not doing their job. That's the reason I oppose this legislation. I feel that these folks have received...or are going to receive a total of \$12.5 million and that's exactly \$12.5 million more than the folks received who lost their funds when the elevators went broke. And, to end my discussion, Mr. President, I would like to call to the attention of this body that every time you see an ad from a bank it says, FDIC insured, which stands for Federal Depository Insurance Corporation, not federal government, a corporation which is the same thing that was operating the American Charter, Commonwealth people. It was a corporation that was in charge and not the State of Nebraska. That has been legally proved. The courts say that we are not legally accountable for this. And those are the end of my remarks. Thank you, Mr. President. I withdraw my motion.

SPEAKER BARRETT: The motion is withdrawn. Mr. Clerk.

CLERK: Mr. President, Senator Landis would move to return the bill.

SPEAKER BARRETT: Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. Speaker. Thank you. And Senator Haberman having very clearly laid out his plan, I want to do two things. First, I want to explain what the provisions of the bill will do financially and how it rests at this juncture. This bill would require 33 votes for the bill to take effect within this fiscal year and you and I who have followed this issue know there aren't 33 votes on Commonwealth. What will happen then is the bill will be put up with the E clause. It will be voted upon. When there are not 33 votes, it will be voted on the second time. Now, what is the legal effect of voting and passing the measure with 25 votes? It's this. It's

to take that a part of the appropriation, which would become effective, which is in the coming year, for about \$16.9 million. The rest of the bill would be ineffective because, of course, it's not done in the appropriate time frame. And so, in the event you're voting on this measure the second time, which is after it fails without the E clause, you're then voting for a \$16.9 million appropriation, and so you're not voting for the original number in the bill. Secondly, with respect to the measure itself, Senator Haberman makes a good case, and I understand it, this Legislature was not called upon to respond at that time. There was not an organized effort and so the time has come and gone to respond to that particular individual crisis. My guess is that they will come in the future. We see them in our claims bills. We make appropriate responses. I hope when that day comes that I am as compassionate as I am asking this body to be on this issue. But there is a fair reason to grant relief in this situation. Others have been harmed by the negligence of the state. What I passed out to you today were, for example, a list of 40 transactions of forgeries, strawman loans and thefts, which were discovered by the Highway Patrol or in part were known by the Banking Department during the time that Commonwealth was operating. You have a statement of the State Securities filing in which the department's knowledge of what was happening in the depositors' institution is alleged to before a court of law. It went unrefuted. It says, basically, that the department knew but took no action. What you have is a statement by the special receiver upon immediately the closing of the depositors' institution to analyze it saying that he found dozens and dozens of illegal strawman transactions when there was no money that was changing hands in an appropriate fashion. His conclusion was, by the way, that in 1970 the Banking Department should have been aware that there was improper record keeping on the borrowers, that there was never a credit file at Commonwealth, as best as I can tell, that it operated as a real estate development company. Basically, what the...what our representative says, that he thought it would be impossible in a regulated industry for a company to run...to be run this badly but that apparently it was allowed to happen. Lastly, a summary of bank examiners' reports which show well before NDGIC came into existence that our Banking Department knew that there was not adequate credit information, that there needed to be better supervision, that there were delinquencies, that the capital structure was in decline and that those kinds of claims occurred over and over and over again, as a matter of fact, for one, two, three, four,

five, six straight years, the lack of Commonwealth's credit information, of keeping adequate records to know who you were lending money to. We knew they weren't doing their job. We cited them for six straight years but we never cleaned up the job. In here, for example, are bank examiners' reports with illegal acts of up to a million and a half dollars, which we knew about, for which there was no criminal prosecution, for which there was no discipline by the Banking Department. Others were injured by our negligence. If were anybody else, we couldn't walk away from this, but because we're state government we get to walk away. That's not good enough and that's why this bill should pass. I respectfully withdraw the amendment. Thank you.

SPEAKER BARRETT: Thank you, sir. It is withdrawn. Anything further on the bill?

CLERK: Nothing further on the bill, Mr. President.

SPEAKER BARRETT: Would you please read, if members will return to their seats, the bill. Members will return to your seats, please. Proceed, Mr. Clerk.

CLERK: (Read LB 272A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 272A, with the emergency clause attached, pass? Those in favor vote aye, opposed nay. Senator Landis.

SENATOR LANDIS: (Microphone not on) ...Mr. Speaker.

SPEAKER BARRETT: Thank you, sir. Please record.

CLERK: (Record vote read. See pages 1702-03 of the Legislative Journal.) 22 ayes, 16 nays, 10 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: The bill does not receive the required two-thirds constitutional majority on Final Reading. And the question is, shall the bill pass with the emergency clause stricken? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote read. See pages 1703 of the Legislative

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LB 187, 187A, 259, 259A, 260, 260A, 272A
313A, 313

Journal.) 29 ayes, 19 nays, 1 excused and not voting,
Mr. President.

SPEAKER BARRETT: LB 272A passes. Senator Landis, for what
purpose do you rise?

SENATOR LANDIS: Could I rise for a point of personal privilege
for just a moment, Mr. Speaker?

SPEAKER BARRETT: Proceed.

SENATOR LANDIS: On behalf of a great many people, I would like
to thank this body for its statesmanship and its compassion. I
recognize it's done with political cost but with a sense of
responsibility. And on behalf of many people, I want to say
thank you.

SPEAKER BARRETT: Thank you. While the Legislature is in
session and capable of transacting business, I propose to sign
and I do sign, LB 187, LB 187A, LB 259, LB 259A, LB 260, and
LB 260A. Have you anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Thank you. Proceed to LB 313.

CLERK: (Read LB 313 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure
having been complied with, the question is, shall LB 313 become
law? All in favor vote aye, opposed nay. Have you all voted?
Record, Mr. Clerk.

CLERK: (Read record vote. See pages 1704-05 of the Legislative
Journal.) 46 ayes, 1 nay, 1 present and not voting, 1 excused
and not voting, Mr. President.

SPEAKER BARRETT: LB 313 passes. The A bill.

CLERK: (Read LB 313A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure
having been complied with, the question is, shall LB 313A become
law? Those in favor vote aye, opposed nay. Have you all voted?
Please record.

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LB 272A, 313, 313A, 488, 488A, 503, 503A
567, 567A, 662

sign and I do sign, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, and LB 503A. LB 567, Mr. Clerk.

ASSISTANT CLERK: (Read LB 567 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 567 become law? Those in favor vote aye, opposed nay. Have you all voted? Senator Withem.

SENATOR WITHEM: I would ask for everybody to check in and a roll call vote.

SPEAKER BARRETT: Thank you. Will members please record your presence. A roll call vote has been requested. Senator Hefner, Senator Lowell Johnson, Senator Byars. Senator Morrissey, would you check in, please. Senator Goodrich. A roll call vote has been requested and the question is, shall LB 567 pass?

CLERK: (Roll call vote taken. See page 1711-12 of the Legislative Journal.) 27 ayes, 20 nays, 2 excused and not voting, Mr. President, on adoption of or final passage of LB 567.

SPEAKER BARRETT: LB 567 passes. The A bill.

CLERK: (Read LB 567A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 567A pass? All in favor vote aye, opposed nay. Record, please.

CLERK: (Read record vote. See pages 1712-13 of the Legislative Journal.) 27 ayes, 20 nays, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 567A passes. LB 662.

CLERK: Mr. President, I have a motion on the desk. Senator Nelson would move to return the bill for a specific amendment.

SPEAKER BARRETT: The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, and members of the body, I am not sure that all of you are aware or not, I had asked for an

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LB 163, 163A, 164, 164A, 187, 187A, 259
259A, 260, 260A, 272A, 313, 313A, 338
488, 488A, 503, 503A, 520, 520A, 536
567, 567A, 662, 898, 899, 1031, 1125
1126, 1170, 1220

morning visiting in the south balcony. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 520, LB 520A, LB 567, and LB 567A. Senator Lynch, please check in. Senator Byars. Senator Schimek, please. Senator Labedz. Members will return to your seats for a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1713-14 of the Legislative Journal.) 14 ayes, 33 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: Motion fails. Mr. Clerk, have you a priority motion?

CLERK: I do, Mr. President. May I read some items?

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, amendments to be printed to LB 338 by the Health and Human Services Committee. (See pages 1714-17 of the Legislative Journal.)

Messages that bills read on Final Reading this morning have been presented to the Governor. (Re: LB 1031, LB 1125, LB 1170, LB 536, LB 1220, LB 1126, LB 898, LB 899, LB 163, LB 163A, LB 164, LB 164A, LB 187, LB 187A, LB 259, LB 259A, LB 260, LB 260A, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, LB 503A. See page 1714 of the Legislative Journal.)

And LB 272A has been reported correctly enrolled, Mr. President. That is all that I have.

SPEAKER BARRETT: To the motion.

CLERK: Mr. President, the first motion, Senator Hall would move to recess until one-thirty, Mr. President.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Carried. We are recessed.

RECESS

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LB 272A, 431, 1059, 1090, 1124
LR 239

please. Senators Abboud, Lamb, Lynch. Senators Peterson and Coordsen. Senators Scofield, Weihing, Wesely, Abboud, the house is under call. Senators Abboud, Lamb and Coordsen, the house is under call. Members, please return to your seats. Senator Chambers, did you ask for a roll call?

SENATOR CHAMBERS: Yes.

SPEAKER BARRETT: Thank you. The question is the adoption of the Chambers amendment to LB 239 (sic). Roll call vote. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See page 1800 of the Legislative Journal.) 32 ayes, 7 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. The call is raised. Mr. Clerk, have you items for the record?

CLERK: I do, Mr. President. Your Committee on Enrollment and Review reports LB 1124 to Select File, that is signed by Senator Lindsay as Chair. Mr. President, a communication from the Governor to the Clerk. (Re: LB 272A.) Mr. President, I have amendments to be printed to LB 1090 by Senator Hall; Senator Haberman to LB 1059; Senator Wesely to LB 431. And that is all that I have, Mr. President. (See pages 1801-07 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Have you anything further on LB 239 (sic)?

CLERK: Mr. President, Senator Schimek would move to amend the resolution. (See AM7187 on page 1807 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President, and members of the body. My amendment is really quite simple. It addresses something that Senator Chambers raised on the floor a little while ago regarding the appointed members to both the Board of Regents and the Board of Trustees, and the wording on page 3 of the amendment says, "No more than three of the appointed members initially appointed shall be of the same political party." My amendment simply changes that to say, "No more than three of the

to reconsider, does it not?

PRESIDENT: Yes, that is right. That is correct. It takes 25 to reconsider. The question is, shall we reconsider overruling the agenda? The question is the reconsideration. All those in favor of reconsidering vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 12 nays, Mr. President, on the motion to reconsider.

PRESIDENT: Now we have reconsidered and we are back to overruling the agenda. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, I want to thank my colleagues for taking that vote so I will have an opportunity to speak again, and again, and, hopefully, yet again. Senator Schmit, I am not offended by anything you say. You talk about how people help pass my bills. We all help pass each other's bills. I speak in behalf of the bills that I support. I speak against those that I am opposed to. I have also said on this floor you all can kill every bill that I have got, and I will just bring it back next year, so if that is what your point was, it was lost on me because I am not going to stop saying what I think I ought to say or doing what I ought to do because you all are going to kill my bills. Senator Labeledz put a host of amendments on LB 1059 by way of retribution so we know that can be done on this floor. It is just a situation where I am not quite able to do that. I had a reason for wanting to vote no on LB 272A but I was too weak. I couldn't indulge my desire for revenge. I am weak, Senator Schmit, I am weak. There are bills of yours that I have supported when I didn't want to because you come in here with some bills, as you point out yourself, that are really borderline. There are bills that other people have brought, and because of conflicts I've had with them, I would like to punish them and show them how offended I am by the way they may have dealt with one of my bills or me, and I will sit there, I will think about it. Then my conscience whips me and I do what is right and I vote for it. The rest of you all are not that weak. You can say, well, I don't like what Ernie did. I like the bill but I am going to vote against it, and then you will say that is what you have done. But we have different ways of handling the business of legislating. Who can say that it is immoral to do that? Nobody. It can be a tactic, it can be a strategy. It just

SENATOR BERNARD-STEVENS: Mr. Speaker, members of the body, this is a question actually for the Chair. I assume that a motion...you still have a motion pending or at least up there that would change the agenda, is that correct--that the motion at least is still there from this morning?

SPEAKER BARRETT: Mr. Clerk.

CLERK: I have such a motion, Senator.

SENATOR BERNARD-STEVENS: And, Mr. Speaker, it is also my understanding I will ask you to rule at this point, is it your ruling that that is out of order?

SPEAKER BARRETT: That is my ruling.

SENATOR BERNARD-STEVENS: Okay. I will move to override that decision at this point, and then when I get a chance to speak I'll explain to the body what I'm trying to do and the purpose of that.

SPEAKER BARRETT: On the matter of the challenge to the Chair, Senator Elmer, thank you. Senator Abboud, thank you. Senator Landis.

SENATOR LANDIS: Thank you. I need the attention of the body if I could because this does not have to do with the abortion issue or the scheduling wrangling. This morning the Banking Department met with the three receivers of the institutions that are in LB 272A. The Banking Department Director indicated that her preliminary reading of the LB 272A required a distribution so that only the people in Commonwealth and State Securities received money up to the point at which they then matched the amounts of money of the American Savings depositors which would use almost all of the money that was appropriated. In other words, under that theory, the American Savings depositors would receive nothing. Since that time, we've had a number of calls and I've just broken up with a meeting over here, Senator Crosby, Mike Kelley, representatives of the depositors. I, as an introducer, I, as somebody who worked on that bill, meant that all three of the depositors should receive money. It's my belief that if...no matter where the depositors are and the percentage of recovery that they have that they should be able to get half the way to 100 percent of recovery no matter which

carried out. The bill drafters are now doing that work. It will be back forthwith. What I ask from the body is some forbearance, perhaps a brief recess to allow that work to be done, a chance for parties to talk. I don't know, but if we start this...this rock down the side of the mountain it will be an avalanche and we will miss the chance to do this work. And if I have any time remaining, I would yield to Senator Hall, a well-known advocate of LB 769.

SPEAKER BARRETT: One minute.

SENATOR HALL: President and members, is a problem. I mean we've got six and a half hours to deal with this issue if we're going to deal with it. If we don't, if we don't send some direction to the Banking Department through changing the legislation that we passed in LB 272A to clarify what we intended, I think it's clear, the Banking Director does not. If we don't make the change, LB 1141A is a vehicle, if we don't make the change, those people who I represented from the American Savings standpoint and that were referenced throughout the debate get nothing under her interpretation. That's unfair. That's why I would move to overrule the Chair with regard, or excuse me, use LB 1141A as the vehicle for this procedure. It surely isn't an abortion issue. It would be an abortion to leave those people out of the funding.

SPEAKER BARRETT: Time. On the motion to overrule the Chair, Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. Members of the body, obviously I found out about the Commonwealth situation the same time as you are. And even though I did not support the Commonwealth vote, I very well feel that the intent of the Legislature was clear, there were the votes to do the Commonwealth package. And I think the intent of the Legislature should be pursued, solved, done. We need to get rid of the issue once and for all. I suggest two options and actually I'm mulling myself how to do that. One option would be I think I could file or someone could file a motion that we recess for 30 minutes, trying to get the wrangling over LB 1141 on the principal parties. I personally am not sure that's going to happen given a discussion I just heard between Senator Labedz and Senator Landis. I suggest the following as simply a possibility for the body and it's only a possibility. My original motion was and actually still is, not the original one

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LB 272A, 854, 1141A

other bills that he can do this to and even question the germaneness rule. If he wants to put it on the other abortion bill, LB 854, but I'm telling you this is what is happening. They are trying to stall getting to LB 854. We know that. LB 1141, I'd be willing to take LB 854 which is the other abortion bill and let them put the Commonwealth correction or American Savings, whatever it is, into the other abortion bill. But I think that by doing what I'm doing on LB 1141A is the proper thing to do to stop this constant agenda and of filibustering the bills. If we do go onto my amendments, I have a rules suspension there, it's all set up. The only thing that's there is three or four motions by Senator Bernard-Stevens to bracket the bill to different dates and I'm going to challenge the Chair on that because you can only do it at one stage, but he does have some amendments on there that will amend the bracket motion and he's picking out different dates. So I want you to know what's going on. If they want a bill to correct Commonwealth's and American Savings' error, I'm willing to vote for that and willing to give up LB 854 if that's what it takes; but only if LB 1141A passes as amended. Thank you.

SPEAKER BARRETT: Thank you. Senator Schmit followed by Senator Hall.

SENATOR SCHMIT: Mr. President and members, as I have said, I want to work to do anything that can be done to see to it that all participants in the ill-fated LB 272A are paid. You may have a little more problem than you anticipate and you might have consulted with the attorneys in this crowd, Senator Bernard-Stevens and Senator Owen Elmer, before you began your procedure because there is such a thing as a five-day rule. And I believe that you are introducing a new bill at this point, and you may have a constitutional problem and one which may have to be handled in some different kind of floor work. I was tempted to call it chicanery, but I won't out of respect for the people who need to be paid. But I do not believe that you can just take LB 1141A and convert it to your wishes here on the 58th day because it's a new bill. It's the introduction of a new bill. It is not an amendment to anything. You're striking the section and then starting over. And I would suggest if you think you've got problems with the bill now you're going to have really serious problems if you attempt to do that on LB 1141A. And I want to also say that I appreciate the body not voting to recess because there isn't any reason why. I'm sure that Senator Labeledz has got the same concern, Senator Hall has and I would

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hope that we would be able to continue the work. We ought to be able to pass over LB 1141A and try to make the thing work whichever way the body chooses and continue our work whether...

SPEAKER BARRETT: Senator Schmit, excuse me.

SENATOR SCHMIT: Surely.

SPEAKER BARRETT: (Gavel.)

SENATOR SCHMIT: Thank you, Mr. President. So I'm not offering it as a motion, but I'm offering as a suggestion in the interest of expediency and cooperation that we pass over the bill at this time and let the principals get together while we work on LB 1055, LB 1221, LB 1124 and a number of other bills, Mr. President. I believe it's a reasonable suggestion. And Mr....I don't know who to ask, Senator Landis.

SPEAKER BARRETT: Senator Landis, would you respond?

SENATOR LANDIS: Ask me the question.

SENATOR SCHMIT: Senator Landis, is there a problem with the use of LB 1141A at this time on this day because I recall years ago on a Christian school...

SPEAKER BARRETT: Senator Schmit, would you please speak into the mike.

SENATOR SCHMIT: Years ago on the Christian school bill I believe you challenged the introduction of a bill in this manner in the last few days. Would you respond please.

SENATOR LANDIS: Yes. And there is a potential flaw, you are correct in that. The suggestion that I would make to the body is that they proceed on two tracts, one being a legislative act, the second being a legislative resolution and do them both at the same time, trying to make sure that we have workable language. Senator Schmit, you're exactly right. There's a problem with five day language should it be challenged. And I'm not sure whether you can argue that LB 272A, having been passed this session, would authorize us to do this. I am far enough out on the legal limb to say...to acknowledge that there is trouble on that area. I'm just trying to nail down the hatches as best I can.

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SENATOR SCHMIT: Thank you, Senator Landis. And I guess at this point I'm going to offer a motion that we pass over the bill, over LB 1141A at this time. Okay, I'll withdraw it.

SPEAKER BARRETT: Thank you. Senator Hall followed by Senators Chambers, Bernard-Stevens, Smith and Abboud. Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. If it's the will of the body to take up LB 1141A and deal with it based on what's at the desk of the Clerk, that's fine. That's fine. It's no sham or charade or attempt on my part in any way, shape or form to get to any debate on any of the bills that are on the agenda. The issue here is one that I would consider a crisis. But, ladies and gentlemen, that's fine. Let's take it up. I made the issue with Senator Landis first of all that couldn't we deal with this in the form of a legislative resolution. We both thought that would work. Cynthia Milligan, Director of the Department of Banking, said that the issue that Senator Landis just spoke about dealing with it on two tracks made the most sense and was the most defensible. I'm willing to take a gamble on the resolution if the decision from the Department of Banking is that, well, sorry folks at American Savings, you're out of luck. So be it. The injunction will be filed, there will be lawsuits and nobody will get a dime; but the money will be appropriated I guess. It will just sit over there and gather a little dust and a little interest, but that's what will happen at least from talking to the lobbyist for American Savings. They'll just...they'll take their chances on a resolution, but they've also said if the decision that comes down is wrong based on legislative intent and everything that has littered the transcript that I went through over what we talked about last year on Final Reading on LB 272A and what we talked about this year when we passed it, those three institutions are clearly spelled out a number of times. The intent of what we did is there. It's ridiculous that we had this presented to us because I think if you read the language it's not a problem. So frankly, I don't care. I'm going to go about the process of drafting a resolution that states what our intent was and hope that everything works out, especially for those folks at American Savings.

SPEAKER BARRETT: Senator Bernard-Stevens, please. Senator Smith, on the motion to overrule, Senator Bernard-Stevens, no, I believe that we'll ask you to close. You may speak one time on

is an attempt in futility. We're just wasting our time, I would suggest. I know that Senator Bernard-Stevens has a motion to bracket the bill. I don't know what you want to do with that, but I would suggest that if you are in the interest of conserving time that you stop and take a look at where we are at. The body obviously does not want to overrule the Speaker's agenda and justifiably so. We've been waiting all day for these bills to be heard. We just as well argue them. I have bills on down the line under 6 and 7 I'd like to have heard very much. I think they're important. I think they ought to be heard. All of us have some interest in some of those bills. But we have nothing we can do for the depositors of American Savings except to plead with the Director of Banking. Some of the very best minds in this body worked on that bill. Senator Landis lived and breathed it for a long time. I trust his judgment. He's chairman of the Banking Committee. I believe the bill is all right, but I'm not an attorney and I'm not going to try to impose my opinion upon that of Director of Banking. But we are wasting time to talk about trying to solve the problem statutorily. LB 272A is no longer a bill. It carried the emergency clause and, as such, it is part of the statutes of the State of Nebraska. We're not fiddling around with the bill anymore. That's a statute and everyone in here knows it. And so in an attempt to try to correct something which has just developed, it happens all the time. There was an Omaha National case as I recall some time ago, and we all stood on our heads and tried to do something about it. You couldn't do anything. We ran out of time. That is something that happens every single session. Why we ran out of time, we can argue that and we can all bear some of the responsibility for it. But I would very much like to be able to argue Senator Labedz's motions on LB 1141A. If the body chooses not to do so, so be it. We live and die by the system. Senator Chambers refers to tin man and so forth. Senator Chambers, we know who bullies the place and we know who bluffs, we know who does all the rest of the stuff. We all, in our own good time, use our own two eyes, ears, tongue for whatever purpose we deem is in the public interest, hopefully. No one has a priority on that, no one has an option on that, no one has a monopoly on that. There comes a time when we're in the last six hours of the session of this day at least of this session and we're limited as to our options. I would suggest that we proceed to LB 1141A, do whatever you want to do with it. If Senator Bernard-Stevens chooses to bracket it and argue that bracket motion for a long period of time, that's the way the system works. If we run out of time, we run out of

time. And I am willing to live by the rules. I know you all are. There is going to be some time when they're going to work against you; there will be some time when they work for you. But to imply that any one of us is any more guilty of chicanery than the other is not valid. I would suggest that it was not exactly kosher, it was not exactly fair to try to tell the body, and I don't think that it was done intentionally, to try to convince the body that we're going to solve a problem of LB 272A by amending a bill and creating a new bill. There are plenty of people in here with more experience in those areas than I have who knew it could not be done. We also all know that the adoption of a resolution means nothing. It means absolutely nothing. You just as well give the Director of Banking a phone call and it will mean just as much to her as the adoption of the resolution. If she believes she's right, she's going to insist upon it and persist on it; and I don't know what the results will be. I do not believe that Senator Landis nor any member of this body needs to be embarrassed by virtue of the fact that there now seems to be a technical problem with that bill. There were plenty of times that people could have looked at that thing if they had any question about it. We know it had plenty of discussion, debate and articulation. Now seems to me to be a particularly inopportune time to discover a problem with that bill. And I am particularly disturbed because it would be doubly wrong to pay a part of the people and not pay them all to the maximum intent of this Legislature. I would hope that we would proceed with LB 1141A, let the chips fall where they may, unless Senator Warner might want to withdraw the bill. Mr. President, I ask permission to withdraw my motion.

PRESIDENT NICHOL PRESIDING

PRESIDENT: You withdraw your motion. All right. We're back to overruling the Chair, is that correct, Mr. Clerk? Where are we? We're back to LB 1141A. Mr. Clerk.

CLERK: Mr. President, LB 1141A is on Select File. The first item I have, Senator Warner, I had amendments from you, Senator, to the bill itself.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President and members of the Legislature, it was my impression that the practice had been this session and it happened earlier this afternoon that substantive legislation

yourself, maybe some a little higher. One of the things that I learned when I first came down here, and I learned it from some of my liberal friends, Steve Fowler and Dave Newell and a whole bunch of those fellows, was that on the legislative floor you take care of those priorities of yours that are very important and you try to safely guide them across the floor to safe passage, and once having accomplished such, then, if you want to spread a little terrorism around the floor, exact a little pound of flesh or bring about some retribution or repercussions or whatever you wanted, then you're free to do so. But it is not very wise to become involved in chicanery or some other kind of activity unless you know you're home safe, and so oftentimes we all find ourselves carried away in that way. Now I happen to have been on... in support of a bill LB 272A. I didn't pay any attention to the bill. I don't think most of us did. We thought the bill was in good order. And many of the persons who were very concerned about that bill are also somewhat adamant about allowing LB 854 to come to a vote, against LB 854 coming to a vote. Unfortunately, we find out today there is a serious problem with LB 272A, which means that the depositors of those institutions will no doubt not be paid for awhile because, unless some miracle happens and the Director of Banking reconsiders her position, there will be a lawsuit, undoubtedly, that will tie up those funds and the poor people who have waited six years will have to be called upon to wait again. I do not know what any of us are going to tell them is the reason why we did not do our work and be sure that bill was in good order. Now there's another bill, and I know that most of you are not listening, but it is a bill which is of vital importance to many people in the State of Nebraska and it is of deep importance and concern to most of you on this floor, a bill which received 30 votes on Final Reading and is rumored to have at least 32 if it should need an override. Some days ago I wrote to the Attorney General to find out if I... fact that bill is constitutional. The bill contains flaws, as you and I know. It is flawed because it contains a closed class and, as one of those who included that kind of language in a bill that I had a number of years ago which was found to be unconstitutional, I find that I'm sure that the Attorney General will find that the closed class provisions of LB 1059 are unconstitutional. Furthermore, for those of you who do not know it, in your zealous determination to place a lid upon cities and counties, in addition to schools, you neglected to leave the loophole that you left for the Lincoln city schools and you did not provide...

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SPEAKER BARRETT: Senator Hall, will you handle the resolution, please.

SENATOR HALL: Thank you, Mr. President, members the resolution was offered on behalf of the issue that was in LB 272A, the Commonwealth distribution and the Commonwealth, American Savings and State Securities. After the bill was passed, there was questions raised by the Banking Director, Cynthia Milligan, with regard to what the legislative intent, through the language that was in the bill, with regard to the distribution. It was always my intent, and I think member's of the body's intent when I went back and looked through the transcript that this money be distributed equally in terms of one-half of what was due to each of those...owed to each of those depositors, that it be distributed in that manner since we appropriated one-half of the money. I think that is a fair interpretation of the language of LB 272A. The Director of Banking felt that there was possibly another interpretation of that language. The reason for the introduction of the resolution is to just help clarify and guide the director with regard to disbursement of those monies to the depositors. That's my reason for introducing the resolution. I think that there were at least 10 Omaha area senators who supported the resolution. I think many of them supported it because of the fact that it dealt with Commonwealth, because it dealt with State Securities, but also because it dealt with American Savings. And I would not want to go away from the 60-day session without clearly spelling out that that was part of, at least, my intent, although I would have supported the issue and have in the past prior to the bringing in of State Securities and American Savings. The way I understood the proposal that we passed the 16 odd million dollars was that it included all three institutions and that they would all benefit their depositors to one-half of their loss that was due and owed at present. That was my understanding. That's my reason for being a part of bringing in this resolution. With that, I would yield the balance of my time to Senator Landis.

SPEAKER BARRETT: Senator Landis, about two and a half minutes.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, LB 272A allows for the Banking Director to distribute the money in a fair and equitable manner and I think the language of this resolution, consistent with what Senator Hall just said, represents such an equitable form of distribution and I would