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Floor Debate
February 09, 2011

[LB19 LB25 LB26 LB77 LB78 LB81 LB164 LB257 LB302 LB303 LB334 LB383 LB410A
LB427 LB474 LB638 LB692 LR71]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fifth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Wallman. Please rise.

SENATOR WALLMAN: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Wallman. I call to order the twenty-fifth day of the One Hundred Second Legislature, First Session. Senators, record your presence, please. Roll call. Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SENATOR GLOOR: Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs gives notice of public hearing; those reports signed by Senator Avery. Senator McCoy has an amendment to be printed to LB19. That's all that I have, Mr. President. (Legislative Journal pages 489-490.) [LB19]

SENATOR GLOOR: (Gavel) Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. Mr. Clerk.

CLERK: LB383, a bill by Senator Cornett, relates to revenue and taxation. It eliminates a provision relating to aid to municipalities, counties, and natural resources districts. The bill was discussed yesterday, Mr. President. When the Legislature left the issue, Senator Loudon had pending AM288 as an amendment to LB383. (Legislative Journal page 482.) [LB383]

SENATOR GLOOR: Senator Cornett, would you provide us an overview and review of LB383. [LB383]

SENATOR CORNETT: Yes, Mr. President and members of the body. LB383 eliminates all state aid to cities, counties, and NRDs. This bill was brought as part of the LR542 process in regards to the cuts that we need to make to balance our budget. I do not

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support Senator Louden's amendment. I think that in two years we are going to be facing some significant challenges with our budget also in regards to what Senator Flood described as pent-up needs. We are going to need to be able to fund TEEOSA and Medicaid, so therefore I do not support the amendment. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Cornett. Cookies have been distributed today in celebration of Senator Smith's 39th birthday. The body is in debate on AM288. Senator Louden, would you give us a review. [LB383]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. The reason I introduced this amendment and what it does is takes the repealer part out of the statutes that's on the front page of your bill, on LB383. I don't know how many of you have read that but as you look down there towards about line 9 and 10, it tells what bills and what statutes are repealed. Well, if you look those statutes up, those are the statutes that were put in there to give state aid to government entities and actually 77-27,136 does away with taking any sales tax to give to any governmental subdivision. So when you repeal that, it's gone, will never be back there again. The other two parts of the statutes that are being repealed have to do with how the money would be distributed among the cities and counties and that sort of thing. I would point out that we were...it took us nearly eight years in order to get that set up for the counties, and if you will look in there, it doesn't take effect until July 1 of 2011. So that was legislation that was worked on for a long time and it's all been for naught. That was all what I've done with that bill, that in two years from now it...more or less, you move forwards. It would be like stepping over the dog or stepping over a puddle, which would be LB383, and two years from now, why, the Legislature at that time could pick up where it's been left off and there would be rules already in statute to go ahead and start in on it, if they decided to levy that tax. That's all that amendment does, is mostly a common-sense amendment so that in the future somebody doesn't have to replot that ground all over again. With that, I would ask for it to be adopted. Thank you, Mr. President. [LB383]

SENATOR GLOOR: Thank you, Senator Louden. We continue with debate on AM288 and the underlying bill, LB383. The Chair recognizes Senator Flood. [LB383]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I rise in opposition to AM288 and in support of LB383. This is the amendment that I referenced yesterday in my comments as it relates to the striking...or the reestablishment, maintaining, of the aid programs into the next biennium. I will call your attention to page 1 of the amendment, lines 5 through 8, "For fiscal years beginning on and after July 1, 2013, the Legislature may appropriate funds collected by a general sales tax and income tax for aid to incorporated municipalities, counties, and natural resources district." And then it says, in lines 11 through 15, "For fiscal years beginning on and after July 1, 2013, the Legislature shall appropriate funds as aid to counties in an amount equal to a percentage of the total real and personal property valuation of all counties,

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such percent not to be less than .0075 percent nor more than .0125 percent." I reemphasize the same argument I made yesterday and that is we're going into a biennium where we're going to be making severe cuts, 5 percent cuts, potentially higher, in Medicaid. If you don't think that has an impact on our citizens, let's put it in this perspective. If a Medicaid provider arbitrarily is paid 60 cents on the \$1 for what they get from private pay and suddenly they get 55 cents on the dollar, who makes up the difference? Ultimately, healthcare costs go up because the providers charge more at the end of the day in negotiations with their health insurance partners, and the citizens end up paying. Now that's inevitable that we're going to be addressing Medicaid provider rates but do you want to go higher? As it relates to K-12 education, Senator Adams made a very clear point yesterday. Already, with the loss of federal stimulus funding, we are facing severe cuts to K-12 education. By passing this amendment, I believe we're giving false hope to cities, counties, and NRDs that this money will be there in two years. I haven't seen the revenue receipt report--is expected soon for the month of January--but I'm not anticipating big gains in our revenue forecasts at the end of February and at the end of April. I feel strongly that this amendment should be defeated and that LB383 should be advanced. Thank you, Mr. President. [LB383]

SENATOR GLOOR: Thank you, Senator Flood. Senator Cornett, you are recognized. [LB383]

SENATOR CORNETT: Again, as I stated on my opening, I urge the body, like Senator Flood, to strongly defeat this amendment. We made a decision as a committee to send this out as elimination of aid because of where we are going to be in two years, and what we need to remember is our basic fundamental responsibilities as a state: Medicaid, taking care of those who can't take care of themselves, education, public safety, and infrastructure. In two years we cannot guarantee that we will be in a place where we can fund this. We should not be making false promises to our cities and counties and NRDs that we cannot live up to and cannot guarantee we will live up to. We've been down that road before with jail reimbursement. I say it ends here with LB383. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Cornett. The Chair recognizes Senator Mello. [LB383]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in support of AM288, in part because of my underlying opposition to LB383. And to somewhat continue yesterday, I know I was cut off at the mike yesterday as I was discussing our options that are available to us. I would be remiss to say that I did not hear anyone on the floor in conversations of LB383 remotely discuss the need to raise taxes if we do not pass this bill. So first off, that was mentioned on the floor yesterday and I should have refuted that earlier on in the sense that I did not introduce a bill to raise any taxes and I don't know how many of my colleagues here on the floor have

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introduced bills to raise taxes, but I do not believe we have to raise taxes if LB383 fails. That is a false premise that has been put out in regards to why you should support this bill, that if we do not move this forward your taxes are going to go up. We're going to raise your income or sales taxes. That's fundamentally false. But as we were discussing yesterday options that are available to cut the budget further to help find that \$44 million that we would save by LB383, I failed to mention yesterday a couple other items. In the Norfolk sex offender treatment facility, they offered not one potential budget reduction, not one, which in my mind says the Department of Health and Human Services believes that this facility is operating at a 100 percent efficient level. In no way, shape or form can they be more efficient than they are now. In no way, shape or form can they save one single dollar; thus, not offering one potential budget reduction at that facility. A couple other ideas: soil and water conservation grants, I know we need to deal with water issues but the fact is this; we're looking at other issues that are in front of the Legislature. We could reduce \$500,000 a year on soil and water conservation grants. Similar thing, we could reduce three positions in Department of Natural Resources that they offered up, one legal division person, two survey division people, to the tune of \$364,000. I'll continue. Department of Health and Human Services, two environmental health scientists to the equivalent of \$130,000 each position. We could also start looking at the Department of Corrections. I think all of us here want a safe and secure Nebraska, but we also know there are massive reforms that we are going to be looking at through Senator Ashford's committee. As part of the budget process, Department of Corrections provided numerous opportunities for us to help them become more efficient. Some of those ideas include eliminating 12 full-time positions right now; that, with the attrition of potentially adopting some changes in our parole system that the Governor has proposed and that the Judiciary Committee will be evaluating, we could save \$600,000 more by eliminating 12 positions that they say may no longer be needed. Other opportunities: \$960,000 in regards to cost-saving initiatives for health services in Department of Corrections. Something that I always find to be somewhat intriguing, in part because I think that we sometimes get very little information about line-item budgets in certain agencies, is Department of Corrections offered up a budget reduction of \$500,000 for IT applications and programming. I'm not saying that they don't need IT applications or programming, but they didn't give any real information behind it, just said we won't do any IT applications or programming upgrades over the next two years, thus, offering you \$500,000 you could save out of our budget. Something else that has come across, kind of interesting component we didn't think of this sooner: Department of Corrections pays their deputy director of corrections... [LB383]

SENATOR GLOOR: One minute. [LB383]

SENATOR MELLO: ...through revolving funds. The way this is done, different agencies pool in money from their own operating budgets into the revolving fund of Department of Corrections and that is how that person gets paid. So essentially, multiple agencies pool in nickels and dimes and dollars to this fund and that's how this person could get

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funded, instead of paying that person the \$135,000 we pay them in General Funds--cost savings of \$270,000. Department of Corrections also provided us a way to save and reduce overtime costs, saving \$200,000; reduction in leased vehicle usage, an additional \$200,000. Last but not least, State Patrol, this is exactly what they provided us in the Appropriations Committee, quote: Eliminate spending on supplies and equipment, \$607,000. My friends, it's not solely that we have other options out there but the fact is this, we need more transparency, more information as we develop our budget. [LB383]

SENATOR GLOOR: Time, Senator. [LB383]

SENATOR MELLO: Thank you, Mr. President. [LB383]

SENATOR GLOOR: Thank you, Senator Mello. Senator Krist, you are recognized. [LB383]

SENATOR KRIST: Question. [LB383]

SENATOR GLOOR: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB383]

CLERK: 28 ayes, 9 nays to cease debate, Mr. President. [LB383]

SENATOR GLOOR: Debate does cease. Senator Louden, you are recognized to close. [LB383]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As we had a discussion on this yesterday, I think you probably lost track of or lost sight of actually what we're trying to do with this amendment and actually what this bill does. This amendment doesn't do anything apart from what the Governor has proposed as far as cutting out state aid. That aid will be cut out. What it does do is set it up so that in a couple years from now it can probably be jump-started again with little or no effort or without a lot of legislation introduced to get this all started again. The formula has been worked out for state aid to counties and I think we've been about eight years doing that and it wouldn't take effect until July of 2011, and so, consequently, that never got to work. As we go about this, you want to be...how optimistic are you about the future? I've talked to some of the people and they don't think that in 2013 the money will be there in order to do any state aid to cities or counties or anything, and myself, I'm more optimistic than that. I think our ag economy is going to pull the state of Nebraska out of it and it will happen long before 2013. If any of you have watched, why, feeder cattle right now are at \$1.26, cows, heifers and stuff are selling for nearly \$2,000 a head. So there's issues out there. I had to buy corn the other day and I think I paid \$7 a bushel for

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it, so there's issues out there that's going to bring this economy forwards. If you don't think that we're going to have the money in 2013, well, then go ahead, vote against this amendment. Myself, if anybody is optimistic about it, then I think you need to reconsider on what this amendment does and vote accordingly. As you would look at it, if any of you have looked at the parts that are going to be repealed, that 77-27,136 was similar to what Senator Pahls's amendment was yesterday. It said that they have to, when money is given to these agencies, they have to use it in considering their tax levy. So there was issues there that had been worked on before and this isn't...actually what you're trying to do is reinvent the wheel. As we go forwards with these bills, we have to think about what effect it's going to have on the counties and cities out there. We have some counties...some of the handouts that I passed out yesterday on some of the counties, that they're at their maximum levy and the amount of counties that are above 35 cents. If you look at a lot of them, they're mostly the rural counties out there. Now you take that aid away, they haven't been able to benefit from some of the...I guess construction and that sort of thing that goes on along these counties along Interstate 80. I remember one of the senators yesterday talked about how we have the lowest unemployment rate in any place in the United States, but you want to look around. Any of you have driven around the town and stuff, there's been an ongoing construction, huge constructions going on around Lincoln on just the highway department. Those are all public works and that's how you keep people into jobs is with public works. So when you talk about what Nebraska does and when you have the amount of construction that's been going on, on the interstate system and the viaducts and around the town, that puts kind of a different light on unemployment in Nebraska. You go out into the rural areas, you don't have that construction jobs. The employment that's there are people working, and if they don't have a job, they've left. So then you wonder why we have an exodus of people from the rural areas. Well, if there isn't any jobs there, they don't stick around. [LB383]

SENATOR GLOOR: One minute. [LB383]

SENATOR LOUDEN: It isn't like in Lincoln when, if you stick around, why, you get your unemployment or something like that. Probably 90 percent of the jobs that are taken out there in the rural areas don't...aren't paid into unemployment compensation, so when those people are out of jobs, they're gone. So I think this is something that we have to consider very, very wholeheartedly that this amendment to me was a common-sense approach to a situation that we have. It doesn't affect the Governor's cut in county and state aid funding at all, but it does have some common sense to keep us so we can step over this mud puddle in two years from now. Thank you, Mr. President. By the way, a call of the house and a record vote. [LB383]

SENATOR GLOOR: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB383]

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CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB383]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Lathrop and Lautenbaugh, please record your presence. Senator Louden, I understand you want a roll call vote. [LB383]

SENATOR LOUDEN: Yes, in regular order. [LB383]

SENATOR GLOOR: The question is, shall the amendment to LB383 be adopted? All those in favor vote aye; all those opposed vote nay. [LB383]

CLERK: (Roll call vote taken, Legislative Journal page 491.) 9 ayes, 35 nays, Mr. President. [LB383]

SENATOR GLOOR: The amendment fails. Raise the call. [LB383]

CLERK: Mr. President, Senator Council would move to amend the bill, AM252. (Legislative Journal pages 484.) [LB383]

SENATOR GLOOR: Senator Council, you are recognized to open on your amendment. [LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. I filed AM252 principally to lay the foundation for debate on future bills. AM252 is substantially the same as AM288, which was just defeated, with the exception of the elimination of state aid to natural resources districts. It provides for the elimination of state aid during this biennium with the restoration of that state aid for the following biennium. And again, I state that I introduce the bill (sic) principally to lay a foundation for the debate on upcoming bills. During the course of this debate on AM288 and LB383, there's been the discussion of the issue of reducing General Fund appropriations, and I understand that and I appreciate the need to do that, while I don't necessarily agree that if state aid to counties and municipalities is not eliminated that schools and health and human services will have to be adversely affected. I don't believe that. That's not fact. There are other funds available if this body chooses to use them. But the body chooses to restore and preserve certain expenditures so we're looking at reducing state aid to counties and cities. And again, it's not problematic from a budgetary perspective but it is problematic from a policy perspective, because the original state aid to counties and cities was in recognition of the fact that this legislative body had eliminated sources of revenue that were available to cities and counties to fund their operations. And since the state eliminated the ability to raise revenue from those taxing sources, and for those bodies to have to answer to their constituents about generating revenue from those taxing sources, the state, as the

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quid pro quo, provided state aid. Well, one of the reasons I think that we should postpone making a decision on eliminating state aid to counties and cities, because we have not yet debated at least three bills that are pending that eliminate cities' and counties' ability to generate revenue through taxing authority that this body has previously authorized. And the question becomes, are we going to make a policy determination or are we just going to make a budget determination? And if it's a policy determination, I submit to you, colleagues, when those bills come forward, particularly the bills dealing with occupation taxes and the abilities of cities and counties to collect revenue from occupation taxes, that you remember the action you've taken on LB383. The discussion during the debate about the minimal impact the elimination of aid would have on cities and counties, considering that in a vacuum, that's true. Considering it in a vacuum, the cities and counties could probably take action to reduce their expenditures to the point where the elimination of state aid doesn't adversely affect them. But the elimination of state aid, coupled with the elimination of occupation taxes that have been collected, coupled with the action that has been taken with regard to wheel taxes, yes, it will have an impact. And for me, that is a policy issue, not a budget issue. And then it becomes, what is the policy that we are developing as a Legislature? Is it a policy of punishment? Is it a policy of micromanaging how cities and counties carry out their operations? Yes, that's what it would be. And while we all discuss and advocate local control, in this instance we are stepping over the bounds of local control. If cities and counties believe that that's the revenue source they need to utilize to continue their operations, maintain their operations, they have to answer to their constituents, not you, not me. They have to answer to their constituents. And the discussion about property tax and whether property tax would have to be increased in order to cover, well, that may occur in some instances, but it may not occur in many instances, and that's a fact. Budget cuts could certainly be made, service delivery could certainly be affected. But it seems like if it affects the cities and the services the cities provide, it's not quite as serious, it's not quite as important. Yes, no one wants to see Medicaid service providers receive less because of the services that they provide to the residents of the state of Nebraska who are dependent upon Medicaid. Well, there are residents of the cities and counties who are dependent upon many of the services that those governmental entities provide to their residents and we are giving no consideration to them when we propose eliminating state aid and cutting their revenue-generating taxes. And it's really interesting, too, because--I have to go back to last session, and I'm going to be a little parochial--when the city of Omaha was looking for authority from this body to raise its sales tax, its local option sales tax, we made the decision, no, don't even think about it, Omaha, don't even think about it. Yet, when it comes to providing some aid to the city, we say, well, we can't afford that anymore so you'll have to struggle with we're not going to let you raise revenue locally and answer to your constituents, nor are we going to provide you with any state aid. And again, colleagues, the purpose of this amendment is to get us to think seriously about the bills that are going to follow that are going to further cut, if enacted, city revenue, county revenue; place them in a position where they'd be looking at very, very serious, long-lasting cuts in programs and services and

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with no ability to answer to their constituents if they elected to seek an increase in those taxes or property taxes. And that is the dilemma that cities and counties will be placed in if we advance LB383 without taking into consideration the impact that it will have on a city's ability to generate revenue. You adopt AM252, it leaves open that possibility if the Legislature takes what I would believe to be an irresponsible action by eliminating the aid that we give to provide to cities and eliminating their ability to fill that gap with taxes that they can generate locally. With that, I would urge your support of AM252. [LB383]

SENATOR GLOOR: Thank you, Senator Council. (Doctor of the day introduced.) You have heard the opening on AM252. Senators wishing to be heard include Wallman, Council, Pahls, Mello, Ken Haar, Krist, Dubas. Senator Wallman, you are recognized. [LB383]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. I've heard Senator Howard introduce bills about bullying. We are considered a big bully how we treat our counties and municipalities. My township had a lid override on their taxes to fund the roads and bridges and culverts repair. It failed big time. And so do we depend on counties and townships and villages and cities for some of this revenue? We did, and now we realize we probably don't have it to give; and if we did, would we give it or transfer it to something else with a tax shift? Make no mistake about it, we're shifting taxes when we cut taxes here. And we mandate certain programs that all the counties, schools have to follow, whether it be assessments or whether it be various issues, we tell them what they have to do. We put limits on what they can tax. They can vote on property tax override lids for schools and some other issues and for roads and townships, but, today's environment, it isn't going to happen. So we have the ability here to collect more sales, more income tax if we pass that, or so choose, but we were told not to do this. So we are trying to find the money to save to do what we should be doing. And so I would turn the rest of my time over to Senator Mello, if he'd wish. [LB383]

SENATOR GLOOR: Senator Mello, you have 3 minutes and 30 seconds. [LB383]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Obviously, I think the last vote on AM288 shows where we're going and where it looks like the majority and consensus of this body would like to move, but I would remind you and would be remiss if I did not mention the key point from yesterday's debate. This bill eliminates our prioritizing of property tax relief, pure and simple. That's it. It's nothing more than that. This body has had a longstanding, 30-plus-year policy of providing property tax relief because of decisions that this Legislature has made in regards to reducing local government's abilities in regards to looking at other revenues that they had traditionally done. We've exempted things that they no longer can use. So my point is this; we, in turn, as a state have prioritized property tax relief for the last 30 years and by supporting LB383 you are telling your constituents that you are not prioritizing

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property tax relief in this budget. It's something that the Governor less than three years ago said was a priority of his as well. Once again, everyone has got to make their own individual vote. I've laid out roughly \$41 million in potential, long-term budget cuts that we can make that would make it so we don't have to vote for LB383. That's part of the debate, right? This is a budget bill. We have to do this because it's part of the budget. There are other options available. I value and prioritize property tax relief first and foremost over the other kinds of tax relief we've talked about because that is what my constituents have sent me here to do. I encourage you to reconsider your positions on this bill, understanding that it's only day, I believe, 22...25, which means we have 45 days left to develop a budget, 45 days left to dig into state agencies deeper and further in regards to looking for projected budget cuts than what we currently have been looking at right now. I urge you to vote for AM252. Thank you, Mr. President. [LB383]

SENATOR GLOOR: Thank you, Senators Mello and Wallman. (Visitors introduced.) We return to debate. Senator Council, you are recognized. [LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. Just following up on some comments that Senator Mello aptly made during his remarks on the mike a minute ago, it does boil down to an issue of prioritizing property tax. But the underlying issue is, whose grant of the property tax relief are we prioritizing? Through LB383, it's not any priority to property tax relief that may be granted by the local subdivisions of government, because by removing the state aid the local governments will either have to cut services and programs further than they have or increase taxes somewhere else. And in that regard, I must again repeat that there are several bills pending that would prevent those local subdivisions of government from raising revenue from somewhere else. But what the action we'd be taking by advancing LB383 is certainly placing a priority on property tax relief, and that is the property tax relief that is granted through the property tax credit. We would not be prioritizing property tax relief that is granted by local subdivisions of government who have lost the ability to generate revenue from other sources, because by removing the state aid they will no longer be in a position to develop their budgets in a way that they can represent to their constituents that they provided property tax relief. But the state of Nebraska will remain in a position where they can tell residents of the state of Nebraska that they've been granted property tax relief. So the issue is one of prioritizing property tax relief but it's really prioritizing who is providing that relief. And the priority, if LB383 is advanced, the priority is being given to the state, not to the local subdivisions of government, not to the entities that have to rely principally upon the property tax for funding their operations. That's where the priority will lie. So when we are acting upon upcoming bills, be reminded of the fact that in order for us to maintain this lofty goal of granting property tax relief that we have to be in a position to provide local subdivisions of government avenues to generate revenue other than the property tax. We can't keep cutting off their other revenue-generating sources and without providing them some opportunity to provide property tax relief to their constituents. So with that, I would urge you to give serious consideration to AM252

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because, at worst, it says if this body advances and ultimately enacts any of the bills that eliminate current taxing sources for municipalities and counties, that in the next biennium there is the opportunity to restore that. And, you know, no one is suggesting by introducing AM252, and it's kind of insulting to be told that, well, you don't need this, the next Legislature can do whatever they want to do. But the point is, is that by enacting... [LB383]

SENATOR GLOOR: One minute, Senator. [LB383]

SENATOR COUNCIL: ...AM252, this legislative body is giving the next legislative body notice of what they believe to be in the best interests of the residents of the state of Nebraska. It's just like the amendment that Senator Pahls had introduced and it was just merely to set forth the intent, that the intent is that if we're going to eliminate taxing sources that we will position the state of Nebraska to be able to restore some of the lost revenue that cities and counties experience as a result of any action in advancing LB383. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Council. Senator Pahls, you are recognized. [LB383]

SENATOR PAHLS: Thank you, Mr. President, members of the body. The last two speakers have mentioned my name so I figured I better get up and say something. The question was called before I had an opportunity to talk to...to speak on Senator Louden's amendment so I'm just going to direct my attention to him a little bit. I want to thank him. I want to thank him for leading that charge. Also, I think it's very good that he requested a record vote because I think he's showing the direction that this body is going. He was optimistic and he said "in the future," but we sort of rejected that idea, that we do not want to...or that's not our position, is to think of the future. Well, all of you who voted no on that, which were a number of you, just sort of like the amendment I had yesterday, which I respect, of course, I want you to think of that. Any time this session that a bill is brought forth on this floor that says "in the future," let's let the Legislatures in the future make those decisions then, because by the record vote it showed me that most of us do not want that to happen. And I do not disagree with that, but I do think that we are setting a direction that this body is...I'm assuming is going to take, and that's it. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Mello, you are recognized. [LB383]

SENATOR MELLO: Mr. President, members of the Legislature, I envision this being my last time talking on AM252 because I don't think we need to continue to beat a dead horse after looking at the vote on AM288, where, as I said, it shows I think a majority of the body here supports eliminating this property tax relief program to counties and cities

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and NRDs. I just offer a word of caution. The sense of, in a matter of less than ten minutes looking through our budget books, was able to identify roughly \$41 million of projected cuts, permanent cuts, agency cuts, aid cuts that we've not yet taken. Not saying that the Appropriations Committee might not consider talking about that again in the future. Obviously, I think some of my colleagues in the committee know I will bring them up again. But the point is this. We have many options ahead of us in this legislative session to deal with what we all agree is a very, very difficult budget situation, but I firmly believe that turning our backs on a property tax relief program in regards to aid the local governments is not something we need to do to solve our budget problems. I remind you, it is their-our budget problems. It is not our job to send the problems down to local governments. Some in this body have emphasized multiple times on this floor the desire and the belief that the government closest to the people is the best government, is the best form of government, is the most appropriate form of government. My question is, then why are we no longer trying to provide that extended hand in regards to our arms of cooperation in regards to providing property tax relief to these entities? If that is a belief of members of this body, that the government closest to the people is the best form of government, then why are we turning our backs on funding them, providing assistance to them, providing assistance to the most critical closest services to our cities and counties? Your guess is as good as mine. All I can do is reiterate the fact that I believe that we are changing a longstanding policy that I don't agree with. I don't agree with it because I made it a priority of mine when I ran for the Legislature, in my time in the Legislature, to put property tax relief first and foremost, because that is what I hear about every day. It's not my sales taxes, it's not my income taxes, it's the fact that my property taxes are too high and what is the state trying to do to help out. The elimination of these programs doesn't help. It only makes the problem worse. And so while I know that there might only be seven or eight votes in regards to not supporting LB383, this issue will not go away. Those who are on this floor talking about smaller government, the need to make bigger cuts, you will be held accountable. We have a budget that will be coming forward. Be prepared, because you can't say one thing and then do another. You can't take the easy way out of pushing our problems at the state level to other levels of government. That's not the way we solve problems. We tackle them head-on. No one ran for the Legislature with the belief that this was going to be easy. We all got in this because we knew it was going to be difficult. We knew the budget challenges, not just the last few years but the next two years and the two years after that will be tough, probably the toughest this state has seen in close to 100 years. Which means the \$44 million, roughly, ideas that we've thrown out on the floor over the last two days, those have to be considered amongst many other issues. This is not, quote unquote, reinventing government. This is eliminating a property tax relief program. That's all it is. Anyone who would research and look into what reinventing government is, is looking at the Department of Administrative Services and determining whether or not we can privatize that agency. That is reinventing government, my friends, not eliminating an aid program. [LB383]

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SENATOR GLOOR: One minute. [LB383]

SENATOR MELLO: So we might pass LB383 today, probably in a relatively quick vote, but the issue doesn't go away. Those who want less government, those who want smaller government, bring your ideas because we're going to have to debate them, because I threw out some ideas on the floor yesterday and today and it seems like they didn't get a lot of attraction. That's fine. But we're going to have to have some other ideas, because the fact is we have two forecasting board meetings that have to come up. We have a TEEOSA formula that's still not fully funded, and I think we're going to have other budget issues that may come up on a host of other agencies that we haven't even started to contemplate yet. So with that, Mr. President, I urge you to reconsider. Vote against LB383 and let us continue looking at other ways to solve our budget crisis. Thank you, Mr. President. [LB383]

SENATOR GLOOR: Thank you, Senator Mello. Senator Ken Haar, you're recognized. [LB383]

SENATOR HAAR: Mr. President, members of the body, I rise in support of LB383 but urge you to vote against AM252. I brought up the example yesterday of the federal government CDBG, the development block grant program from the federal government, which simply started out as handing money based on a formula, depending on the size of the city, to cities all over the country. And cities could use that for whatever they wanted to. That program is still going. However, it's only given out on a grant basis for specific purposes and I feel that what we're talking about here with LB383, and I disagree with some of the colleagues I respect very much, this is a policy issue. We're setting up a policy that there's no longer a block grant to cities, counties, and NRDs; that when money is given by the state it will be for projects. So I think it is a new normal. I think it is reinventing government. And we can't let this be the only way we reinvent government, obviously, but I think this is setting a new policy. And to think of going back and saying, well, maybe in two years the money will be there, maybe it won't be, is not the way to go. I do agree, though, very strongly that we can't--I'll use Senator Carlson's analogy--we can't tie both hands behind the back for cities, counties, and NRDs. And so as we go forward, and I think this is what Senator Council was referring to, some other bills that would limit the revenue sources for cities, counties, and NRDs, that I will fight not to do that because I think we have to give those local entities, which are in no way inferior to this Legislature, they have specific powers, they're close to the people, we have to give them the ability to do their jobs and the ability to raise revenue. So I will support LB383 but I will fight any other...I will fight any proposals that cuts a city, county, or NRD's own ability to raise the funds that they need. Thank you very much. [LB383]

SENATOR GLOOR: Thank you, Senator Haar. Senator Krist. [LB383]

SENATOR KRIST: Thank you, Mr. President, colleagues. I do appreciate Senator

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Council bringing the amendment forward. It does allow us to discuss what I have fundamentally said from the very beginning of these discussions. It started with LB81, it's going to LB383--watch what you are doing; get your scorecard out. Because if you continue to eliminate the tools in the bag of tricks that local government has to fund local government, we will put them in a bad situation. I can't support AM252 on principle. I think this LB383, the underlying bill, is all about resolve. It is all about being resolute in our attempt to change tax policy, although I don't agree with doing it piecemeal, the way we're doing it. We have to keep a scorecard in order to do it, but we can still get to the end of the road. But this is about being resolute in our effort to make sure that we take this fight to the lowest level in government, all the villages and towns and cities and municipalities around. When I look at my own city, my own county and my own mayor, and I see the number of jobs that have increased and I see the salary increases that have been given out, not in this session but in next, for the Douglas County Commissioners, and I look at the way money is being spent, I disagree with Senator Mello that this is about property taxes. We will enable them to raise the revenue they need for government, I hope, if you keep your scorecard. This is not an absolute. This is not black and white. This does not mean that they have to raise property taxes. This means that they have to start cutting back. And if we put them in a position where they start looking at their budget and actually putting a budget together and making those cuts, we will have the buy-in that we need in the rest of the state. The executive and the legislative branches have already set a tone, they have set an example. We went out of our way last session to make sure that the voters could not vote a pay raise for us. We went out of our way to take that off the ballot. Villages, counties, municipalities do the same thing--cut your budget as far as you can. I'm not making judgments. I'm only telling you that in my own county, in my own city I'm not sure that's gone as deep as it can go. This is about being resolute in our values to continue to hold the line and the budget. And I would offer the balance of my time to Senator Ashford, if he would like it. [LB81 LB383]

SENATOR GLOOR: Senator Ashford, 2 minutes 10 seconds. [LB383]

SENATOR ASHFORD: No. Thanks, Senator Krist. We did talk about this and I'm just being silly for a moment. This is an excellent debate, actually, and it's really one of the first debates, as I mentioned the other day, we've had really on tax policy as substantive as this. And I, you know, I commend Senator Cornett and the Revenue Committee for getting this up on the floor now. I guess I'd take somewhat...I understand what Senator Mello is saying and I agree with him in many of his comments, but I think the fact that we have this up here now, it does set the tone for the discussion going forward. Obviously, as we look down the road the next several months, we're going to have to address local needs and we're going to have to, I think, identify revenue sources for local...whether it's counties, cities, NRDs, whomever. We're going to have to at least address that on a tax policy basis. [LB383]

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SENATOR GLOOR: One minute, Senator. [LB383]

SENATOR ASHFORD: And I think the Revenue Committee, by bringing this out here, allowing the body to discuss property tax, other revenue sources, other taxes, what the role of the state is in the property tax area, I might say the body has, though...and Senator Mello is right to a point. I mean we have provided property tax relief directly to taxpayers in the amount of \$234 million and I think that's a significant state involvement, as is the homestead exemption. But without getting into long division about that, I think the points made by everyone out here are very thoughtful and I think we're just going to have to keep talking about taxes and revenues as we talk about the budget. You really can't separate budget from policy, particularly. This may seem like a budget matter but it really has policy ramifications, as Senator Cornett has suggested and Senator Council has just talked about. So as we get closer to the end... [LB383]

SENATOR GLOOR: Time, Senator. [LB383]

SENATOR ASHFORD: Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Ashford. (Visitors introduced.) Returning to debate, senators wishing to be heard are Dubas, Wallman, Lautenbaugh, Nelson, Brasch, and Larson. Senator Dubas. [LB383]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. On the previous amendment that we just voted on, I could have voted yes or I could have simply not voted, but I felt, after thinking about it for a long time, that I owe my constituents and I owe my local government officials honesty, and that's what this entire vote is about for me. It's about being honest and it's not easy to deliver bad news. I have frequently made public comments about what are the priorities for government, and in my mind those priorities are public education, infrastructure, public safety, and aid for those who truly can't provide for themselves. In my mind, it's also about being honest and not giving false hope. Every level of government is having to reexamine the way we do business. What government looks like going forward is what we're talking about today--what can we afford; what does our constituency expect from us. Again, I want to reemphasize that I believe our local government officials are doing an outstanding job. I've attended their meetings. I know the decisions that they are grappling with, no different than what we're doing right here today and what we'll be doing right through the beginning of June. But they have planning to do, just like we do. They need to know what's coming down the pike or what's not coming down the pike, and at the end, when I was weighing the pros and cons and how I was going to vote on this bill, that was what tipped the scale for me. I owe these people who are doing the same job that we're doing, that are answering to the same constituency that we're answering to, I owe them honesty, and this is the direction that government is going. This is the direction that I am hearing from my constituency that they want to see

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government going. I fully recognize that the decision we're making here puts downward pressure on our local government. I don't like doing that. But I also recognize that they have a job to do, and by us holding out any type of false hope, by us telling them that maybe two years down the road there might be something there for them, knowing in the back of our minds that that's likely not to happen but still offering that bit of false hope out there for them, it's not fair to them. It's not fair to what they have to do to position their county or their city or their NRD or their village. They have to make the same types of decisions that we're making today. So, you know, none of us relish this debate. None of us like, as I said, delivering bad news. But this is what we're sent here to do. We're sent here to hopefully make responsible decisions, make decisions after we have done our research, done our homework, talked to the people that we need to talk to and then weigh all of those issues out and then press our button. I always told my constituency, you may not agree with the way I voted but you'll always know why I voted and hopefully you'll know that I gave long, hard consideration to that decision before I pressed my button. And I guess this message is more directed towards my people back home than it is maybe to the members on the floor of the Legislature right now, because, again, I do value the work that they do. I appreciate the working relationship that I have with them and I don't want to do anything to damage that. And so again, it just comes back to me being honest and forthright with them. [LB383]

SENATOR GLOOR: One minute, Senator. [LB383]

SENATOR DUBAS: Thank you, Mr. President. This vote today, I recognize we have a lot more opportunities to look at different things that we can do to save money or shape our government, and it is difficult. We do seem to do things in a rather piecemeal factor, and especially with the issues we're dealing with this session, a scorecard is going to be very important. But I appreciate all of the thought and work that's gone into presenting this bill and all of the viewpoints that have been expressed today. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Dubas. The Chair recognizes Senator Wallman. [LB383]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, I do appreciate what Senator Cornett and her committee does. And what are we scared for? Senator Loudon had a good amendment, I think, and Senator Council has a good amendment. I'd urge you to vote for these...for this amendment. And what are we scared of? Should we be scared? We ought to be hopeful. If you're a farmer, you're always hopeful you're going to get a good crop or you'll get a good price. What's wrong with getting a little hope out there to the counties, municipalities? Folks, why do we think we have the best idea in here all the time? We don't. We make mistakes and, guess what, somebody down the line pays for those mistakes, and it's not us. It might be at the ballot box coming down the road, but people have a forgiving heart. So I would urge you to vote for this amendment. Thank you, Mr. President. [LB383]

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SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Lautenbaugh. [LB383]

SENATOR LAUTENBAUGH: Question. [LB383]

SENATOR GLOOR: Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB383]

CLERK: 26 ayes, 7 nays, Mr. President, to cease debate. [LB383]

SENATOR GLOOR: Debate does cease. Senator Council, you're recognized to close on your amendment. [LB383]

SENATOR COUNCIL: Thank you, Mr. President, and I thank my colleagues for the opportunity to introduce AM252 and to have this debate. And Senator Dubas' comments just resonated with me because, Senator Dubas, I introduced AM252 for that express purpose. It's all about honesty and the honesty that I'm seeking to advance is letting cities and counties know that if we are going to remove taxing revenue sources from them, we're going to provide an opportunity to hold them harmless in the future. And that's what the honesty is, is if we're going to remove your ability to generate revenue from your local constituents and answer to them for taking that course as opposed to making further budget cuts and reductions, then openly and honestly we're telling you, cities and counties, if we take that ability away from you, we are going to leave open an opportunity to hold you harmless in the future from our actions. And that's what is the purpose of AM252. Certainly, all government needs to look at where they can make cuts without harming the citizens that are served by those expenditures, and it is about property tax relief and prioritizing property tax relief. And I submit to you that there is another option that we can consider and I will file an amendment on Select File that would fund the county and city property tax relief from the property tax credit. It's property tax relief any way you cut it, and the state will receive recognition for granting direct property tax relief and the cities and counties will continue to have the opportunity to grant property tax relief. We're talking about \$22 million a year for two years taken from \$254 million. That's an opportunity. So between now and Select File, I urge my colleagues to give some consideration to that as an option for continuing to achieve our priority of granting property tax relief to the residents of the state of Nebraska. With that, I urge your support of AM252. Mr. President, I request a call of the house and a vote in record order, roll call, please. [LB383]

SENATOR GLOOR: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB383]

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CLERK: 43 ayes, 0 nays, Mr. President, to place the house under call. [LB383]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Janssen, please return to the Chamber. All members are present. Mr. Clerk, please proceed with the vote. [LB383]

CLERK: (Roll call vote taken, Legislative Journal pages 491-492.) 10 ayes, 36 nays, Mr. President, on the amendment. [LB383]

SENATOR GLOOR: The amendment fails. Discussion on the advancement of LB383 continues. Raise the call. Senator Nelson, you are recognized. [LB383]

SENATOR NELSON: Thank you, Mr. President, members of the body. This is twice this morning now that I've been cut off. I've been on the queue but haven't been able to speak because the question has been called. I just want to speak briefly about my position on this. I supported Senator Loudon's amendment and also Senator Council's because I think, in light of the action that we are taking today which may be justified for the next couple of years, I still feel that we should give...leave the opportunity open to resume this support and tax relief, property tax relief, for counties and cities in the future. We can't bind anybody two years from now but at least it would be there, available for them. However, in view of the Christmas tree of red lights there, that was a losing battle. This has been talked about as a policy consideration and also a budget consideration. I happened to land on the side that this should be handled in our budget, what we've done today, but that for various reasons we've taken this opportunity to think of it in terms of policy and, therefore, end this tax relief, perhaps for all time, just as a matter of policy. It's been called a foundation, but it seems to me, in light of the fact that we're asking everybody to take cuts then proportionately, such as education and health and human services, that our cities and towns should have deserved the same sort of consideration later on when we're talking about the budget and perhaps taking a proportionate cut rather than being zeroed out altogether. I, having lost here on the amendments, I am going to support LB383 as a matter of policy, but I want to say this. There are other bills that are going to be coming up, in particular before the Revenue Committee, and I think if we're going to cut off funds here in this manner for cities and counties and municipalities, that we at least have to afford them the opportunity to raise funds from other sources, whether it be an occupation tax, a use tax, or even a sales tax. And we should leave that...be open to doing that sort of thing and not try to manage things at the local level for them and say the only way that you can proceed is to cut. That may not be possible. We would hope that most of them can cut expenses and balance their budgets, but it may not be possible. So we need to leave a door open for them here in the future in the form of giving them ability to raise revenue if it becomes necessary. So for the future here, as we come up and consider some of these other

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bills, hopefully they will all be out here on the floor so that we consider them, let's keep that in mind. Let's preserve an element of fairness here and provide a means for cities, perhaps by a vote, and counties and municipalities, by a vote of their people as to what they want to do. They can put pressure on their city councils by turning down this other means of raising revenue and that's a local issue and that should be left up to them. So with that, Mr. Speaker, I return my time to the Chair. Thank you very much. [LB383]

SENATOR GLOOR: Thank you, Senator Nelson. (Visitors introduced.) Senators wishing to be heard are Larson, Howard, Lathrop, Sullivan, Lautenbaugh, Ken Haar, Brasch, Burke Harr. Senator Larson. [LB383]

SENATOR LARSON: Thank you, Mr. President and members of the body. I rise today in support of LB383. I'll be brief but this is a tough decision to make, but I think it's not like the cities and the counties didn't know it was coming. I know I wasn't here two years ago but this was discussed then. And I just want to basically talk about an experience I had this weekend. When I was at home in the district at an event, I talked to Bill Price. He's the mayor of O'Neill and also a state trooper. In my conversation with Mayor Price, LB383 came up. And as I said, I said...he asked me where I was on the bill and I said, you know, I support LB383, I think it's money that the state can save and use toward other things. And he said, Tyson, I support your decision 100 percent; as the mayor of O'Neill, we planned ahead; we're not a large town, a town of about 4,000, and even though we're losing \$31,406 they had prepared; they were ready. He said, we have been fiscally responsible and it was time for the entire state to do that as well. And that's what I'm asking my colleagues to do today is rise and follow the example that the small town of O'Neill has set for us. We have to follow their lead and plan for our future and the future of those that come after us. LB383 is one step to making our state more fiscally responsible. And though it is a tough step, it is one that I'm willing to take for the future of the state of Nebraska. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Larson. The Chair recognizes Senator Howard. [LB383]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'm going to briefly go back to a discussion that Senator Mello and I were having yesterday regarding health and human services issues, because this is also interrelated. Everything we do here affects everything else that happens here. We're looking at removing a large amount of money from state municipalities, cities, which is going to obviously leave them in a financial lurch. They're going to have to look at how they're going to address this, which, in my opinion, is going to be translated into a property tax increase. I don't see another creative way that this is going to happen. One of the problems for the cities and the counties and the smaller communities is they don't have the access to the federal dollars that we on the state level do. And, sure, they can request grants from time to time if something pertinent comes up and something is

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available, but they don't have the opportunity for the federal...the large federal grants that we get here on the state level. And in sitting in the Health and Human Services Committee, that's really been brought home to me. We are looking at eliminating programs that not only have a federal match, dollar to dollar, but that literally pay us to have in this state. We are going to turn back money that is in excess of what we are putting into programs. And when I look at that and look at not only the harm that can be caused by no longer having these programs in place, the human harm that's going to be caused, I say we're also sending back money that costs us nothing, costs us nothing that would be in our budget. So I have a lot of trouble equating this knowledge with why we're pulling out money from these...from our cities in our state and we're not acting any longer as their partners, as Health and Human Services likes to say we're partners in these things. So we are, on one level, going to be saying we're not going to have these programs anymore because we don't think either we don't need these programs, these are the wrong direction to go, or we're not going to conduct the programs in this state, health and human services related programs. We're going to say we don't want the federal match--which other states will say, fine, we'll take that money--and we're going to turn back money that we would have gotten in excess of that, that really equates to free money. And in turn, we're going to say to the cities, the state's municipalities, we don't have the money; this is tough times, we can't help you out any longer; you're on your own, our partners, (laugh) you're on your own. And I have so much trouble putting this in terms of why. Why aren't we looking at how we can better utilize the federal dollars that come into this state? Why aren't we looking how we can be better partners with our own towns and cities and not cost our state taxpayers in terms of an increase in their property tax? I say to you again two words, and this is what we're going to see down the road--property tax increase. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Howard. Senator Lathrop, you're recognized. [LB383]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I stand in opposition to LB383. And I got a couple of thoughts about it, and I'll begin by telling you that when I was going door to door, and you've heard this story before, when I was going door to door, I talked to a fellow in Ralston who told me, Senator...well, I wasn't Senator, I was just a candidate, but he said, you know something? He had me into his house and he said, this is the house I raised my kids in and my...he was widowed, and he said, my wife and I lived in this house our whole lives or adult lives and this is where we raised our kids. And when you let property taxes raise one more time and I have to sell it, I cannot afford another property tax increase. And we can say it's not a property tax increase. This is what we have to do to balance the state budget, but we're taking something that formerly was paid for by the state and we're handing it back to the cities and counties. And I understand there may be a good reason for this if we discussed it as a policy matter, but now it's a balancing budget matter. And what we're doing is passing the responsibility for these expenses back to the cities and the counties. And

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when we do that, they will have no choice. You know, it's not like they haven't been cutting their budgets. And I appreciate maybe Douglas County had some raises that were poorly timed, but the reality is these people are already feeling the pain. It's not like they got some fat in their budgets and they're going to absorb this. We're going to see increases in property taxes. And I think about that fellow in Ralston every time we have something that affects or could influence property taxes. And when we send an obligation down or we stop funding something that we funded before and hand it back to the cities and say, it's now your responsibility, and you've seen the list; they're in your communities; they're your counties. And when they look at that and say, you know, we count on that money to hire the guy that grades the county roads, now we're going to have to raise property taxes, it's going to happen. The idea that there is a bunch of fat in city and county budgets and the NRDs and those places and that they can just absorb this stuff may be true in some circumstances, but it's not true in all circumstances. And what that means is LB383 is a property tax increase. And if we're going to make a shift, if we want to have a policy discussion, and I think this is consistent with Senator Krist has said, if we're going to have a policy discussion, I would say when this moves, and I can count votes and I can listen to the debate, when this moves, we ought to take it up on Select File when we're taking up all of our budget and all of our tax bills at the same time so we can talk about it not piece by piece, piecemeal, but let's make a comprehensive move in a...to improve our tax policy if that's the direction we're going in. But when we move these one at a time, one divorced from the other without an overall discussion about whether or not this is increasing property taxes, whether that's the proper approach, if taxes have to go up, what kind of a tax should that be, and what effect do bills like this have on our seniors who are on a fixed income? It's a very real problem. It's a very real problem in urban areas, and I suspect it's a very real problem in small towns in this state. And that is, you bump up somebody's...you know, people are hanging on by a thread, a lot of people on Social Security and on limited and fixed incomes, and them staying in a house; you bump up their property taxes and they go, that's it. I haven't been buying my medication. Now you're increasing... [LB383]

SENATOR GLOOR: One minute, Senator. [LB383]

SENATOR LATHROP: ...my property...I got nothing left. I got to sell the house or I got to go into public housing. And these are real, real issues that ought to be discussed in a policy debate over taxes. And I would submit to you that this is a good year to have that discussion. Should we be passing these expenses back to the cities so that they can raise property taxes? Maybe that's a good idea. I don't know. But I think we ought to have that as a policy discussion about our taxing practices in this state. And certainly I think that all ought to all be done closer in time with the bills being taken up on Select or Final, well, Select File at the same time and not firing one in, moving it through, creating the crisis, pretending like that was never even taken up and then going to the next one after we can't consider them all together. So that's my thoughts on LB383 and I'll, for those reasons, be voting against it. [LB383]

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SENATOR GLOOR: Thank you, Senator Lathrop. Senator Sullivan, you are recognized. [LB383]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. As always, I just learned something and appreciate all the conversations that we have in this body. I'm going to eventually very reluctantly vote in favor of LB383. But you know what? This isn't a vote in a process for reinventing government. This is simply a matter of dealing with a large budget shortfall, period. I supported the two amendments from Senators Council and Loudon because I don't like making decisions based on things that we think might happen. If we want to reinvent government, I would suggest to you that a resolution that we passed on Monday to take a look at child welfare and the Department of Health and Human Services is a more constructive process. I also agree with Senator Lathrop that there is a need to look at policy reform with respect to tax policy. But we are dealing, quite frankly, with a large budget shortfall and we do, in fact, have to deal with it. Another remark, though, on the amendments that I supported, really, there's a part of me that doesn't, again, like making decisions based on expectations or predictions of what we think might happen or to bind future Legislatures to do the same thing. And I would suggest also to you that there will be other bills that we will be looking at in this session that will be asking us to do the same thing. And oddly enough, the predictions might be that our economy will actually be turning around and be more positive than negative. I think we need to be very cautious about it and remind ourselves what we're dealing with in this piece of legislation and that is a budget shortfall and we have to deal with it. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Lautenbaugh, you are recognized. [LB383]

SENATOR LAUTENBAUGH: Question. [LB383]

SENATOR GLOOR: Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB383]

CLERK: 26 ayes, 10 nays, Mr. President, to cease debate. [LB383]

SENATOR GLOOR: Debate does cease. Senator Cornett, you are recognized to close on LB383. [LB383]

SENATOR CORNETT: Thank you, Mr. President, members of the body. Listening to the comments over the last couple hours, I know how important this bill is and significant it is to all of us and our districts. To respond to a couple of things I heard, one from Senator Mello: Yes, this is a policy switch. It's a policy switch that he doesn't agree with,

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but I do agree with and that's why I introduced the bill. It is a policy switch in that, one, we are looking at this as a budget item. But the policy switch is moving into the out years by eliminating the programs rather than zeroing them. Senator Dubas brought up a very, very good point. It's about honesty to our cities and our counties. We have made promises as a state in the past that we were not able financially to live up to, and the counties and the cities have budgeted based on that. We're not making those promises anymore with this bill. Senator Lathrop said that we're passing this down to property tax, that the cities and counties don't have fat in their budgets. This shouldn't be a budget item. Ladies and gentlemen, we don't have fat in our budget either. We're cutting and we're cutting to the bare bone in areas of education and Medicaid. We have to make these tough decisions and this is one of those tough decisions that is the first step in balancing the budget. I urge the body to pass LB383. Thank you. [LB383]

SENATOR GLOOR: Thank you, Senator Cornett. The question is the advancement of LB383 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB383]

CLERK: 37 ayes, 8 nays on the advancement, Mr. President. [LB383]

SENATOR GLOOR: The bill advances. Items for the record, Mr. Clerk? [LB383]

CLERK: Mr. President, thank you. Senator Schilz would like to withdraw LB692. I have a series of hearing notices from the Revenue Committee, that signed by Senator Cornett, as Chair of the committee. (Read LB410A by title for the first time.) I have confirmation hearing reports from the Transportation Committee, and Transportation reports LB164 and LB257 to General File with committee amendments attached. Also, Mr. President, a new resolution, LR71 by Senator Larson; that will be laid over at this time. That's all that I had, Mr. President. (Legislative Journal pages 492-497.) [LB692 LB410A LB164 LB257 LR71]

SENATOR GLOOR: Move on to LB334. Moving to General File. [LB334]

CLERK: Mr. President, LB334, it's a bill offered by the Education Committee. (Read title.) The bill was introduced on January 12, referred to the Education Committee, advanced to General File. There are Education Committee amendments. I believe Senator Adams briefly discussed the bill on February 7. (AM102, Legislative Journal page 399.) [LB334]

SENATOR GLOOR: Senator Adams, as Chairman of the Education Committee, you're recognized to open on LB334. [LB334]

SENATOR ADAMS: Thank you, Mr. President, body, if you'll recall earlier this week, this bill came up. It is bill number three of a four-bill package coming out of the Education

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Committee that have to do with the recommendations under the LB542 resolution. This particular one, LB334, outlines what the committee believes are things that we should do in the area of higher education in terms of potential savings. Let me remind you that as we reviewed the statute in higher ed there aren't many. The statutes outline role and mission and, frankly, don't go much beyond that. And so there was very little for the committee to do with higher ed. But let me list the things that this bill includes. It eliminates the requirement, it's permissive language, it eliminates the requirement that there is a poultry pathologist, a position that is currently not filled; it eliminates the requirement that the University of Nebraska maintain a position of aquaculturalist, again a position that is currently not filled; it eliminates the requirement for the ag lab in Box Butte County. That land has already been returned to the county; it eliminates the requirement that our state colleges and the university system participate in the business develop network, it does not eliminate the business development network, only the requirement. They can continue to participate and there's federal dollars involved in there, if they choose to. It also eliminates the requirement that the university appropriate money to the Nebraska Safety Center. Again, it makes the language permissive. And then finally it does phase out, and I underline phase out, it phases out the optometry scholarship program. We currently have students that are going to out-of-state institutions, optometry colleges, that are under contract for scholarships from the state. Those would be maintained but they would be phased out. That's the bill. Thank you, Mr. President. [LB334]

SENATOR GLOOR: Thank you, Senator Adams. As the Clerk stated, there are amendments from the committee. Senator Adams, as Chair, you're recognized to open on the amendments. [LB334]

SENATOR ADAMS: Mr. President, all this amendment does, as I reported to the body on Monday, it adds the E clause to the bill. [LB334]

SENATOR GLOOR: Seeing no members wishing to speak, you're recognized to close on the committee amendment. Senator Adams waives. The question is, shall the committee amendments to LB334 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB334]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB334]

SENATOR GLOOR: The amendment is adopted. [LB334]

CLERK: I have nothing further on the bill, Mr. President. [LB334]

SENATOR GLOOR: Discussion continues on the advancement of LB334 to E&R Initial. Senator Loudon, you are recognized. [LB334]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Adams yield to a question, if he would, please. [LB334]

SENATOR GLOOR: Senator Adams, would you yield? [LB334]

SENATOR ADAMS: Yes, I will. [LB334]

SENATOR LOUDEN: As it has a fiscal note of, what, well, \$154,000. Most of that comes, am I right, on the fact that they're doing away with the annual...students receiving annual financial payments, is that what the main gist of this bill is and where the money is saved at? [LB334]

SENATOR ADAMS: No, I don't necessarily think so, Senator. It's...basically what we have done in this bill is to make mandatory language that's currently in statute that says that the university must do this, it must do this, most of this bill converts that to permissive language so that the university has the latitude of not doing it, hence there are potential savings that come with it. Now there is also savings in the phasing out of the optometry college. [LB334]

SENATOR LOUDEN: Okay. And is that what it referred to on page 4, line 23 and the top of page 5 there in lines 2 through 6 or something like that, is that that part or is that just financial payments for students? Anyway, as I look through it, some of the different states, I was wondering if that's probably more the meat of the bill than phasing out the poultry industry or the aquaculture? [LB334]

SENATOR ADAMS: Well, in terms of dollars you're right. It phases out the optometry scholarship program. [LB334]

SENATOR LOUDEN: And that's where the money is coming from. [LB334]

SENATOR ADAMS: That's where the money is coming from, you're right. [LB334]

SENATOR LOUDEN: Yeah, okay. Thank you, Senator Adams. And thank you, Mr. President. [LB334]

SENATOR GLOOR: Thank you, Senator Louden. Seeing no senators wishing to be recognized, Senator Adams, you're recognized to close on LB334. Senator Adams waives. The question is the advancement of LB334 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB334]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB334. [LB334]

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SENATOR GLOOR: The bill advances. Mr. Clerk. [LB334]

CLERK: Mr. President, LB25, offered by Senator Langemeier. (Read title.) Introduced on January 6, at that time referred to the Banking, Commerce and Insurance Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB25]

SENATOR GLOOR: Senator Langemeier, you're recognized to open on LB25. [LB25]

SENATOR LANGEMEIER: Mr. President, members of the body, LB25 was introduced on behalf of the Nebraska Real Estate Commission and it does two things. It does one thing, it defines what an asset management company is and it also creates a narrow exemption within license law for licensed real estate agents on how they deal with asset management companies. License law was designed to make sure that the public was protected from within a real estate transaction. As we see a number of foreclosure properties being managed by large management companies the question is, is do we need to go to the same detail with companies that have employees trained to liquidate real estate? And so we're asking the department to have a narrow exemption in there for agents and how they have to treat asset management companies. With that, I'd ask for your support of LB25. [LB25]

SENATOR GLOOR: Thank you, Senator Langemeier. We move to discussion. Seeing no senators wishing to speak, Senator Langemeier, you're recognized to close on the advancement of LB25. Senator Langemeier waives. The question before the body is the advancement of LB25 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB25]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB25. [LB25]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB25]

CLERK: Mr. President, LB26, by Senator Langemeier. (Read title.) Introduced on January 6 of this year, referred to Banking, Commerce and Insurance, advanced to General File. Again, I have no amendment to the bill, Mr. President. [LB26]

SENATOR GLOOR: Senator Langemeier, you're recognized to open on LB26. [LB26]

SENATOR LANGEMEIER: Mr. President, members of the body, LB26 was brought to me by a number of individuals--the Nebraska Bar Association, the Nebraska Realtors Association. This is a bill that would prohibit the use of private transfer fees that are affixed to the real estate. What we've seen in a number of other states, people have actually gotten a patent on a certain amount of wording that they are trying to incorporate into the transfers of real estate. And currently we haven't seen any of these

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to this point in Nebraska, oh, and the Nebraska Title Association was in on this too. But we've seen these fees get attached to property. So any time into the future there is an obligation to pay a percent fee back to this company for every time this property transfers from now until infinity, I guess. So what we're doing in Nebraska, we're trying to take a proactive approach and make sure these fees...many of them are very undisclosed and not filed of record. We're trying to make sure these bad actors don't start in Nebraska and protect the citizens of Nebraska as they choose to transfer real estate into the future. We'd ask for your support of LB26. Thank you. [LB26]

SENATOR GLOOR: Thank you, Senator Langemeier. We move to discussion. Are there senators wishing to be heard? Seeing none, Senator Langemeier, you're recognized to close. Senator Langemeier waives. The question is the advancement of LB26 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB26]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB26. [LB26]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB26]

CLERK: Mr. President, LB78 was a bill originally introduced by Senator Pahls. (Read title.) Introduced on January 6, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I do have an amendment to the bill from Senator Pahls, Mr. President. (AM194, Legislative Journal page 432.) [LB78]

SENATOR GLOOR: Senator Pahls, you're recognized to open on LB78. [LB78]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Our statutes currently require that depository financial institutions must give security to protect deposits of public funds made by political subdivisions in excess amounts insured or guaranteed by the Federal Deposit Insurance Corporation. These financial institutions give security according to the requirements of the Public Funds Deposit Security Act which was enacted in 1996. However, some questions have arisen because the act has never set out a definition of political subdivision, even though the term is used in the act. These questions have been a concern for both political subdivisions and also for the banks and capital stock financial institutions. LB78 would step in with an all-encompassing definition of political subdivision for purposes of the Public Funds Deposit Security Act. And this is what they are--any county, city, village, township, district authority or other public corporation or entity, whether organized and existing under the direct provisions of the Constitution of Nebraska or the laws of the state of Nebraska or by virtue of a charter, corporate articles or other legal instruments executed under the authority of the constitution or laws including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agent Act. Adoption of this definition should provide some clarity and certainty. I urge the passage of this bill. [LB78]

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SENATOR GLOOR: Thank you, Senator Pahls. Mr. Clerk. [LB78]

CLERK: Mr. President, Senator Pahls would move to amend with AM194. (Legislative Journal page 432.) [LB78]

SENATOR GLOOR: Senator Pahls, you're recognized to open on your amendment. [LB78]

SENATOR PAHLS: Mr. President, members of the body, this is simply an E clause. Thank you. [LB78]

SENATOR GLOOR: The question is, shall the amendment to LB78 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB78]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Pahls amendment. [LB78]

SENATOR GLOOR: The amendment is adopted. Discussion continues on LB78. Seeing no senators wishing to speak, Senator Pahls, you're recognized to close on the advancement of LB78. Senator Pahls waives. The question is the advancement of LB78 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB78]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB78. [LB78]

SENATOR GLOOR: The bill advances. Continuing with General File. [LB78]

CLERK: Mr. President, the next bill is LB77 offered by Senator Pahls. (Read title.) Introduced on January 6 of this year, at that time referred to Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM76, Legislative Journal page 400.) [LB77]

SENATOR GLOOR: Senator Pahls, you're recognized to open on LB77. [LB77]

SENATOR PAHLS: Thank you, Mr. President, members of the body. LB77 would amend both the Nebraska Installment Sales Act and the Nebraska Installment Loan Act. Number one, to clarify the manner in which fees for these contracts are to be treated; and number two, to authorize entities licensed under both acts in addition to financial institutions to offer these contracts. A debt cancellation or debt suspension contract is actually a two-part agreement between the lender and a buyer in which the lender, typically in exchange for a fee, agrees to cancel all or part of the buyers obligation to

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repay an extension of credit from the lender upon the occurrence of a contractually specified event. First, the bill would clarify that the cost of these contracts can be financed in installment sales contracts. Second, the bill would provide that the cost of electronic lien...titles and lien services can be charged to buyers and borrowers and then financed in these contracts. Third, the bill would provide that installment sales licensees and installment loan licensees can issue debt cancellation contracts and debt suspension contracts. I urge advancement of this bill. [LB77]

SENATOR GLOOR: Thank you, Senator Pahls. As the Clerk stated, there are amendments from the committee. Senator Pahls, as Chair of the committee, you're recognized to open on the amendment. [LB77]

SENATOR PAHLS: Thank you, Mr. President, members of the body. The committee amendments to LB77 are very technical and cleanup in nature. In both the Nebraska Installment Sales Act and the Nebraska Installment Loan Act there are very similar provisions regarding sales of contracts which currently make an internal reference to a particular federal regulation as it existed on January of 2006. The bill would correctly update that reference date to January 1, 2011. In the installment sales section it did that but inadvertently failed to do so in the corresponding installment loan section. Accordingly, the committee amendments would make one change. It changes 2006 to 2011 where that needs to be done in Section 4 of the bill. I urge the adoption of these committee amendments. [LB77]

SENATOR GLOOR: Seeing no senators wishing to speak, you're recognized to close on your amendment, Senator Pahls. [LB77]

SENATOR PAHLS: The...do I have an E? [LB77]

CLERK: Your other amendments to the bill as opposed to the committee amendments. [LB77]

SENATOR PAHLS: Oh, okay, yes. [LB77]

SENATOR GLOOR: Senator Pahls waives. The question is, shall the committee amendment to LB77 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB77]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB77]

SENATOR GLOOR: The amendment is adopted. [LB77]

CLERK: Senator Pahls would move to amend, Mr. President, with AM193. (Legislative Journal page 432.) [LB77]

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SENATOR PAHLS: This is an E clause. I urge adoption. [LB77]

SENATOR GLOOR: Seeing no senators wishing to speak, all those in favor of the advancement of AM193 vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB77]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Pahls's amendment. [LB77]

SENATOR GLOOR: Continuing with General File, Mr. Clerk. Seeing no lights on, Senator Pahls, you are recognized to open on or to close. Senator Pahls waives. The question is the advancement of LB77 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB77]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB77. [LB77]

SENATOR GLOOR: LB77 advances. (Visitors introduced.) We continue with General File, Mr. Clerk. [LB77]

CLERK: LB303 by Senator McCoy. (Read title.) The bill was introduced on January 12 of this year, referred to the Retirement Systems Committee, advanced to General File. At this time, I have no amendments to the bill, Mr. President. [LB303]

SENATOR GLOOR: Senator McCoy, you're recognized to open on LB303. [LB303]

SENATOR MCCOY: Thank you, Mr. President and members. I'm here to introduce LB303 to you this morning which seeks to end the requirement of the Nebraska Investment Officer to compile a list of corporations that do business in Northern Ireland. Specifically, the list includes corporations whose stocks or obligations the State Investment Officer has where they have invested state funds. The Nebraska Investment Officer must determine if those corporations have taken steps to follow the MacBride principles in the last year. In short, LB303 seeks to outright repeal Sections 72-1246.06, .07 and .08. This legislation would very simply save \$8,500 a year from the cash...from a cash fund for a report that it's our understanding hasn't been read for at least or been requested for at least five or six years. And with that, Mr. President, I would close and ask that you advance LB303. Thank you. [LB303]

SENATOR GLOOR: Thank you, Senator McCoy. We now move to discussion on LB303. Senator Ashford, you are recognized. [LB303]

SENATOR ASHFORD: I see Patrick...thank you, Mr. President. I see Patrick smiling up there. There was never...there was not an issue that had more gravity than this one in

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the old days. (Laugh) And I just am...I should have looked at the agenda and had my green tie on and everybody should have...others should have had their orange tie on and we'd be here for two weeks. My goodness, I'm glad they got that all sorted out, Senator McCoy, over there in Ireland with the Stormont accords and now the north and the south, the 26 counties and the 6 counties are now working together and they have a unified government. I don't know if it's unified, they have a joint government in Belfast. And I, as just an aside, I spent, after college, a great deal of time in Ireland writing a paper on the creation of the Irish Free State. And I think it was when I started out in my years in...and I thought at least this issue would get Jim Cavanaugh down here, but I don't think it did, because he had a tent out in the Rotunda when this measure came up before. But really, there were some stirring debates on the League of Nations and the creation of the Irish Free State and the Republic and the civil war of 1921 that were very stirring and that went on forever. But now times have changed. The people of Northern Ireland and of the Republic of Ireland have now joined together, as I said, and we can now, it seems as if we will invest in Northern Ireland again. And with that, I'm just amazed this is here (laugh) because it brings back so many memories of those stirring times, not necessarily 1921, I wasn't there for that, but 1987, 1988 and 1989 when they still were very, on a serious note, it really obviously a horrible time for the people of Ireland. And you know, now they're moving forward. They're having tough economic times but, hopefully, with the investment of Nebraska funds it will help their economy and it can become a great economic engine again. Thank you, Mr. President. [LB303]

SENATOR GLOOR: Thank you, Senator Ashford. Seeing no other senators wishing to be recognized, Senator McCoy, you're recognized to close on LB303. Senator McCoy waives. The question is the advancement of LB303 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB303]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB303. [LB303]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB303]

CLERK: Mr. President, LB474 is a bill introduced by the Retirement Systems Committee. (Read title.) Introduced on January 14, at that time referred to the Retirement Systems Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM123, Legislative Journal page 404.) [LB474]

SENATOR GLOOR: Senator Nordquist, as Chairman of the Retirement Systems Committee, you're recognized to open on LB474. [LB474]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB474 makes a fairly simple change. Currently, there are 12 specified governmental entities that are required to annually file defined contribution reports and every four years must file an actuarial analysis of defined benefit plans with both the Public Employees Retirement

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Board and the Nebraska Retirement Systems Committee. This bill would simply make the change that these entities would no longer file with the Retirement Systems Committee and would instead submit their reports to the Auditor of Public Accounts. The annual reports right now must be filed by December 31. The PERB, the Public Employee Retirement Board is required to prescribe the form of the report and notify the committee if any governmental entity fails to report. If a plan contains no current act of participancy, the entity may file in place of a report a simple statement. The intent originally was to establish a centralized repository and monitoring system so the condition of plans could be reviewed. Unfortunately, there really are no resources to do this. We receive the plans in the Retirement Systems Committee. They're often filed away. I think a more appropriate place would be the Auditor, as they look at other financial aspects of the governmental entities. They would have these then at their disposal should they so choose to use them. The bill also removes the PERB's duty to annually notify the committee if any governmental entity fails to file its report. Largely, the PERB nor the committee is granted any enforcement authority to compel the government entities to comply with these reporting requirements. The PERB has no way of knowing which entities have established pension plans. And since none of these local political subdivision plans are administered by PERB, PERB would need additional resources to provide oversight of these plans. So it removes that requirement and gives the Auditor...the Auditor will then receive reports. The committee amendments, I guess, I'll open on that next. But that will be it. Thank you. [LB474]

SENATOR GLOOR: Thank you, Senator Nordquist. As the Clerk stated, there are amendments from the Retirement Systems Committee. Senator Nordquist, you're recognized to open on your amendments. [LB474]

SENATOR NORDQUIST: Thank you, Mr. President. This was brought to us by the Auditor's Office. It gives them the option of providing a written report regarding these pension reports but does not require it. Right now, under Section 84-304.02 the Auditor is required to prepare a written report of each audit, accounting or financial report required to be filed by a political subdivision. This...the purpose of this is they will receive the reports in their office, just like we've been receiving them at the Retirement Systems Committee, but it doesn't require them to take any action. We don't want to burden them with additional responsibilities. But it gives them easier access to the report should they need them for their audits. Thank you, Mr. President. [LB474]

SENATOR GLOOR: Thank you, Senator Nordquist. Seeing no senators wishing to speak, Senator Nordquist, you're recognized to close on the committee amendments. Senator Nordquist waives. The question is, shall the committee amendments to LB474 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB474]

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

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[LB474]

SENATOR GLOOR: The amendment is adopted. Seeing no senators wishing to speak, Senator Nordquist, you're recognized to close on the advancement of LB474. Senator Nordquist waives. The question is the advancement of LB474 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

[LB474]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB474. [LB474]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB474]

CLERK: LB302, Mr. President, is a bill by Senator Ashford. (Read title.) The bill was introduced on January 12 of this year, at that time referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB302]

SENATOR GLOOR: Senator Ashford, you are recognized to open on LB302. [LB302]

SENATOR ASHFORD: Thank you, Mr. President. This bill is a...really technically it's a LR542 bill, though it's not denominated as such by the committee. But we have been, in our committee, over the last four years really struggling with and spending quite a bit of time on the question of how should or if the court should, in fact, be reorganized in any way. We get new...and in addition to that, we have had on this floor discussions on a couple of occasions involving the allocation of judicial resources--where a judge should, in fact, be placed when there's a retirement of an existing judge. And four years ago we had a really my error, but we had what I thought was the court's sort of cleanup bill, LB35, on the floor. And it had in it pieces involving judicial reorganization and resource allocation. I think it was Senator Harms that raised a number of issues at that time about having statewide needs addressed in a more comprehensive way. We talked about that in LB35. What happens a lot of times is that when we take this issue of reorganization of the courts piecemeal it gets so very divisive. There are so many special interests involved. County court clerks have outside lobbyists, the bar has outside lobbyists. Everybody has a different lobbyist: the judges, the district court, county court. And it really gets...we don't get to where I think we need to be, which is a solid plan that takes significant input from the state as a whole, brings into the discussion the, quite frankly, significant advancements that this state has made and the court system has made with utilizing and implementing technology and the JUSTICE system technology system. We need, I think once and for all we need a plan that is put together by the agency of state government, the courts, that have the day-to-day responsibility of administering the court system. And hopefully on January 1 when the Chief Justice and his team comes back to us with a plan next January 1, it will be one that looks at numbers of these issues, including judicial resource allocation, including how the use of technology is implemented or it's impacted the courts. Thirdly, what jurisdiction should a particular

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court have? For example, we have the sort of odd situation in Nebraska where only county court judges can do probate cases. And you can have a district court judge sitting in a courthouse without a county court judge sitting there and there's a probate matter, and the district court, which is theoretically the higher level court, cannot hear the case. So all these things go on out there and in the urban areas, in the rural areas of the state these sort of odd sort of situations occur. The overriding theme here is that every Nebraskan should have access to justice, whether it's in the civil courts or in the criminal courts. They must have access to justice. They must have access to the courts. They can't be forced to travel across the state or even over two or three, four, five counties to get the kind of access they need. You know, already we have situations out in the county court level where the county courts are only really half staffed, maybe two or three times a week. And so there are days obviously in some of the rural county courts where there is not an open court on some days. So these are all concerns of members here. From the urban side: How do we allocate judges between the juvenile court system, the county court system, and the district court system when so many of those cases seemingly should be transferable between those benches? There's just so many issues that I think we need a comprehensive look by the Chief coming back to us, looking at all these issues that he's very well aware of and deals with every day. For example, in Douglas County, we have the issue...we had the truancy issue that came up last year where numbers of cases were filed in the juvenile court that had never been filed before because this body passed LB800. Well, we have five juvenile judges in Douglas County and it overloaded...those filings, over 1,000 filings in a matter of months, overloaded the system to such a degree that other cases could not be heard in the regular course. That just can't happen. It just can't happen going forward. We need a way to...and I remember having a meeting with the Chief and Judge Bazis from the county court about would there be a way for county judges to help fill that need. And it's just so complicated to do under the existing system, and so I think we need a look-see by the Chief. The Judiciary Committee does...has had and continues to have conversations about this issue with so many bills that come before us. How do we administer this legislation, if it becomes law, in the court system? As we increase penalties, and I know there's certain things that this body feels strongly about, the kind of behaviors that occur out there that need to be punished, that need to have stiff sentences, I understand that. But every time we do that, that puts more stress on the court system. It needs...we need to address those questions. And I've concluded, and I think my colleagues on the committee have concluded, that the best way to get this done, as we looked at the LR542 issues, instead of coming out with piecemeal legislation on county courts or district courts or merging this or merging that, that we give the Chief a shot at this. So, Mr. President, I would urge advancement of LB302 to Select File. [LB302]

SENATOR GLOOR: Thank you, Senator Ashford. Moving to discussion, Senator Fischer, you are recognized. [LB302]

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SENATOR FISCHER: Thank you, Mr. President and members. We moved pretty fast through those previous bills so I apologize to Senator Ashford that I didn't have a chance to come over and discuss some of this with you off the mike. But as you know in the past, I've had deep concerns whenever we talk about restructuring the court system. I appreciated your comments that every Nebraskan must have access to justice because to me that is a fundamental right. I'm always leery of these bills that come up and talk about restructuring of courts. And if you look at this bill we have before us today, LB302, in Section 1 where it talks about the intent: It is the intent of the Legislature to consider implementation of laws for the restructuring of the court system in order to maximize efficiency and maintain access to justice for all Nebraska residents. I can applaud most of that intent, but it raises red flags whenever we hear about restructuring, whenever we talk about efficiencies, finding efficiencies. And I think Senator Ashford spoke to that well. In rural Nebraska, many of my counties, we don't even have court two to three days a week. We have court maybe once a month. Is that reasonable access to justice for all Nebraskans? I would argue we don't see that now. And what is restructuring going to do to us in the future? The argument is that this is needed so that the Chief Justice can do a study. I believe a study has already been done. The Chief Justice has established a restructuring committee to look into these areas already. It's also my understanding that a report has been issued, and I believe some judges already have access to that report. So, Mr. President, would Senator Ashford yield to some questions, please? [LB302]

SENATOR GLOOR: Senator Ashford, will you yield? [LB302]

SENATOR ASHFORD: Yes. [LB302]

SENATOR FISCHER: Thank you, Senator Ashford. Do you know, has the Chief Justice already established this restructuring committee? [LB302]

SENATOR ASHFORD: No, the Chief Justice has not. [LB302]

SENATOR FISCHER: I guess some of my attorneys in my district then are either misinformed or they're misleading me. I prefer to think they're misinformed because... [LB302]

SENATOR ASHFORD: Well, I'm sure they're not. I would think with some trepidation they would be misleading you. [LB302]

SENATOR FISCHER: And I shouldn't have even said that because my attorneys do not mislead me. I depend upon them for their input on these important issues. But they believe that a restructuring report has already been done. In fact, I think I can probably show you a copy of that report. So how do I go back to my district and tell them, no, there is no restructuring report when they, too, have seen copies of this report? [LB302]

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SENATOR ASHFORD: Is that a...I don't want to take your time. [LB302]

SENATOR FISCHER: Please do. [LB302]

SENATOR ASHFORD: The answer is that there's been numbers of restructuring reports done, and we worked with one three or four years ago in the committee with LB35. But I don't think that it is...those reports are adequately answering...the latest restructuring report and the ones before it... [LB302]

SENATOR GLOOR: One minute. [LB302]

SENATOR ASHFORD: ...adequately answer the questions that you're asking and that the committee have about the very point you're making--having one day of court per week. How does...that makes no sense in and of itself. It has to be part of an overall explanation to this body and a direction on where it's going because nothing is changing. You still only have one day of court and there doesn't seem to be an adequate explanation for that. So I think we need to address your concerns that you raised four years ago on LB35 and LB1024 for sure. And those need to be addressed by the Chief. That's his job. And there have been other reports, yes. [LB302]

SENATOR FISCHER: My question is why do we even need this bill? Why do we need this bill? Can't the Chief do his... [LB302]

SENATOR ASHFORD: The Chief... [LB302]

SENATOR FISCHER: ...own report? [LB302]

SENATOR ASHFORD: Yes, but... [LB302]

SENATOR FISCHER Do we have to give him the authority to do a report... [LB302]

SENATOR ASHFORD: No. [LB302]

SENATOR FISCHER: ...for his branch of government? [LB302]

SENATOR ASHFORD: No question. But we need this bill because it's not getting resolved because, because... [LB302]

SENATOR GLOOR: Time, Senators. Thank you, Senator Fischer. Thank you, Senator Ashford. Senator Sullivan, you are recognized. [LB302]

SENATOR SULLIVAN: Thank you, Mr. President. And perhaps to continue the

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conversation, would Senator Ashford yield for some questions? [LB302]

SENATOR GLOOR: Senator Ashford. [LB302]

SENATOR ASHFORD: Yes. [LB302]

SENATOR SULLIVAN: Thank you. Senator Ashford, maybe you can carry this on a little bit further, but along with that, my question is, has the Chief Justice given you any idea in this whole process of analyzing the court system who all will be involved? I know you mentioned that obviously some judges will be involved. But are we talking about clerk magistrates, lawyers, citizens? Do you envision public hearings? What do you think is going to happen in this analysis? [LB302]

SENATOR ASHFORD: That's a great question. And I think the reason to have this legislation is so that we can, in fact, involve all of those people: the clerk magistrates, the court clerks, the county judges, the lawyers, citizens generally who have access to the courts and use the court system quite a bit. These groups need to come together with the Chief and have a comprehensive plan. I envision that it will be statewide, comprehensive, will address the concerns that have been raised over the last five years about access to the courts. I am not satisfied that the questions that you have, Senator Sullivan, and others in this body have had about assuring access to the courts in the most efficient way possible. I don't think we have a clear vision of what that is, and that's why I think we need to do this. [LB302]

SENATOR SULLIVAN: I think that's my concern, though, about the way that this legislation is crafted because if perhaps, you know, we're hoping that the Chief Justice, and I'm sure that he'll try his very best, but that do we need to give this study more direction in terms of what we want? You know, I didn't see at any time when I read it any mention of...I heard...I saw efficiencies mentioned several times, but I didn't see the word "effective" and I certainly did not see the word "access." So that troubles me a little that, okay, is this just a way to identify how to save money in delivering the court system or are we...and are we in the process going to overlook really the critical need of access? [LB302]

SENATOR ASHFORD: Great question. And I think--and I'd love to think of some language we can put in before Select File because I think you raise good points--one of the things that to your point is very troublesome, for example, we asked the court system: With this technology that we have, \$8 of our court fees go into the technology initiative, and all of our courts, except for the juvenile court in Douglas County, are part of JUSTICE now in the system. And so many...you know, there's a significant increase in filings using technology rather than going to the courthouse. That we know exists. But when asking the courts how many...what sort of impact does that have on employees--I'm not talking about the clerks themselves, but just general employment in

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the court system--it's only reduced four people. There have only been reduction in four persons in the court system. That doesn't seem to me to be...it's crazy. I mean it's not so much closing a court as it is efficiencies in the operation of the court system itself. If we have more technology, if filings can be done utilizing this JUSTICE, then it seems to me that that will have some impact on how many people we have to hire, whether it's in Lincoln or Omaha or somewhere else. But I think we need to have that addressed. We have to...this Legislature needs to know what the impact of JUSTICE is on expenditure side. But to your point, it seems to me that if there are savings on the expenditure side because of JUSTICE, that that will result in the ability and the flexibility to provide... [LB302]

SENATOR GLOOR: One minute. [LB302]

SENATOR ASHFORD: ...more points of access to the court system. So I think they do go together. And I'd be more than happy to put that language in the bill. [LB302]

SENATOR SULLIVAN: Thank you, Senator Ashford. I'd like to actually visit with you more about that because I think that's an excellent idea. And, you know, this is a case of reinventing government, but it takes all of us being involved in this because it's not an easy process. It has potential to be a painful process, and we have to look out for the changes being offered. Thank you. [LB302]

SENATOR GLOOR: Thank you, Senator Sullivan and Senator Ashford. Senator Harms, you are recognized. [LB302]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Ashford, would you yield? [LB302]

SENATOR GLOOR: Would you yield? [LB302]

SENATOR ASHFORD: Yes. [LB302]

SENATOR HARMS: Senator Ashford, as you know, we've had, I think, over the years, five years I've had more than one conversation with you about the court system and knowing that there has to be some type of a long-range plan with this court system. My concern is, first of all, the question I have in regard to the time schedule on this, to be done by 2012, can it actually be done by that quickly? [LB302]

SENATOR ASHFORD: I think it can. I think there's adequate data out there, and I think we could launch right into discussions with the interested parties because I think there has been a lot of data collected, as Senator Fischer rightly suggests. But, yes, no, I think it can--yes, no, no, yes--yes, I think it can be done by January 1, Senator Harms. [LB302]

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SENATOR HARMS: Senator Ashford, has there been any discussion of having a fresh set of eyes look at this such as bringing someone in that's a consultant that does their business through helping courts reorganize and restructure and reengineer themselves so you have another view? [LB302]

SENATOR ASHFORD: Yes, Senator Harms, great question. National Center for State Courts did come in here and last year and this year or earlier this year...not earlier this year, it was last year, 2010, and it gives us some benchmark information to move forward on. But again, I think...and it's helpful to know what other states are doing, clearly. But again, I think we have to really make this a Nebraska solution. I don't mean to sound trite, but that we have to address these hot-button issues that Senator Fischer raises that are very, very important issues. It's not all about saving money. It's about access to the courts. And if we are going to effect savings on the technology side, doesn't that provide us the ability to have more access? That's sort of the question I have in my mind. [LB302]

SENATOR HARMS: Well, thank you, Senator Ashford. I guess the other side of this, Senator Ashford, is that I worry a little bit about what's going to happen to rural Nebraska because we have declining number of population base. And I'm hoping that we're not going to look at technology to be the total way that we're going to handle a lot of the court system. I don't think that's appropriate. And I know that we're going to lean towards that because it's just easier and it's quicker and might be more efficient, but it's not right for the public. And I do have some concerns about it. The other concern that I have is that every time a judgeship comes up and it's in rural Nebraska, we fight for our lives in regard to keeping that judgeship. And the concern that I have where I live is that we have a long ways to travel. It isn't like driving six blocks. It's like driving 200 miles or more or longer just to be able to get a judge there if we have...need assistance. So I'm hoping, Senator Ashford, as we go through this that we are sensitive to what the needs are of rural Nebraska because that's going to be an issue for us. And I have concerns about it because I've watched the battles on the floor five years ago when we had a judgeship come up, and we finally resolved that. We now have judges in rural Nebraska that are retiring, that are at the age of retirement. And I'm concerned that we're going to have trouble keeping those judges. And I think rural Nebraska needs to be treated fairly here and objectively because I don't believe they should have to travel great distances just to have a hearing. I also don't think that we should try to do everything through technology. It just doesn't work. And when you look at that between rural and urban, I hope we treat them fairly, and that's my concern. And I know that I'm sure that you will do that, but I'm sure we'll have a lot of questions once we see the actual final recommendation. Thank you, Mr. President. [LB302]

SENATOR GLOOR: Thank you, Senator Harms. The Chair recognizes Senator Hansen. [LB302]

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SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. Would Senator Ashford yield to a question? [LB302]

SENATOR GLOOR: Senator Ashford, will you yield? [LB302]

SENATOR ASHFORD: Yes. [LB302]

SENATOR HANSEN: Senator Ashford, I think you got the attention of the rural senators this morning. That's good. Last year during the Appropriations agency hearings, we...the Supreme Court Chief Justice was in and he proposed a...or showed us his strategic plan. And at that time, we were talking about and he was discussing closing courts, making courts more efficient. Ninety-some percent of his expenses go to salaries. So in order to cut 5 percent, he has to cut people. It seems to me that the work of the Chief Justice has already been done. Is that incorrect? [LB302]

SENATOR ASHFORD: I don't think it has been. And no disrespect, I don't think it has been done. I really don't. I don't feel comfortable with where we are right now because I agree with Senator Harms, that it can't be about closing courts as the only thing to do here. I...so, no, I don't think it has been done. [LB302]

SENATOR HANSEN: Okay. Are you talking more of a judicial reform like they did in Iowa and Minnesota then? [LB302]

SENATOR ASHFORD: Well, good...that's an excellent question. I don't...the idea of a unitary court or district and county courts being one level, I...you know, that was tried. In fact, I introduced a bill like that years ago. The Parenting Act actually came out of that sort of reorganization effort because the domestic relations cases were clogging the district courts and the Parenting Act, using mediation, was a way to address that issue. Quite frankly, that's how that all got started. And mediation generally has had an impact on civil cases. There are very few civil jury trials in the state anymore. Even Douglas County had fewer than 40 jury trials I believe. That's unbelievable. So I don't...I think there are things going on out there that need to be addressed in a more systematic way and have a vision for the next five to ten years. And, no, I don't feel comfortable with what we have right now. [LB302]

SENATOR HANSEN: I appreciate that too. And then the other question, the budget question comes up: How is he going to...how is the Chief Justice going to handle his division, his agency with budget cuts this year if we have to wait until January of 2012 to finally read the review? [LB302]

SENATOR ASHFORD: I think that's a great question, and we thought a lot...here's what we did, Senator Hansen. The committee, in the LR542 process, we talked a lot about

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coming to the body with specific proposals that flowed from what you're talking about, the information that was provided to the Appropriations Committee last year. And we just felt very uncomfortable with it because it did result in a bill. For example, we drafted a bill to close courts. Well, we're not...I don't know if that's the way to go. I mean I don't know if that's the way to go. In fact, I'm not convinced it is. So I just am...I'm just uncomfortable with where we are right now on what judges do what; what courts should be open on what days; who should staff them; and what is the role of technology.
[LB302]

SENATOR HANSEN: All right. Thank you, Senator Ashford. I think the access to justice issue is extremely important. But you have to keep in mind when counties were set up, county seats were set up that it was a day's ride horseback to those county seats. We have improvements in roads, thanks to the Roads Department. The travel is the same amount of miles, but it's a lot easier than it used to be. So the access to courts...and then when you look at the population in western Nebraska, in the western two-thirds of Nebraska, there's less people; therefore, there's less crime. And the county courts receive less cases to do so. [LB302]

SENATOR GLOOR: One minute. [LB302]

SENATOR HANSEN: I think there's someplace in there for a compromise, and we want to do it right, that's for sure. Thank you, Senator Ashford. Thank you, Mr. President.
[LB302]

SENATOR GLOOR: Thank you, Senator Hansen. The Chair recognizes Senator Schilz.
[LB302]

SENATOR SCHILZ: Good morning, members of the body. Thank you, Mr. President. I'm going to stand here and apologize for the cold a little bit, but I stand here just thinking about everything that all of my other rural colleagues have said. And every time I come back to it, it's the same thing. We have these concerns. We wonder what the term "restructuring" looks like. Access is hugely important to the courts in western Nebraska and rural Nebraska. And we need to make sure that as we go forward with studies such as this, if we go forward with it, that we do understand that access isn't just about having the court someplace. It's about the realistic opportunity for those that need to use the court systems, or are required to be in court, can be there and have a quick and speedy trial. So all these important issues weigh on us. Will technology help? Absolutely. We're going to have to have it. We're going to have to look at new ways of doing things. So in that sense I'm not so opposed to a study if we're actually looking at access for all, and not just looking to cut back and pull in our horns. So I'm monitoring this. I'm looking at it. I'll have discussions with folks to make sure that my concerns are identified and understood. And then hopefully we can go forward together to make sure that we do what is best for the state of Nebraska and for the court system for rural

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Nebraska. Thank you very much, Mr. President. [LB302]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Lautenbaugh, you are recognized. [LB302]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I did vote this bill out of committee, and I think it's important that we look at this. And what you have to understand is at a certain level, I mean this is what I do for a living, I access the courts daily, and at a certain level we're playing catch-up. You may not be aware of this but Senator Lathrop sitting over there could file a lawsuit in Cherry County from his chair over there if he was of a mind to right now. And it might even have merit. And then I'd have to file an answer and the circle of life would go on and on and on. But we can do...we can practice throughout the state from wherever we are right now. We can file pleadings, we can file complaints, we can initiate actions. And in a civil suit, the actual litigants may see the courthouse if it ever goes to trial. Otherwise, there is no reason I can think of why the parties would actually go there. You don't go to the courthouse until it's trial time if you're a party. Attorneys routinely don't physically go to the courthouse either. We handle things telephonically, the judges travel so they're not there, but we can catch up with them usually. And the judges are starting to be more accommodating of this and rightly so because this is the environment we're in and we're all under the gun on budget issues. And the courts aren't just state expenses. In some ways they're county expenses too. And people worry, understandably, when we talk about making changes; but I don't see anything we've done over the last few years that has diminished anyone's access to courts. We've been smarter with scheduling. We've made do with less in a lot of ways, and we've accomplished more with it through the use of technology. I do hope this bill goes forward because we do need the Chief Justice's input on this. And I think prior studies might have suffered from too many people pulling them in too many different directions. That's a diplomatic way to put it and an awkward way to put it, too, I guess. Senator Ashford, will you yield to a question? [LB302]

SENATOR GLOOR: Senator Ashford. [LB302]

SENATOR ASHFORD: Yes. [LB302]

SENATOR LAUTENBAUGH: Why exactly do we need this bill in your opinion? [LB302]

SENATOR ASHFORD: What triggered it in my mind, thank you, Senator Lautenbaugh, was this map, this yellow and blue map that gets tossed around that shows which courts ought to be closed. And I think that might be what Senator Hansen is referring to as part of the existing plan. Looking at a map and deciding policy just was driving me to distraction. I just...there's no quick legislative answer that I could bring under the LR542 process to this body to address all of the issues that go into operating the courts. That's what caused me to propose this to the body. And access to courts also applies in the

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urban areas because, for example, the juvenile justice issue that I raised. If a child can't get access to the juvenile justice system when they're in a very troubled situation, that's a problem. That's a problem for the urban areas as well as the rural areas so I'm just not satisfied that we have a clear grasp of, as a body, of where we ought to go to make sure access to the courts is responsibly maintained. So that's the reason for it. Thank you, Senator Lautenbaugh. [LB302]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB302]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Wightman, you are recognized. [LB302]

SENATOR WIGHTMAN: Thank you, Mr. President, members. I, too, am concerned over access to the courts. But I'm wondering if some of the work that we're requiring or asking to be done under LB302 hasn't already been done. And in that regard I would ask if Senator Ashford would yield for some questions. [LB302]

SENATOR GLOOR: Senator Ashford, will you yield? [LB302]

SENATOR ASHFORD: Yes. [LB302]

SENATOR WIGHTMAN: Senator Ashford, over the past couple of years, have the County Judges Association and the District Judges Association met and discussed the present multitiered court system? [LB302]

SENATOR ASHFORD: Have they...I'm sorry, Senator Wightman. [LB302]

SENATOR WIGHTMAN: Have the county court judges and the district court judges met in discussion over the multitiered court system? [LB302]

SENATOR ASHFORD: I think they have and Pat...Patrick...am I losing my...not McNamara, Patrick...yes, they have. And the county judges have, yes, on a fairly regular basis. [LB302]

SENATOR WIGHTMAN: And actually... [LB302]

SENATOR ASHFORD: I'm sorry, Senator Wightman. [LB302]

SENATOR WIGHTMAN: Actually, didn't they come up with a report out of that study? [LB302]

SENATOR ASHFORD: They have a report and it's continuing, and those discussions are continuing between the county court judges and the district court judges, yes.

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[LB302]

SENATOR WIGHTMAN: And I know, Senator Ashford, one of the things they looked at was what had been done over in Iowa which was to combine the courts. [LB302]

SENATOR ASHFORD: Correct, correct. And my sense is that that's not something that they favor. [LB302]

SENATOR WIGHTMAN: That's my understanding as well. I'm also wondering, right now you don't specify who would be on any committee, if there is even going to be a committee or a task force or whatever there might be, in putting together this study. [LB302]

SENATOR ASHFORD: There is nothing specific. I can't imagine that the Chief Justice would move forward without a task force. I think you're right. It's not in there, we can put it in there. It's a good catch. I'm convinced in talking to him that he is going to reach out to all of these groups that we've talked about today and bring them into the process. But I would like to have the courts and the Chief Justice be the individual and the agency that presents us with the study. I just feel that it's time to get that kind of vision from him, to some extent filling in what he says in his State of the Judiciary address here each year before the body, is filling in the details of where he wants to go and giving those to us. If he doesn't consult--I'm sure he will--I can't imagine he won't consult with the various groups. [LB302]

SENATOR WIGHTMAN: Would you have any problem prior to this bill coming back on Select sitting down and visiting about what the makeup of the task force or committee, whichever we would call it, would be? [LB302]

SENATOR ASHFORD: Absolutely. And quite frankly, Senator Wightman, the greatest, the best example of a successful task force was the one that you headed up with Senator Nelson and Senator Coash and others that the Chief set up on guardianships. That was amazing work and that is a great issue. That had been sitting around for years. And quite frankly, you and Senator Nelson and Senator Coash and there are others here I think were on the committee. [LB302]

SENATOR WIGHTMAN: Senator Council. [LB302]

SENATOR ASHFORD: Senator Council was on it, had very, very good work. And I'm sort of looking for the same sort of thing on these other issues involving organization and access to the courts. Letting the Chief pick the people who he believes will add to the process, as he did the guardianship process... [LB302]

SENATOR GLOOR: One minute. [LB302]

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SENATOR ASHFORD: ...yeah. [LB302]

SENATOR WIGHTMAN: I guess I would at least like to see some requirement as far as representation on that task force and would like to work with you between now and Select on the makeup of that task force or committee, whatever we're going to call it. [LB302]

SENATOR ASHFORD: Thank you. Yes, that's a great idea, Senator Wightman. [LB302]

SENATOR WIGHTMAN: Thank you, Mr. President. [LB302]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Fischer, you are recognized. [LB302]

SENATOR FISCHER: Thank you, Mr. President and members. I'm holding the Nebraska Reengineering Committee report that is concepts for discussion. The Chief Justice formed this committee. The committee members were district, county, juvenile judges, representatives of the Bar Association, members of the public, and the leadership of the State Court Administrator's office. As I said before, I think we have a study and it happens to be in my hands on what we're asking for now. I don't know if you've convinced me, Senator Ashford, if that study is needed yet, but I'm willing to continue to discuss this. I think we still have quite a bit of time so I will do that. Mr. President, will Senator Ashford yield to some questions, please? [LB302]

SENATOR GLOOR: Senator Ashford, will you yield? [LB302]

SENATOR ASHFORD: Absolutely, Senator Fischer. [LB302]

SENATOR FISCHER: I appreciate it, Senator. Thank you. Can you tell me what the role is of the Judicial Resources Commission, what their duties are? [LB302]

SENATOR ASHFORD: They make recommendations on where the...when there's a vacancy in the court system in the state, that commission makes recommendations on where judges should be allocated. The Legislature has the final say on how that happens. [LB302]

SENATOR FISCHER: You know, I know in the past there's...I think there's been bills introduced that would take that a step further or take it a step backwards, all in your point of view, on how those judges are selected. And I know or I've been told that the court would like to remove that step and that the court would like to make those appointments and not have it come through the Legislature. Is that your understanding or am I getting a little paranoid here perhaps? [LB302]

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SENATOR ASHFORD: LB...you're right, Senator Fischer, that there was a bill introduced, whether it was...there was a...and this...here lies the problem. There was a bill introduced and I can't recall if it was LB1024 or LB35 as a Bar Association supported bill that the court supported that gave the Chief--this was three or four years ago as you remember--that gave the Chief more authority on how judges would be...where they would be placed. And that...obviously that did not pass. It didn't pass because the Legislature doesn't want to go there. And quite frankly, we have to come up with a better way to do it. And I am not confident...but not a better way to...not getting rid of the Judicial Resources Commission, but have a better understanding of what the standard should be. This body needs to know where we are with caseloads. I know we have data on that, but in a comprehensive way decide...think about how that fits into those decisions and not take the Legislature out of it because that's not going to work. And we got bogged down for two years fighting over something, quite frankly, the Legislature should have a role in that, so. [LB302]

SENATOR FISCHER: I don't like to put you on the spot, but I'm going to, Senator Ashford. [LB302]

SENATOR ASHFORD: No, this is fun actually, Senator Fischer. [LB302]

SENATOR FISCHER: I always enjoy a debate with you. [LB302]

SENATOR ASHFORD: I mean I enjoy it but. [LB302]

SENATOR FISCHER: Can you try to "alleviate" some of my concerns here? You are Chair of the Judiciary Committee, a respected Chair. Would you not support a recommendation if it would come before this body that would take the Legislature out of that process? [LB302]

SENATOR ASHFORD: And thanks for the comment and it depends on the day, of course, Senator Fischer, but... [LB302]

SENATOR FISCHER: That...I didn't think I needed to clarify that. [LB302]

SENATOR ASHFORD: Or the minute actually. [LB302]

SENATOR GLOOR: One minute. [LB302]

SENATOR ASHFORD: But the answer is I think the Legislature ought to be involved in deciding where judges are placed. What I'm not comfortable with is I don't...because of the tug-of-war that goes on between all these various groups--the Bar Association and the court system, and all these various groups--it becomes a political decision and we

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don't have that vision where the court believes it should be going in the next ten years. But I don't think that means we take the decision making away from the Legislature. I just want a better, clearer handle on where the court, with technology changes, where it wants to go in the next five years or so. [LB302]

SENATOR FISCHER: And I can appreciate that and I appreciate the process that we've all gone through on the LR542 studies. But the courts are a fundamental right of the people of this state. We have to allow for access. You know, I'm one, it was pointed out to me earlier, I'm one that... [LB302]

SENATOR GLOOR: Time, Senator. [LB302]

SENATOR FISCHER: Thank you, Mr. President. [LB302]

SENATOR GLOOR: Thank you, Senator Fischer. Mr. Clerk. [LB302]

CLERK: Mr. President, pursuant to the agenda, the next item is Senator Karpisek's motion to withdraw LB638. [LB638]

SENATOR GLOOR: The Chair recognizes Senator Karpisek. [LB638]

SENATOR KARPISEK: Thank you, Mr. President. I would ask the body to give a green light to withdraw LB638. LB638 was brought to me by the counties, NACO, to limit the information that is given out by people for resale of the records. They have been kind of inundated with people coming to get records and especially in some of the small counties where they don't have a lot of people it can really take up a lot of time. However, we have found a lot of people that really need these records and doing this would just limit it too much. So I would appreciate the green vote to withdraw LB638. Thank you, Mr. President. [LB638]

SENATOR GLOOR: Thank you, Senator Karpisek. Is there anyone wishing to speak on the withdraw motion? Seeing none, Senator Karpisek, you're welcome to close. Senator Karpisek waives. The question is, shall LB638 be withdrawn? All in favor vote aye; all opposed, nay. Have you all voted? Record, Mr. Clerk. [LB638]

CLERK: 37 ayes, 0 nays, Mr. President, to withdraw the bill. [LB638]

SENATOR GLOOR: LB638 is withdrawn. Mr. Clerk. [LB638]

CLERK: Mr. President, just one item: Senator Howard would like to add her name to LB427. Senator Heidemann would move to adjourn the body until Thursday morning, February 10, at 9:00 a.m. (Legislative Journal page 498.) [LB427]

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Floor Debate
February 09, 2011

SENATOR GLOOR: You've heard the motion to adjourn until 9:00 a.m. Thursday morning. All in favor say aye. All opposed, nay. We are adjourned.